RECODIFICATION OF TITLE 63 STATE AFFAIRS IN GENERAL

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Douglas C. Aagard

Senate Sponsor: Gregory S. Bell

LONG TITLE

Committee Note:

The Government Operations Interim Committee recommended this bill.

General Description:

This bill modifies Title 63, State Affairs in General, by recodifying and renumbering the content of the title to other parts of the code.

Highlighted Provisions:

This bill:

- renumbers and moves almost all chapters in Title 63 to different or new titles, chapters, and parts of the code;
- creates new titles into which many chapters of Title 63 are renumbered and moved;
- renumbers and moves several other chapters to related titles of the code;
- amends cross-references to coincide with renumbering of sections;
- repeals certain redundant provisions; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

H.B. 63

28 AMENDS:

29 **3-1-6**, as last amended by Laws of Utah 1994, Chapter 313

30 **3-1-36**, as last amended by Laws of Utah 1994, Chapters 203, and 313

31 **4-1-3.5**, as last amended by Laws of Utah 1997, Chapter 82

32 **4-2-2**, as last amended by Laws of Utah 2007, Chapter 179

33 **4-2-8.5**, as enacted by Laws of Utah 2006, Chapter 71

34 **4-3-2**, as last amended by Laws of Utah 1995, Chapter 20

35 **4-3-14**, as last amended by Laws of Utah 2007, Chapters 165, and 179

36 **4-4-2**, as last amended by Laws of Utah 1995, Chapter 20

37 **4-5-9**, as last amended by Laws of Utah 2004, Chapter 358

38 **4-5-9.5**, as enacted by Laws of Utah 2007, Chapter 334

39 **4-9-2**, as last amended by Laws of Utah 1995, Chapter 20

40 **4-9-15**, as last amended by Laws of Utah 2005, Chapter 226

41 **4-10-3**, as last amended by Laws of Utah 1995, Chapter 20

42 **4-11-3**, as last amended by Laws of Utah 1995, Chapter 20

43 **4-12-3**, as last amended by Laws of Utah 1995, Chapter 20

44 **4-14-3**, as last amended by Laws of Utah 2007, Chapters 179, and 370

45 **4-14-6**, as last amended by Laws of Utah 2007, Chapter 370

46 **4-14-13**, as enacted by Laws of Utah 2007, Chapter 370

47 **4-15-3**, as last amended by Laws of Utah 1995, Chapter 20

48 **4-16-3**, as last amended by Laws of Utah 1995, Chapter 20

49 **4-18-5**, as last amended by Laws of Utah 2007, Chapter 179

50 **4-18-6.5**, as enacted by Laws of Utah 2001, Chapter 326

51 **4-20-1.5**, as last amended by Laws of Utah 2007, Chapter 179

52 **4-22-4.5**, as last amended by Laws of Utah 1996, Chapter 79

53 **4-23-5**, as last amended by Laws of Utah 1995, Chapter 20

54 **4-24-3**, as last amended by Laws of Utah 1995, Chapter 20

55 **4-25-3**, as last amended by Laws of Utah 1995, Chapter 20

56 **4-29-1**, as last amended by Laws of Utah 1995, Chapter 20

57 **4-30-3**, as last amended by Laws of Utah 1995, Chapter 20

58 **4-31-16.5**, as last amended by Laws of Utah 2004, Chapter 325

59 **4-31-21**, as enacted by Laws of Utah 2000, Chapter 96
60 **4-32-7**, as last amended by Laws of Utah 1997, Chapter 302
61 **4-33-4**, as last amended by Laws of Utah 1995, Chapter 20
62 **4-37-109**, as last amended by Laws of Utah 2007, Chapter 191
63 **4-37-201**, as last amended by Laws of Utah 1995, Chapter 28
64 **4-37-301**, as last amended by Laws of Utah 1995, Chapter 28
65 **4-37-602**, as last amended by Laws of Utah 2007, Chapter 191
66 **4-38-4**, as last amended by Laws of Utah 1997, Chapter 135
67 **4-38-6**, as enacted by Laws of Utah 1992, Chapter 296
68 **4-38-14**, as last amended by Laws of Utah 1993, Chapter 4
69 **4-39-106**, as last amended by Laws of Utah 1999, Chapter 378
70 **4-39-203**, as enacted by Laws of Utah 1997, Chapter 302
71 **4-39-502**, as enacted by Laws of Utah 1997, Chapter 302
72 **7-1-105**, as last amended by Laws of Utah 1994, Chapter 200
73 **7-1-301**, as last amended by Laws of Utah 2004, Chapter 92
74 **7-1-323**, as last amended by Laws of Utah 2005, Chapter 25
75 **7-1-324**, as last amended by Laws of Utah 2004, Chapter 92
76 **7-1-325**, as enacted by Laws of Utah 2006, Chapter 165
77 **7-1-704**, as last amended by Laws of Utah 1994, Chapter 200
78 **7-1-810**, as last amended by Laws of Utah 2007, Chapter 277
79 **7-2-9**, as last amended by Laws of Utah 2004, Chapter 267
80 **7-2-21**, as enacted by Laws of Utah 1986, Fourth Special Session, Chapter 1
81 **7-9-59**, as enacted by Laws of Utah 2003, Chapter 177
82 **7-23-103**, as last amended by Laws of Utah 2007, Chapter 87
83 **7-23-106**, as last amended by Laws of Utah 2007, Chapter 87
84 **7-23-108**, as last amended by Laws of Utah 2007, Chapter 87
85 **7-24-201**, as last amended by Laws of Utah 2007, Chapter 87
86 **7-24-203**, as enacted by Laws of Utah 2003, Chapter 236
87 **7-24-301**, as last amended by Laws of Utah 2007, Chapter 87
88 **7-24-303**, as last amended by Laws of Utah 2007, Chapter 87
89 **9-1-203**, as renumbered and amended by Laws of Utah 1992, Chapter 241

90 **9-1-809**, as last amended by Laws of Utah 2004, Chapter 352
91 **9-3-308**, as last amended by Laws of Utah 1997, Chapter 10
92 **9-3-410**, as last amended by Laws of Utah 2003, Chapter 8
93 **9-4-202**, as last amended by Laws of Utah 2005, Chapter 170
94 **9-4-306**, as last amended by Laws of Utah 2002, Chapter 286
95 **9-4-307**, as last amended by Laws of Utah 2007, Chapter 303
96 **9-4-509**, as renumbered and amended by Laws of Utah 1992, Chapter 241
97 **9-4-704**, as last amended by Laws of Utah 2006, Chapter 359
98 **9-4-906**, as last amended by Laws of Utah 2006, Chapter 14
99 **9-4-917**, as last amended by Laws of Utah 2005, Chapter 102
100 **9-4-1103**, as last amended by Laws of Utah 2000, Chapter 231
101 **9-4-1301**, as last amended by Laws of Utah 2001, Chapter 273
102 **9-4-1404**, as last amended by Laws of Utah 2001, Chapter 162
103 **9-4-1406**, as enacted by Laws of Utah 2000, Chapter 286
104 **9-6-205**, as last amended by Laws of Utah 2005, Chapter 48
105 **9-6-504**, as renumbered and amended by Laws of Utah 1992, Chapter 241
106 **9-6-605**, as renumbered and amended by Laws of Utah 2006, Chapter 24
107 **9-7-213**, as last amended by Laws of Utah 2000, Chapter 136
108 **9-7-302**, as renumbered and amended by Laws of Utah 1992, Chapter 241
109 **9-8-203**, as last amended by Laws of Utah 1997, Chapters 353, and 371
110 **9-8-305**, as last amended by Laws of Utah 2006, Chapter 292
111 **9-8-309**, as enacted by Laws of Utah 2007, Chapter 231
112 **9-8-405**, as last amended by Laws of Utah 2004, Chapter 352
113 **9-8-704**, as last amended by Laws of Utah 1993, Chapter 4
114 **9-9-104**, as last amended by Laws of Utah 1999, Chapter 50
115 **9-10-105**, as last amended by Laws of Utah 2006, Chapter 14
116 **9-11-102**, as last amended by Laws of Utah 2004, Chapter 18
117 **9-11-105**, as last amended by Laws of Utah 1998, Chapter 48
118 **9-11-106**, as last amended by Laws of Utah 2006, Chapter 14
119 **9-11-107**, as last amended by Laws of Utah 2007, Chapter 104
120 **9-12-103**, as enacted by Laws of Utah 1998, Chapter 336

121 **9-12-105**, as renumbered and amended by Laws of Utah 1998, Chapter 336
122 **10-1-306**, as enacted by Laws of Utah 1996, Chapter 280
123 **10-1-308**, as enacted by Laws of Utah 1996, Chapter 280
124 **10-1-405**, as last amended by Laws of Utah 2007, Chapters 9, and 250
125 **10-3-208**, as last amended by Laws of Utah 2007, Chapter 256
126 **10-3-1303**, as last amended by Laws of Utah 2006, Chapter 359
127 **10-3-1304**, as last amended by Laws of Utah 2005, Chapter 25
128 **10-3-1305**, as last amended by Laws of Utah 2005, Chapter 25
129 **10-7-86**, as last amended by Laws of Utah 1997, Chapter 123
130 **10-7-87**, as last amended by Laws of Utah 2005, Chapter 25
131 **10-8-2**, as last amended by Laws of Utah 2007, Chapters 291, and 306
132 **10-8-58.5**, as last amended by Laws of Utah 2005, Chapter 102
133 **10-9a-203**, as last amended by Laws of Utah 2005, Chapters 169, 245 and renumbered
134 and amended by Laws of Utah 2005, Chapter 254
135 **10-9a-402**, as renumbered and amended by Laws of Utah 2005, Chapter 254
136 **10-18-302**, as last amended by Laws of Utah 2005, Chapter 105
137 **11-13-222**, as last amended by Laws of Utah 2005, Chapter 102
138 **11-13-302**, as last amended by Laws of Utah 2007, Chapter 108
139 **11-13-303**, as last amended by Laws of Utah 2006, Chapter 221
140 **11-17-20**, as enacted by Laws of Utah 2007, Chapter 167
141 **11-36-201**, as last amended by Laws of Utah 2007, Chapter 329
142 **11-36-402**, as last amended by Laws of Utah 2004, Chapter 90
143 **11-37-101**, as last amended by Laws of Utah 2005, Chapter 25
144 **11-38-102**, as last amended by Laws of Utah 2006, Chapter 278
145 **11-38-303**, as enacted by Laws of Utah 1999, Chapter 24
146 **11-39-101**, as last amended by Laws of Utah 2007, Chapter 329
147 **11-39-107**, as last amended by Laws of Utah 2007, Chapter 329
148 **11-42-205**, as enacted by Laws of Utah 2007, Chapter 329
149 **12-1-10**, as enacted by Laws of Utah 1999, Chapter 235
150 **13-1-2**, as last amended by Laws of Utah 2005, Chapter 98
151 **13-1-8.5**, as last amended by Laws of Utah 1989, Chapter 225

152 **13-1a-5**, as enacted by Laws of Utah 1990, Chapter 9
153 **13-1a-6**, as last amended by Laws of Utah 1997, Chapter 10
154 **13-1a-7**, as enacted by Laws of Utah 1990, Chapter 9
155 **13-1a-9**, as renumbered and amended by Laws of Utah 2001, Chapter 46
156 **13-2-5**, as last amended by Laws of Utah 1994, Chapter 177
157 **13-2-6**, as last amended by Laws of Utah 1997, Chapter 92
158 **13-2-8**, as last amended by Laws of Utah 2005, Chapter 18
159 **13-2-9**, as enacted by Laws of Utah 2005, Chapter 281
160 **13-14-104**, as last amended by Laws of Utah 2005, Chapter 249
161 **13-14-105**, as last amended by Laws of Utah 2005, Chapter 249
162 **13-14-106**, as last amended by Laws of Utah 2005, Chapter 249
163 **13-14-107**, as last amended by Laws of Utah 2005, Chapter 249
164 **13-15-4**, as last amended by Laws of Utah 1995, Chapter 85
165 **13-15-4.5**, as enacted by Laws of Utah 1995, Chapter 85
166 **13-21-3**, as last amended by Laws of Utah 2001, Chapter 196
167 **13-22-3**, as last amended by Laws of Utah 1994, Chapter 185
168 **13-22-6**, as last amended by Laws of Utah 2004, Chapter 55
169 **13-22-8**, as last amended by Laws of Utah 2004, Chapter 55
170 **13-22-9**, as last amended by Laws of Utah 2001, Chapter 210
171 **13-22-12**, as last amended by Laws of Utah 2001, Chapter 210
172 **13-23-5**, as last amended by Laws of Utah 2005, Chapter 18
173 **13-25a-109**, as last amended by Laws of Utah 2004, Chapter 263
174 **13-26-3**, as last amended by Laws of Utah 2005, Chapter 18
175 **13-32a-106.5**, as enacted by Laws of Utah 2005, Chapter 256
176 **13-32a-111**, as last amended by Laws of Utah 2007, Chapter 352
177 **13-34-104**, as last amended by Laws of Utah 2005, Chapter 242
178 **13-34-107**, as last amended by Laws of Utah 2005, Chapter 242
179 **13-34-113**, as last amended by Laws of Utah 2005, Chapter 242
180 **13-35-104**, as last amended by Laws of Utah 2005, Chapter 268
181 **13-35-105**, as last amended by Laws of Utah 2005, Chapter 268
182 **13-35-106**, as last amended by Laws of Utah 2005, Chapter 268

183 **13-35-107**, as last amended by Laws of Utah 2005, Chapter 268
184 **13-39-201**, as last amended by Laws of Utah 2006, Chapter 336
185 **13-39-203**, as last amended by Laws of Utah 2006, Chapter 336
186 **13-41-102**, as last amended by Laws of Utah 2006, Chapter 153
187 **13-42-105**, as enacted by Laws of Utah 2006, Chapter 154
188 **13-42-109**, as enacted by Laws of Utah 2006, Chapter 154
189 **13-42-110**, as enacted by Laws of Utah 2006, Chapter 154
190 **13-42-111**, as enacted by Laws of Utah 2006, Chapter 154
191 **13-42-112**, as enacted by Laws of Utah 2006, Chapter 154
192 **13-42-132**, as enacted by Laws of Utah 2006, Chapter 154
193 **13-42-134**, as enacted by Laws of Utah 2006, Chapter 154
194 **13-43-203**, as enacted by Laws of Utah 2006, Chapter 258
195 **13-43-204**, as enacted by Laws of Utah 2006, Chapter 258
196 **13-43-206**, as enacted by Laws of Utah 2006, Chapter 258
197 **14-1-18**, as last amended by Laws of Utah 2007, Chapter 329
198 **15-9-103**, as enacted by Laws of Utah 2001, Chapter 237
199 **15-9-105**, as enacted by Laws of Utah 2001, Chapter 237
200 **15-9-106**, as enacted by Laws of Utah 2001, Chapter 237
201 **15-9-107**, as enacted by Laws of Utah 2001, Chapter 237
202 **15-9-109**, as enacted by Laws of Utah 2001, Chapter 237
203 **16-6a-107**, as last amended by Laws of Utah 2002, Chapter 197
204 **16-6a-111**, as enacted by Laws of Utah 2000, Chapter 300
205 **16-6a-1413**, as enacted by Laws of Utah 2000, Chapter 300
206 **16-6a-1502**, as last amended by Laws of Utah 2002, Chapter 197
207 **16-6a-1517**, as enacted by Laws of Utah 2000, Chapter 300
208 **16-7-11**, as last amended by Laws of Utah 1994, Chapter 313
209 **16-10a-122**, as last amended by Laws of Utah 1994, Chapter 313
210 **16-10a-1423**, as last amended by Laws of Utah 2000, Chapter 131
211 **16-12-3**, as last amended by Laws of Utah 1994, Chapter 313
212 **16-13-12**, as last amended by Laws of Utah 1994, Chapter 313
213 **16-15-105**, as enacted by Laws of Utah 1995, Chapter 310

214 **16-15-107**, as enacted by Laws of Utah 1995, Chapter 310
215 **16-15-108**, as enacted by Laws of Utah 1995, Chapter 310
216 **17-15-24**, as last amended by Laws of Utah 2005, Chapter 25
217 **17-16-21**, as last amended by Laws of Utah 2001, Chapter 9 and renumbered and
218 amended by Laws of Utah 2001, Chapter 46
219 **17-16a-4**, as last amended by Laws of Utah 2005, Chapters 25, and 45
220 **17-21-17**, as last amended by Laws of Utah 2006, Chapter 38
221 **17-21-19**, as last amended by Laws of Utah 2002, Chapter 191
222 **17-27a-203**, as last amended by Laws of Utah 2005, Chapters 169, 245 and renumbered
223 and amended by Laws of Utah 2005, Chapter 254
224 **17-27a-402**, as renumbered and amended by Laws of Utah 2005, Chapter 254
225 **17-43-202**, as renumbered and amended by Laws of Utah 2003, Chapter 22
226 **17-43-302**, as renumbered and amended by Laws of Utah 2003, Chapter 22
227 **17-50-302**, as last amended by Laws of Utah 2005, Chapter 254
228 **17-50-401**, as last amended by Laws of Utah 2005, Chapter 228
229 **17-53-225**, as last amended by Laws of Utah 2004, Chapter 206
230 **17-53-311**, as last amended by Laws of Utah 2005, Chapter 102
231 **17-53-313**, as renumbered and amended by Laws of Utah 2000, Chapter 133
232 **17B-1-106**, as renumbered and amended by Laws of Utah 2007, Chapter 329
233 **17B-1-108**, as renumbered and amended by Laws of Utah 2007, Chapter 329
234 **17B-2a-818**, as enacted by Laws of Utah 2007, Chapter 329
235 **17C-2-602**, as enacted by Laws of Utah 2007, Chapter 379
236 **19-1-201**, as last amended by Laws of Utah 1995, Chapters 28, and 324
237 **19-1-301**, as enacted by Laws of Utah 1991, Chapter 112
238 **19-1-305**, as last amended by Laws of Utah 2007, Chapter 151
239 **19-1-306**, as enacted by Laws of Utah 1992, Chapter 280
240 **19-1-403**, as last amended by Laws of Utah 2006, Chapters 136, and 223
241 **19-1-404**, as last amended by Laws of Utah 2006, Chapters 136, and 223
242 **19-1-405**, as enacted by Laws of Utah 2006, Chapter 136
243 **19-2-104**, as last amended by Laws of Utah 2006, Chapter 223
244 **19-2-105.3**, as last amended by Laws of Utah 2005, Chapter 2

245 **19-2-109.1**, as last amended by Laws of Utah 1995, Chapter 28
246 **19-2-109.3**, as enacted by Laws of Utah 1992, Chapter 105
247 **19-2-109.5**, as enacted by Laws of Utah 1996, Chapter 75
248 **19-2-112**, as renumbered and amended by Laws of Utah 1991, Chapter 112
249 **19-2-115**, as last amended by Laws of Utah 2003, Chapter 138
250 **19-3-104**, as last amended by Laws of Utah 2007, Chapter 26
251 **19-3-106.4**, as enacted by Laws of Utah 2001, Chapter 314
252 **19-3-109**, as renumbered and amended by Laws of Utah 1991, Chapter 112
253 **19-3-111**, as last amended by Laws of Utah 1991, Chapter 87 and renumbered and
254 amended by Laws of Utah 1991, Chapter 112
255 **19-3-303**, as last amended by Laws of Utah 2001, Chapter 107
256 **19-3-308**, as last amended by Laws of Utah 2001, Chapter 107
257 **19-3-315**, as last amended by Laws of Utah 1999, Chapter 190
258 **19-4-104**, as last amended by Laws of Utah 2002, Chapter 295
259 **19-4-109**, as last amended by Laws of Utah 1998, Chapter 174
260 **19-5-104**, as last amended by Laws of Utah 2006, Chapter 179
261 **19-5-113**, as last amended by Laws of Utah 1995, Chapter 114
262 **19-5-120**, as enacted by Laws of Utah 1995, Chapter 114
263 **19-5-121**, as enacted by Laws of Utah 2001, Chapter 274
264 **19-5-122**, as enacted by Laws of Utah 2001, Chapter 274
265 **19-6-102.6**, as last amended by Laws of Utah 1996, Chapter 134
266 **19-6-105**, as last amended by Laws of Utah 1992, Chapter 282
267 **19-6-108.3**, as enacted by Laws of Utah 2007, Chapter 72
268 **19-6-303**, as last amended by Laws of Utah 1992, Chapter 280
269 **19-6-321**, as last amended by Laws of Utah 2005, Chapter 102
270 **19-6-326**, as enacted by Laws of Utah 2005, Chapter 200
271 **19-6-403**, as last amended by Laws of Utah 1997, Chapter 172
272 **19-6-405.3**, as enacted by Laws of Utah 1994, Chapter 297
273 **19-6-408**, as last amended by Laws of Utah 1997, Chapter 172
274 **19-6-410.5**, as last amended by Laws of Utah 2006, Chapter 107
275 **19-6-427**, as last amended by Laws of Utah 2005, Chapter 102

276 **19-6-704**, as enacted by Laws of Utah 1993, Chapter 283
277 **19-6-721**, as last amended by Laws of Utah 1994, Chapter 40
278 **19-6-803**, as last amended by Laws of Utah 2002, Chapters 249, and 256
279 **19-6-806**, as renumbered and amended by Laws of Utah 2000, Chapter 51
280 **19-6-818**, as renumbered and amended by Laws of Utah 2000, Chapter 51
281 **19-6-819**, as last amended by Laws of Utah 2001, Chapter 165
282 **19-6-821**, as last amended by Laws of Utah 2002, Chapter 256
283 **19-6-906**, as enacted by Laws of Utah 2004, Chapter 249
284 **19-6-1003**, as enacted by Laws of Utah 2006, Chapter 187
285 **19-7-103**, as enacted by Laws of Utah 1995, Chapter 304
286 **19-7-104**, as last amended by Laws of Utah 1997, Chapter 387
287 **19-8-112**, as enacted by Laws of Utah 1997, Chapter 247
288 **19-8-117**, as enacted by Laws of Utah 1997, Chapter 247
289 **19-8-120**, as enacted by Laws of Utah 2005, Chapter 200
290 **19-9-105**, as renumbered and amended by Laws of Utah 2003, Chapter 184
291 **19-10-108**, as enacted by Laws of Utah 2003, Chapter 44
292 **20A-1-204**, as last amended by Laws of Utah 2004, Chapter 371
293 **20A-2-104**, as last amended by Laws of Utah 2007, Chapter 75
294 **20A-3-304.1**, as last amended by Laws of Utah 2006, Chapter 264
295 **20A-3-408.5**, as enacted by Laws of Utah 2006, Chapter 273
296 **20A-9-206**, as enacted by Laws of Utah 2006, Chapter 226
297 **20A-12-104**, as last amended by Laws of Utah 2006, Chapter 14
298 **23-14-2.1**, as enacted by Laws of Utah 1987, Chapter 161
299 **23-14-18**, as last amended by Laws of Utah 2001, Chapter 22
300 **23-14-21**, as last amended by Laws of Utah 2003, Chapters 16, and 128
301 **23-16-3.2**, as enacted by Laws of Utah 2003, Chapter 228
302 **23-16-4**, as last amended by Laws of Utah 2003, Chapter 228
303 **23-19-9**, as last amended by Laws of Utah 2007, Chapter 136
304 **23-19-38.2**, as last amended by Laws of Utah 2007, Chapter 187
305 **23-21-2.3**, as last amended by Laws of Utah 2003, Chapter 16
306 **23-24-1**, as last amended by Laws of Utah 2006, Chapter 140

307 **24-1-19**, as enacted by Laws of Utah 2004, Chapter 296
308 **26-1-4.1**, as enacted by Laws of Utah 1987, Chapter 161
309 **26-1-5**, as last amended by Laws of Utah 2001, Chapter 138
310 **26-1-6**, as last amended by Laws of Utah 2001, Chapter 49
311 **26-1-7.1**, as enacted by Laws of Utah 1987, Chapter 161
312 **26-1-17.5**, as last amended by Laws of Utah 1994, Chapter 312
313 **26-1-21**, as last amended by Laws of Utah 1990, Chapter 93
314 **26-2-22**, as last amended by Laws of Utah 2006, Chapters 55, and 56
315 **26-6b-1**, as last amended by Laws of Utah 2006, Chapter 185
316 **26-8a-104**, as enacted by Laws of Utah 1999, Chapter 141
317 **26-8a-105**, as enacted by Laws of Utah 1999, Chapter 141
318 **26-8a-207**, as last amended by Laws of Utah 2002, Fifth Special Session, Chapter 17
319 **26-8a-310**, as last amended by Laws of Utah 2007, Chapter 43
320 **26-8a-404**, as last amended by Laws of Utah 2003, Chapter 213
321 **26-8a-405.3**, as enacted by Laws of Utah 2005, Chapter 205
322 **26-8a-407**, as enacted by Laws of Utah 1999, Chapter 141
323 **26-8a-414**, as last amended by Laws of Utah 2004, Chapter 350
324 **26-8a-503**, as enacted by Laws of Utah 1999, Chapter 141
325 **26-8a-504**, as enacted by Laws of Utah 1999, Chapter 141
326 **26-15a-102**, as last amended by Laws of Utah 2005, Chapter 192
327 **26-15a-104**, as last amended by Laws of Utah 2005, Chapter 192
328 **26-15a-105**, as last amended by Laws of Utah 2005, Chapter 192
329 **26-18-3**, as last amended by Laws of Utah 2006, Chapter 116
330 **26-18-103**, as enacted by Laws of Utah 1992, Chapter 273
331 **26-18-104**, as enacted by Laws of Utah 1992, Chapter 273
332 **26-18-304**, as enacted by Laws of Utah 1993, Chapter 255
333 **26-18-504**, as last amended by Laws of Utah 2006, Chapter 170
334 **26-18a-4**, as last amended by Laws of Utah 1997, Chapter 1
335 **26-21-5**, as last amended by Laws of Utah 1997, Chapter 209
336 **26-21-9.5**, as last amended by Laws of Utah 2007, Chapter 43
337 **26-21-23**, as enacted by Laws of Utah 2007, Chapter 24

338 **26-21a-203**, as last amended by Laws of Utah 2001, Chapter 286
339 **26-21a-205**, as last amended by Laws of Utah 1995, Chapter 28
340 **26-23-2**, as last amended by Laws of Utah 1988, Chapter 72
341 **26-23b-110**, as last amended by Laws of Utah 2007, Chapter 66
342 **26-25-2**, as last amended by Laws of Utah 2003, Chapter 242
343 **26-33a-104**, as last amended by Laws of Utah 2007, Chapter 29
344 **26-35a-106**, as enacted by Laws of Utah 2004, Chapter 284
345 **26-38-9**, as enacted by Laws of Utah 1994, Chapter 281
346 **26-39-108**, as enacted by Laws of Utah 1997, Chapter 196
347 **26-39-109**, as last amended by Laws of Utah 2006, Chapter 37
348 **26-40-103**, as last amended by Laws of Utah 2003, Chapter 16
349 **26-40-110**, as last amended by Laws of Utah 2001, Chapter 53
350 **26-41-104**, as last amended by Laws of Utah 2007, Chapter 37
351 **26-42-104**, as enacted by Laws of Utah 1998, Chapter 319
352 **26-43-103**, as enacted by Laws of Utah 1998, Chapter 73
353 **26-46-102**, as enacted by Laws of Utah 2002, Chapter 307
354 **26-47-103**, as enacted by Laws of Utah 2005, Chapter 273
355 **26-48-102**, as enacted by Laws of Utah 2006, Chapter 280
356 **26A-1-108.7**, as last amended by Laws of Utah 2005, Chapter 25
357 **30-2-11**, as last amended by Laws of Utah 2005, Chapter 102
358 **30-3-11.3**, as last amended by Laws of Utah 2006, Chapter 173
359 **30-3-11.4**, as enacted by Laws of Utah 2007, Chapter 301
360 **30-3-38**, as last amended by Laws of Utah 2004, Chapter 352
361 **31A-1-103**, as last amended by Laws of Utah 2005, Chapter 102
362 **31A-1-301**, as last amended by Laws of Utah 2007, Chapter 307
363 **31A-2-201**, as last amended by Laws of Utah 2005, Chapter 123
364 **31A-2-201.1**, as enacted by Laws of Utah 2000, Chapter 114
365 **31A-2-203**, as last amended by Laws of Utah 2007, Chapter 309
366 **31A-2-203.5**, as enacted by Laws of Utah 1987, Chapter 161
367 **31A-2-204**, as last amended by Laws of Utah 2007, Chapter 309
368 **31A-2-207**, as last amended by Laws of Utah 2007, Chapter 309

369 **31A-2-209**, as last amended by Laws of Utah 1991, Chapter 259
370 **31A-2-217**, as last amended by Laws of Utah 2002, Chapter 65
371 **31A-2-302**, as last amended by Laws of Utah 1991, Chapter 5
372 **31A-2-306.5**, as enacted by Laws of Utah 2003, Chapter 252
373 **31A-2-404**, as last amended by Laws of Utah 2007, Chapter 325
374 **31A-3-101**, as last amended by Laws of Utah 2005, Chapter 124
375 **31A-3-103**, as last amended by Laws of Utah 2006, Chapter 117
376 **31A-3-304**, as last amended by Laws of Utah 2006, Chapter 320
377 **31A-4-103**, as last amended by Laws of Utah 2003, Chapter 252
378 **31A-5-204**, as last amended by Laws of Utah 1996, Second Special Session, Chapter 9
379 **31A-6a-110**, as last amended by Laws of Utah 2001, Chapter 116
380 **31A-8a-203**, as enacted by Laws of Utah 2005, Chapter 58
381 **31A-8a-210**, as enacted by Laws of Utah 2005, Chapter 58
382 **31A-12-107**, as last amended by Laws of Utah 2004, Chapter 267
383 **31A-14-217**, as last amended by Laws of Utah 2007, Chapter 309
384 **31A-17-503**, as enacted by Laws of Utah 1993, Chapter 305
385 **31A-19a-211 (Superseded 07/01/08)**, as renumbered and amended by Laws of Utah
386 1999, Chapter 130
387 **31A-19a-211 (Effective 07/01/08)**, as last amended by Laws of Utah 2007, Chapter
388 338
389 **31A-19a-304**, as renumbered and amended by Laws of Utah 1999, Chapter 130
390 **31A-21-109**, as last amended by Laws of Utah 2004, Chapter 92
391 **31A-22-315**, as last amended by Laws of Utah 2007, Chapter 262
392 **31A-22-320**, as enacted by Laws of Utah 2002, Chapter 221
393 **31A-22-403**, as last amended by Laws of Utah 2003, Chapter 252
394 **31A-22-409**, as last amended by Laws of Utah 2005, Chapter 125
395 **31A-22-425**, as last amended by Laws of Utah 2006, Chapter 175
396 **31A-22-614.5**, as enacted by Laws of Utah 1993, Chapter 255
397 **31A-22-625**, as last amended by Laws of Utah 2002, Chapter 308
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767 **53B-16-305**, as enacted by Laws of Utah 1992, Chapter 280
768 **53B-17-603**, as last amended by Laws of Utah 1994, Chapter 294
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795 **57-11-3.5**, as enacted by Laws of Utah 1987, Chapter 161
796 **57-11-10**, as last amended by Laws of Utah 1990, Chapter 199
797 **57-11-13**, as repealed and reenacted by Laws of Utah 1991, Chapter 165
798 **57-11-14**, as last amended by Laws of Utah 1991, Chapter 165
799 **57-12-9**, as last amended by Laws of Utah 2004, Chapter 223
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802 **57-21-8**, as last amended by Laws of Utah 1999, Chapter 82

803 **57-21-9**, as last amended by Laws of Utah 1999, Chapters 82, and 160
804 **57-21-10**, as last amended by Laws of Utah 1999, Chapter 160
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814 **58-1-404**, as last amended by Laws of Utah 2006, Chapter 14
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817 **58-3a-502**, as last amended by Laws of Utah 1997, Chapter 10
818 **58-5a-302**, as last amended by Laws of Utah 1995, Chapter 28
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860 **58-39a-5**, as last amended by Laws of Utah 1994, Chapter 313
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869 **58-44a-402**, as enacted by Laws of Utah 1998, Chapter 288
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874 **58-53-502**, as renumbered and amended by Laws of Utah 1998, Chapter 191
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876 **58-54-5**, as last amended by Laws of Utah 1994, Chapters 163, and 313
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884 **58-56-9.3**, as enacted by Laws of Utah 2007, Chapter 145
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908 **58-68-102**, as last amended by Laws of Utah 2000, Chapter 1
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910 **58-68-402**, as enacted by Laws of Utah 1996, Chapter 248
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914 **58-70a-302**, as enacted by Laws of Utah 1997, Chapter 229
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917 **58-71-402**, as enacted by Laws of Utah 1996, Chapter 282
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921 amended by Laws of Utah 1996, Chapter 253
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923 **58-74-302**, as last amended by Laws of Utah 2004, Chapter 77
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928 **58-76-502**, as last amended by Laws of Utah 2003, Chapter 131
929 **58-77-302**, as enacted by Laws of Utah 2005, Chapter 299
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945 **59-2-102**, as last amended by Laws of Utah 2007, Chapters 107, 234, and 329
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948 **59-2-202**, as last amended by Laws of Utah 1999, Chapter 71
949 **59-2-207**, as last amended by Laws of Utah 1999, Chapter 71
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952 **59-2-405.2**, as last amended by Laws of Utah 2006, Fifth Special Session, Chapter 3
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956 **59-2-704.5**, as enacted by Laws of Utah 1993, Chapter 243
957 **59-2-801**, as last amended by Laws of Utah 1999, Chapter 134

958 **59-2-924**, as last amended by Laws of Utah 2007, Chapters 107, and 329
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991 **59-10-514.1**, as enacted by Laws of Utah 2005, Chapter 121
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995 **59-10-1013**, as renumbered and amended by Laws of Utah 2006, Chapter 223
996 **59-10-1015**, as renumbered and amended by Laws of Utah 2006, Chapter 223
997 **59-10-1105**, as last amended by Laws of Utah 2007, Chapter 122
998 **59-10-1205**, as enacted by Laws of Utah 2006, Fourth Special Session, Chapter 2
999 **59-11-113**, as last amended by Laws of Utah 1998, Chapter 299
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1003 195, 214, 224, 288, 295, and 329
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1027 202, 288, and 329
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1033 **59-13-202.5**, as last amended by Laws of Utah 2003, Chapter 178
1034 **59-13-203.1**, as last amended by Laws of Utah 2007, Chapter 194
1035 **59-13-301**, as last amended by Laws of Utah 2003, Chapters 7, and 268
1036 **59-13-301.5**, as last amended by Laws of Utah 2001, Chapter 9
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1040 **59-13-502**, as enacted by Laws of Utah 1990, Chapter 11
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1043 **59-14-409**, as enacted by Laws of Utah 2005, Chapter 135
1044 **59-14-603**, as enacted by Laws of Utah 2005, Chapter 204
1045 **59-19-105**, as last amended by Laws of Utah 1989, Chapter 242
1046 **59-21-2**, as last amended by Laws of Utah 2007, Chapter 303
1047 **59-24-108**, as enacted by Laws of Utah 2001, Chapter 314
1048 **59-25-108**, as enacted by Laws of Utah 2003, Chapter 295
1049 **59-26-106**, as enacted by Laws of Utah 2004, Chapter 300
1050 **59-26-108**, as enacted by Laws of Utah 2004, Chapter 300

1051 **59-27-104**, as enacted by Laws of Utah 2004, Chapter 214
1052 **61-1-4**, as last amended by Laws of Utah 2004, Chapter 90
1053 **61-1-6**, as last amended by Laws of Utah 2003, Chapter 36
1054 **61-1-11.1**, as enacted by Laws of Utah 2003, Chapter 245
1055 **61-1-12**, as last amended by Laws of Utah 1990, Chapter 133
1056 **61-1-13**, as last amended by Laws of Utah 2007, Chapters 292, and 307
1057 **61-1-14**, as last amended by Laws of Utah 1997, Chapter 160
1058 **61-1-15.5**, as enacted by Laws of Utah 1997, Chapter 160
1059 **61-1-18.4**, as last amended by Laws of Utah 1994, Chapter 313
1060 **61-1-18.6**, as enacted by Laws of Utah 1987, Chapter 161
1061 **61-1-18.7**, as last amended by Laws of Utah 2002, Chapter 256
1062 **61-1-23**, as last amended by Laws of Utah 1990, Chapter 133
1063 **61-2-5.1**, as last amended by Laws of Utah 1997, Chapter 351
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1092 **61-2c-402.1**, as enacted by Laws of Utah 2005, Chapter 199
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1094 **62A-1-106**, as enacted by Laws of Utah 1988, Chapter 1
1095 **62A-1-108.5**, as last amended by Laws of Utah 2003, Chapter 11
1096 **62A-1-111**, as last amended by Laws of Utah 2005, Chapter 212
1097 **62A-1-112**, as last amended by Laws of Utah 2004, Chapter 352
1098 **62A-1-118**, as last amended by Laws of Utah 2006, Chapter 77
1099 **62A-2-105**, as last amended by Laws of Utah 2005, Chapter 188
1100 **62A-2-106**, as last amended by Laws of Utah 2005, Chapters 188, and 212
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1107 **62A-2-122**, as last amended by Laws of Utah 2005, Chapters 60, 107, and 188
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1109 **62A-3-104.1**, as last amended by Laws of Utah 2005, Chapters 71, and 107
1110 **62A-3-106.5**, as enacted by Laws of Utah 2006, Chapter 31
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1112 **62A-3-205**, as enacted by Laws of Utah 1988, Chapter 1

1113 **62A-3-311**, as repealed and reenacted by Laws of Utah 2002, Chapter 108
1114 **62A-3-311.1**, as last amended by Laws of Utah 2005, Chapter 50
1115 **62A-3-312**, as repealed and reenacted by Laws of Utah 2002, Chapter 108
1116 **62A-4a-102**, as last amended by Laws of Utah 2005, Chapter 188
1117 **62A-4a-112**, as renumbered and amended by Laws of Utah 1994, Chapter 260
1118 **62A-4a-115**, as renumbered and amended by Laws of Utah 1994, Chapter 260
1119 **62A-4a-119**, as enacted by Laws of Utah 2000, Chapter 274
1120 **62A-4a-120**, as last amended by Laws of Utah 2006, Chapter 281
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1142 **62A-11-304.1**, as repealed and reenacted by Laws of Utah 1997, Chapter 232
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1378 amended by Laws of Utah 1998, Chapter 270
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1381 amended by Laws of Utah 1998, Chapter 270
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1448 amended by Laws of Utah 2004, Chapter 137
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1453 **77-27-21.5**, as last amended by Laws of Utah 2007, Chapter 337

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1773 **63G-2-804**, (Renumbered from 63-2-804, as enacted by Laws of Utah 1992, Chapter
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1805 **63G-3-601**, (Renumbered from 63-46a-12, as last amended by Laws of Utah 2006,
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1809 **63G-3-603**, (Renumbered from 63-46a-14, as last amended by Laws of Utah 1998,
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1827 **63G-4-202**, (Renumbered from 63-46b-4, as enacted by Laws of Utah 1987, Chapter
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1829 **63G-4-203**, (Renumbered from 63-46b-5, as last amended by Laws of Utah 1988,
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1835 **63G-4-206**, (Renumbered from 63-46b-8, as last amended by Laws of Utah 2007,
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1837 **63G-4-207**, (Renumbered from 63-46b-9, as last amended by Laws of Utah 2001,
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1839 **63G-4-208**, (Renumbered from 63-46b-10, as last amended by Laws of Utah 2001,
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1841 **63G-4-209**, (Renumbered from 63-46b-11, as last amended by Laws of Utah 1988,
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1843 **63G-4-301**, (Renumbered from 63-46b-12, as last amended by Laws of Utah 2001,
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1845 **63G-4-302**, (Renumbered from 63-46b-13, as last amended by Laws of Utah 2001,
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1847 **63G-4-401**, (Renumbered from 63-46b-14, as last amended by Laws of Utah 1988,
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1849 **63G-4-402**, (Renumbered from 63-46b-15, as last amended by Laws of Utah 2001,
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1853 **63G-4-404**, (Renumbered from 63-46b-17, as enacted by Laws of Utah 1987, Chapter
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1855 **63G-4-405**, (Renumbered from 63-46b-18, as enacted by Laws of Utah 1987, Chapter
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1857 **63G-4-501**, (Renumbered from 63-46b-19, as enacted by Laws of Utah 1987, Chapter
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1859 **63G-4-502**, (Renumbered from 63-46b-20, as enacted by Laws of Utah 1987, Chapter
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1861 **63G-4-503**, (Renumbered from 63-46b-21, as last amended by Laws of Utah 1988,
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1863 **63G-4-601**, (Renumbered from 63-46b-23, as enacted by Laws of Utah 2001, Chapter
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1865 **63G-5-101**, (Renumbered from 63-46c-101, as enacted by Laws of Utah 2001, Chapter
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1867 **63G-5-102**, (Renumbered from 63-46c-102, as enacted by Laws of Utah 2001, Chapter
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1869 **63G-5-201**, (Renumbered from 63-46c-103, as enacted by Laws of Utah 2001, Chapter
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1871 **63G-5-301**, (Renumbered from 63-46c-104, as enacted by Laws of Utah 2001, Chapter
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1873 **63G-6-102**, (Renumbered from 63-56-101, as renumbered and amended by Laws of
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1875 **63G-6-103**, (Renumbered from 63-56-105, as last amended by Laws of Utah 2005,
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1877 **63G-6-104**, (Renumbered from 63-56-102, as last amended by Laws of Utah 2007,
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1879 **63G-6-105**, (Renumbered from 63-56-103, as renumbered and amended by Laws of
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1881 **63G-6-106**, (Renumbered from 63-56-104, as renumbered and amended by Laws of
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1883 **63G-6-201**, (Renumbered from 63-56-201, as last amended by Laws of Utah 2007,
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1885 **63G-6-202**, (Renumbered from 63-56-202, as renumbered and amended by Laws of
1886 Utah 2005, Chapter 25)
1887 **63G-6-203**, (Renumbered from 63-56-203, as renumbered and amended by Laws of

1888 Utah 2005, Chapter 25)
1889 **63G-6-204**, (Renumbered from 63-56-204, as last amended by Laws of Utah 2005,
1890 Chapter 169 and renumbered and amended by Laws of Utah 2005, Chapter 25)
1891 **63G-6-205**, (Renumbered from 63-56-205, as renumbered and amended by Laws of
1892 Utah 2005, Chapter 25)
1893 **63G-6-206**, (Renumbered from 63-56-206, as renumbered and amended by Laws of
1894 Utah 2005, Chapter 25)
1895 **63G-6-207**, (Renumbered from 63-56-207, as renumbered and amended by Laws of
1896 Utah 2005, Chapter 25)
1897 **63G-6-208**, (Renumbered from 63-56-208, as renumbered and amended by Laws of
1898 Utah 2005, Chapter 25)
1899 **63G-6-209**, (Renumbered from 63-56-209, as renumbered and amended by Laws of
1900 Utah 2005, Chapter 25)
1901 **63G-6-301**, (Renumbered from 63-56-301, as renumbered and amended by Laws of
1902 Utah 2005, Chapter 25)
1903 **63G-6-302**, (Renumbered from 63-56-302, as renumbered and amended by Laws of
1904 Utah 2005, Chapter 25)
1905 **63G-6-303**, (Renumbered from 63-56-303, as renumbered and amended by Laws of
1906 Utah 2005, Chapter 25)
1907 **63G-6-401**, (Renumbered from 63-56-401, as renumbered and amended by Laws of
1908 Utah 2005, Chapter 25)
1909 **63G-6-402**, (Renumbered from 63-56-402, as renumbered and amended by Laws of
1910 Utah 2005, Chapter 25)
1911 **63G-6-403**, (Renumbered from 63-56-403, as renumbered and amended by Laws of
1912 Utah 2005, Chapter 25)
1913 **63G-6-404**, (Renumbered from 63-56-404, as renumbered and amended by Laws of
1914 Utah 2005, Chapter 25)
1915 **63G-6-405**, (Renumbered from 63-56-405, as renumbered and amended by Laws of
1916 Utah 2005, Chapter 25)
1917 **63G-6-406**, (Renumbered from 63-56-406, as renumbered and amended by Laws of
1918 Utah 2005, Chapter 25)

1919 **63G-6-407**, (Renumbered from 63-56-407, as renumbered and amended by Laws of
1920 Utah 2005, Chapter 25)
1921 **63G-6-408**, (Renumbered from 63-56-408, as renumbered and amended by Laws of
1922 Utah 2005, Chapter 25)
1923 **63G-6-409**, (Renumbered from 63-56-409, as last amended by Laws of Utah 2006,
1924 Chapter 46)
1925 **63G-6-410**, (Renumbered from 63-56-410, as renumbered and amended by Laws of
1926 Utah 2005, Chapter 25)
1927 **63G-6-411**, (Renumbered from 63-56-411, as renumbered and amended by Laws of
1928 Utah 2005, Chapter 25)
1929 **63G-6-412**, (Renumbered from 63-56-412, as renumbered and amended by Laws of
1930 Utah 2005, Chapter 25)
1931 **63G-6-413**, (Renumbered from 63-56-413, as renumbered and amended by Laws of
1932 Utah 2005, Chapter 25)
1933 **63G-6-414**, (Renumbered from 63-56-414, as renumbered and amended by Laws of
1934 Utah 2005, Chapter 25)
1935 **63G-6-415**, (Renumbered from 63-56-415, as renumbered and amended by Laws of
1936 Utah 2005, Chapter 25)
1937 **63G-6-416**, (Renumbered from 63-56-416, as renumbered and amended by Laws of
1938 Utah 2005, Chapter 25)
1939 **63G-6-417**, (Renumbered from 63-56-417, as renumbered and amended by Laws of
1940 Utah 2005, Chapter 25)
1941 **63G-6-418**, (Renumbered from 63-56-418, as renumbered and amended by Laws of
1942 Utah 2005, Chapter 25)
1943 **63G-6-419**, (Renumbered from 63-56-419, as renumbered and amended by Laws of
1944 Utah 2005, Chapter 25)
1945 **63G-6-420**, (Renumbered from 63-56-420, as renumbered and amended by Laws of
1946 Utah 2005, Chapter 25)
1947 **63G-6-421**, (Renumbered from 63-56-421, as renumbered and amended by Laws of
1948 Utah 2005, Chapter 25)
1949 **63G-6-422**, (Renumbered from 63-56-422, as renumbered and amended by Laws of

1950 Utah 2005, Chapter 25)
1951 **63G-6-423**, (Renumbered from 63-56-423, as renumbered and amended by Laws of
1952 Utah 2005, Chapter 25)
1953 **63G-6-424**, (Renumbered from 63-56-424, as renumbered and amended by Laws of
1954 Utah 2005, Chapter 25)
1955 **63G-6-425**, (Renumbered from 63-56-425, as last amended by Laws of Utah 2006,
1956 Chapter 32)
1957 **63G-6-426**, (Renumbered from 63-56-426, as enacted by Laws of Utah 2006, Chapter
1958 66)
1959 **63G-6-501**, (Renumbered from 63-56-501, as renumbered and amended by Laws of
1960 Utah 2005, Chapter 25)
1961 **63G-6-502**, (Renumbered from 63-56-502, as last amended by Laws of Utah 2006,
1962 Chapter 319)
1963 **63G-6-503**, (Renumbered from 63-56-502.5, as enacted by Laws of Utah 2006, Chapter
1964 36)
1965 **63G-6-504**, (Renumbered from 63-56-503, as renumbered and amended by Laws of
1966 Utah 2005, Chapter 25)
1967 **63G-6-505**, (Renumbered from 63-56-504, as renumbered and amended by Laws of
1968 Utah 2005, Chapter 25)
1969 **63G-6-506**, (Renumbered from 63-56-505, as renumbered and amended by Laws of
1970 Utah 2005, Chapter 25)
1971 **63G-6-507**, (Renumbered from 63-56-506, as renumbered and amended by Laws of
1972 Utah 2005, Chapter 25)
1973 **63G-6-601**, (Renumbered from 63-56-601, as renumbered and amended by Laws of
1974 Utah 2005, Chapter 25)
1975 **63G-6-602**, (Renumbered from 63-56-602, as renumbered and amended by Laws of
1976 Utah 2005, Chapter 25)
1977 **63G-6-701**, (Renumbered from 63-56-701, as renumbered and amended by Laws of
1978 Utah 2005, Chapter 25)
1979 **63G-6-702**, (Renumbered from 63-56-702, as renumbered and amended by Laws of
1980 Utah 2005, Chapter 25)

1981 **63G-6-703**, (Renumbered from 63-56-703, as renumbered and amended by Laws of
1982 Utah 2005, Chapter 25)
1983 **63G-6-704**, (Renumbered from 63-56-704, as renumbered and amended by Laws of
1984 Utah 2005, Chapter 25)
1985 **63G-6-705**, (Renumbered from 63-56-705, as renumbered and amended by Laws of
1986 Utah 2005, Chapter 25)
1987 **63G-6-801**, (Renumbered from 63-56-801, as renumbered and amended by Laws of
1988 Utah 2005, Chapter 25)
1989 **63G-6-802**, (Renumbered from 63-56-802, as renumbered and amended by Laws of
1990 Utah 2005, Chapter 25)
1991 **63G-6-803**, (Renumbered from 63-56-803, as renumbered and amended by Laws of
1992 Utah 2005, Chapter 25)
1993 **63G-6-804**, (Renumbered from 63-56-804, as renumbered and amended by Laws of
1994 Utah 2005, Chapter 25)
1995 **63G-6-805**, (Renumbered from 63-56-805, as renumbered and amended by Laws of
1996 Utah 2005, Chapter 25)
1997 **63G-6-806**, (Renumbered from 63-56-806, as last amended by Laws of Utah 2007,
1998 Chapter 306)
1999 **63G-6-807**, (Renumbered from 63-56-807, as renumbered and amended by Laws of
2000 Utah 2005, Chapter 25)
2001 **63G-6-808**, (Renumbered from 63-56-808, as renumbered and amended by Laws of
2002 Utah 2005, Chapter 25)
2003 **63G-6-809**, (Renumbered from 63-56-809, as renumbered and amended by Laws of
2004 Utah 2005, Chapter 25)
2005 **63G-6-810**, (Renumbered from 63-56-810, as renumbered and amended by Laws of
2006 Utah 2005, Chapter 25)
2007 **63G-6-811**, (Renumbered from 63-56-811, as renumbered and amended by Laws of
2008 Utah 2005, Chapter 25)
2009 **63G-6-812**, (Renumbered from 63-56-812, as renumbered and amended by Laws of
2010 Utah 2005, Chapter 25)
2011 **63G-6-813**, (Renumbered from 63-56-813, as renumbered and amended by Laws of

2012 Utah 2005, Chapter 25)
2013 **63G-6-814**, (Renumbered from 63-56-814, as renumbered and amended by Laws of
2014 Utah 2005, Chapter 25)
2015 **63G-6-815**, (Renumbered from 63-56-815, as renumbered and amended by Laws of
2016 Utah 2005, Chapter 25)
2017 **63G-6-816**, (Renumbered from 63-56-816, as renumbered and amended by Laws of
2018 Utah 2005, Chapter 25)
2019 **63G-6-817**, (Renumbered from 63-56-817, as renumbered and amended by Laws of
2020 Utah 2005, Chapter 25)
2021 **63G-6-818**, (Renumbered from 63-56-818, as renumbered and amended by Laws of
2022 Utah 2005, Chapter 25)
2023 **63G-6-819**, (Renumbered from 63-56-819, as renumbered and amended by Laws of
2024 Utah 2005, Chapter 25)
2025 **63G-6-820**, (Renumbered from 63-56-820, as renumbered and amended by Laws of
2026 Utah 2005, Chapter 25)
2027 **63G-6-901**, (Renumbered from 63-56-901, as renumbered and amended by Laws of
2028 Utah 2005, Chapter 25)
2029 **63G-6-902**, (Renumbered from 63-56-902, as renumbered and amended by Laws of
2030 Utah 2005, Chapter 25)
2031 **63G-6-903**, (Renumbered from 63-56-903, as renumbered and amended by Laws of
2032 Utah 2005, Chapter 25)
2033 **63G-6-904**, (Renumbered from 63-56-904, as renumbered and amended by Laws of
2034 Utah 2005, Chapter 25)
2035 **63G-6-905**, (Renumbered from 63-56-905, as renumbered and amended by Laws of
2036 Utah 2005, Chapter 25)
2037 **63G-6-906**, (Renumbered from 63-56-906, as renumbered and amended by Laws of
2038 Utah 2005, Chapter 25)
2039 **63G-6-907**, (Renumbered from 63-56-907, as renumbered and amended by Laws of
2040 Utah 2005, Chapter 25)
2041 **63G-6-1001**, (Renumbered from 63-56-1001, as renumbered and amended by Laws of
2042 Utah 2005, Chapter 25)

2043 **63G-6-1002**, (Renumbered from 63-56-1002, as renumbered and amended by Laws of
2044 Utah 2005, Chapter 25)
2045 **63G-7-101**, (Renumbered from 63-30d-101, as enacted by Laws of Utah 2004, Chapter
2046 267)
2047 **63G-7-102**, (Renumbered from 63-30d-102, as last amended by Laws of Utah 2007,
2048 Chapter 329)
2049 **63G-7-201**, (Renumbered from 63-30d-201, as enacted by Laws of Utah 2004, Chapter
2050 267)
2051 **63G-7-202**, (Renumbered from 63-30d-202, as enacted by Laws of Utah 2004, Chapter
2052 267)
2053 **63G-7-203**, (Renumbered from 63-30d-203, as last amended by Laws of Utah 2007,
2054 Chapter 306)
2055 **63G-7-301**, (Renumbered from 63-30d-301, as last amended by Laws of Utah 2007,
2056 Chapter 357)
2057 **63G-7-302**, (Renumbered from 63-30d-302, as enacted by Laws of Utah 2004, Chapter
2058 267)
2059 **63G-7-401**, (Renumbered from 63-30d-401, as last amended by Laws of Utah 2007,
2060 Chapter 329)
2061 **63G-7-402**, (Renumbered from 63-30d-402, as enacted by Laws of Utah 2004, Chapter
2062 267)
2063 **63G-7-403**, (Renumbered from 63-30d-403, as enacted by Laws of Utah 2004, Chapter
2064 267)
2065 **63G-7-501**, (Renumbered from 63-30d-501, as enacted by Laws of Utah 2004, Chapter
2066 267)
2067 **63G-7-502**, (Renumbered from 63-30d-502, as enacted by Laws of Utah 2004, Chapter
2068 267)
2069 **63G-7-601**, (Renumbered from 63-30d-601, as enacted by Laws of Utah 2004, Chapter
2070 267)
2071 **63G-7-602**, (Renumbered from 63-30d-602, as enacted by Laws of Utah 2004, Chapter
2072 267)
2073 **63G-7-603**, (Renumbered from 63-30d-603, as enacted by Laws of Utah 2004, Chapter

2074 267)
2075 **63G-7-604**, (Renumbered from 63-30d-604, as last amended by Laws of Utah 2007,
2076 Chapter 71)
2077 **63G-7-701**, (Renumbered from 63-30d-701, as enacted by Laws of Utah 2004, Chapter
2078 267)
2079 **63G-7-702**, (Renumbered from 63-30d-702, as enacted by Laws of Utah 2004, Chapter
2080 267)
2081 **63G-7-703**, (Renumbered from 63-30d-703, as enacted by Laws of Utah 2004, Chapter
2082 267)
2083 **63G-7-704**, (Renumbered from 63-30d-704, as enacted by Laws of Utah 2004, Chapter
2084 267)
2085 **63G-7-801**, (Renumbered from 63-30d-801, as enacted by Laws of Utah 2004, Chapter
2086 267)
2087 **63G-7-802**, (Renumbered from 63-30d-802, as enacted by Laws of Utah 2004, Chapter
2088 267)
2089 **63G-7-803**, (Renumbered from 63-30d-803, as enacted by Laws of Utah 2004, Chapter
2090 267)
2091 **63G-7-804**, (Renumbered from 63-30d-804, as enacted by Laws of Utah 2004, Chapter
2092 267)
2093 **63G-7-805**, (Renumbered from 63-30d-805, as enacted by Laws of Utah 2004, Chapter
2094 267)
2095 **63G-7-901**, (Renumbered from 63-30d-901, as enacted by Laws of Utah 2004, Chapter
2096 267)
2097 **63G-7-902**, (Renumbered from 63-30d-902, as enacted by Laws of Utah 2004, Chapter
2098 267)
2099 **63G-7-903**, (Renumbered from 63-30d-903, as enacted by Laws of Utah 2004, Chapter
2100 267)
2101 **63G-7-904**, (Renumbered from 63-30d-904, as enacted by Laws of Utah 2004, Chapter
2102 267)
2103 **63G-8-102**, (Renumbered from 63-30b-1, as enacted by Laws of Utah 1979, Chapter
2104 93)

2105 **63G-8-201**, (Renumbered from 63-30b-2, as enacted by Laws of Utah 1979, Chapter
2106 92)
2107 **63G-8-202**, (Renumbered from 63-30b-3, as last amended by Laws of Utah 2005,
2108 Chapter 102)
2109 **63G-8-301**, (Renumbered from 63-30b-4, as enacted by Laws of Utah 1979, Chapter
2110 93)
2111 **63G-9-201**, (Renumbered from 63-6-1, as last amended by Laws of Utah 2007, Chapter
2112 329)
2113 **63G-9-202**, (Renumbered from 63-6-1.5, as enacted by Laws of Utah 1987, Chapter
2114 161)
2115 **63G-9-203**, (Renumbered from 63-6-2, as last amended by Laws of Utah 1963, Chapter
2116 150)
2117 **63G-9-204**, (Renumbered from 63-6-3, Utah Code Annotated 1953)
2118 **63G-9-205**, (Renumbered from 63-6-4, Utah Code Annotated 1953)
2119 **63G-9-206**, (Renumbered from 63-6-5, Utah Code Annotated 1953)
2120 **63G-9-207**, (Renumbered from 63-6-6, Utah Code Annotated 1953)
2121 **63G-9-301**, (Renumbered from 63-6-10, as last amended by Laws of Utah 1987,
2122 Chapter 61)
2123 **63G-9-302**, (Renumbered from 63-6-11, as last amended by Laws of Utah 2006,
2124 Chapter 357)
2125 **63G-9-303**, (Renumbered from 63-6-12, as last amended by Laws of Utah 1995,
2126 Chapter 20)
2127 **63G-9-304**, (Renumbered from 63-6-13, as last amended by Laws of Utah 2006,
2128 Chapter 357)
2129 **63G-9-305**, (Renumbered from 63-6-14, Utah Code Annotated 1953)
2130 **63G-9-306**, (Renumbered from 63-6-16, as last amended by Laws of Utah 2006,
2131 Chapter 357)
2132 **63G-9-401**, (Renumbered from 63-6-17, Utah Code Annotated 1953)
2133 **63G-10-102**, (Renumbered from 63-38b-101, as last amended by Laws of Utah 2004,
2134 Chapter 60)
2135 **63G-10-103**, (Renumbered from 63-38b-102, as last amended by Laws of Utah 2002,

2136 Chapter 235)
2137 **63G-10-201**, (Renumbered from 63-38b-201, as renumbered and amended by Laws of
2138 Utah 2002, Chapter 235)
2139 **63G-10-202**, (Renumbered from 63-38b-202, as renumbered and amended by Laws of
2140 Utah 2002, Chapter 235)
2141 **63G-10-301**, (Renumbered from 63-38b-301, as enacted by Laws of Utah 2002,
2142 Chapter 235)
2143 **63G-10-302**, (Renumbered from 63-38b-302, as enacted by Laws of Utah 2002,
2144 Chapter 235)
2145 **63G-10-303**, (Renumbered from 63-38b-303, as enacted by Laws of Utah 2002,
2146 Chapter 235)
2147 **63G-10-401**, (Renumbered from 63-38b-401, as renumbered and amended by Laws of
2148 Utah 2002, Chapter 235)
2149 **63I-1-101**, (Renumbered from 63-55-101, as last amended by Laws of Utah 1997,
2150 Chapter 15)
2151 **63I-1-102**, (Renumbered from 63-55-102, as last amended by Laws of Utah 1997,
2152 Chapter 15)
2153 **63I-1-103**, (Renumbered from 63-55-103, as last amended by Laws of Utah 1997,
2154 Chapter 15)
2155 **63I-1-104**, (Renumbered from 63-55-104, as renumbered and amended by Laws of
2156 Utah 1990, Chapter 1)
2157 **63I-1-105**, (Renumbered from 63-55-105, as last amended by Laws of Utah 1993,
2158 Chapter 13)
2159 **63I-1-106**, (Renumbered from 63-55-106, as last amended by Laws of Utah 1993,
2160 Chapter 13)
2161 **63I-1-209**, (Renumbered from 63-55-209, as last amended by Laws of Utah 2006,
2162 Chapters 82, 86, and 223)
2163 **63I-1-210**, (Renumbered from 63-55-210, as last amended by Laws of Utah 2004,
2164 Chapter 90)
2165 **63I-1-213**, (Renumbered from 63-55-213, as last amended by Laws of Utah 2007,
2166 Chapter 216)

2167 **63I-1-219**, (Renumbered from 63-55-219, as last amended by Laws of Utah 2006,
2168 Chapters 82, and 187)
2169 **63I-1-220**, (Renumbered from 63-55-220, as last amended by Laws of Utah 2004,
2170 Chapter 37)
2171 **63I-1-223**, (Renumbered from 63-55-223, as last amended by Laws of Utah 2004,
2172 Chapter 90)
2173 **63I-1-226**, (Renumbered from 63-55-226, as last amended by Laws of Utah 2007,
2174 Chapter 24)
2175 **63I-1-230**, (Renumbered from 63-55-230, Utah Code Annotated 1953)
2176 **63I-1-231**, (Renumbered from 63-55-231, as last amended by Laws of Utah 2007,
2177 Chapter 216)
2178 **63I-1-232**, (Renumbered from 63-55-232, as last amended by Laws of Utah 1998,
2179 Chapter 175)
2180 **63I-1-234**, (Renumbered from 63-55-234, as last amended by Laws of Utah 2005,
2181 Chapter 289)
2182 **63I-1-235**, (Renumbered from 63-55-235, as last amended by Laws of Utah 2007,
2183 Chapter 216)
2184 **63I-1-236**, (Renumbered from 63-55-236, as last amended by Laws of Utah 2007,
2185 Chapters 39, and 216)
2186 **63I-1-238**, (Renumbered from 63-55-238, as enacted by Laws of Utah 2004, Chapter
2187 250)
2188 **63I-1-241**, (Renumbered from 63-55-241, as last amended by Laws of Utah 2005,
2189 Chapters 2, and 108)
2190 **63I-1-253**, (Renumbered from 63-55-253, as last amended by Laws of Utah 2007,
2191 Chapter 386)
2192 **63I-1-254**, (Renumbered from 63-55-254, as last amended by Laws of Utah 2000,
2193 Chapter 1)
2194 **63I-1-258**, (Renumbered from 63-55-258, as last amended by Laws of Utah 2007,
2195 Chapter 216)
2196 **63I-1-259**, (Renumbered from 63-55-259, as last amended by Laws of Utah 2007,
2197 Chapters 216, and 306)

2198 **63I-1-261**, (Renumbered from 63-55-261, as last amended by Laws of Utah 1999,
2199 Chapter 242)
2200 **63I-1-262**, (Renumbered from 63-55-262, as last amended by Laws of Utah 2007,
2201 Chapter 135)
2202 **63I-1-263**, (Renumbered from 63-55-263, as last amended by Laws of Utah 2007,
2203 Chapters 216, 306, and 317)
2204 **63I-1-267**, (Renumbered from 63-55-267, as last amended by Laws of Utah 2007,
2205 Chapters 39, and 216)
2206 **63I-1-269**, (Renumbered from 63-55-269, as enacted by Laws of Utah 2004, Chapter
2207 313)
2208 **63I-1-272**, (Renumbered from 63-55-272, as last amended by Laws of Utah 2004,
2209 Chapter 90)
2210 **63I-1-273**, (Renumbered from 63-55-273, as last amended by Laws of Utah 2003,
2211 Chapter 254)
2212 **63I-1-277**, (Renumbered from 63-55-277, as last amended by Laws of Utah 2004,
2213 Chapter 37)
2214 **63I-1-278**, (Renumbered from 63-55-278, as last amended by Laws of Utah 2007,
2215 Chapters 216, and 324)
2216 **63I-2-210**, (Renumbered from 63-55b-110, as last amended by Laws of Utah 2005,
2217 Chapter 28)
2218 **63I-2-220**, (Renumbered from 63-55b-120, as last amended by Laws of Utah 2003,
2219 Chapters 131, and 159)
2220 **63I-2-223**, (Renumbered from 63-55b-123, as last amended by Laws of Utah 2003,
2221 Chapter 131)
2222 **63I-2-226**, (Renumbered from 63-55b-126, as last amended by Laws of Utah 2007,
2223 Chapter 216)
2224 **63I-2-231**, (Renumbered from 63-55b-131, as last amended by Laws of Utah 2006,
2225 Chapter 82)
2226 **63I-2-232**, (Renumbered from 63-55b-132, as last amended by Laws of Utah 2005,
2227 Chapter 152)
2228 **63I-2-234**, (Renumbered from 63-55b-134, as last amended by Laws of Utah 2003,

2229 Chapter 131)
2230 **63I-2-253**, (Renumbered from 63-55b-153, as last amended by Laws of Utah 2007,
2231 Chapter 216)
2232 **63I-2-254**, (Renumbered from 63-55b-154, as last amended by Laws of Utah 2007,
2233 Chapter 306)
2234 **63I-2-258**, (Renumbered from 63-55b-158, as last amended by Laws of Utah 2006,
2235 Chapters 46, and 291)
2236 **63I-2-259**, (Renumbered from 63-55b-159, as last amended by Laws of Utah 2007,
2237 Chapter 306)
2238 **63I-2-263**, (Renumbered from 63-55b-163, as last amended by Laws of Utah 2007,
2239 Chapter 306)
2240 **63I-2-264**, (Renumbered from 63-55b-164, as last amended by Laws of Utah 2007,
2241 Chapter 353)
2242 **63I-2-267**, (Renumbered from 63-55b-167, as last amended by Laws of Utah 2004,
2243 Chapter 90)
2244 **63I-2-272**, (Renumbered from 63-55b-172, as last amended by Laws of Utah 2005,
2245 Second Special Session, Chapter 1)
2246 **63I-2-276**, (Renumbered from 63-55b-176, as last amended by Laws of Utah 2004,
2247 Chapter 90)
2248 **63I-2-277**, (Renumbered from 63-55b-177, as last amended by Laws of Utah 2006,
2249 Chapter 341)
2250 **63I-2-278**, (Renumbered from 63-55b-178, as last amended by Laws of Utah 2007,
2251 Chapters 216, 306, and 354)
2252 **63I-3-101**, (Renumbered from 63-54-101, as enacted by Laws of Utah 2006, Chapter
2253 248)
2254 **63I-3-102**, (Renumbered from 63-54-102, as enacted by Laws of Utah 2006, Chapter
2255 248)
2256 **63I-3-201**, (Renumbered from 63-54-103, as last amended by Laws of Utah 2007,
2257 Chapter 273)
2258 **63I-3-202**, (Renumbered from 63-54-104, as renumbered and amended by Laws of
2259 Utah 2006, Chapter 248)

2260 **63I-3-203**, (Renumbered from 63-54-105, as renumbered and amended by Laws of
2261 Utah 2006, Chapter 248)
2262 **63I-3-204**, (Renumbered from 63-54-106, as renumbered and amended by Laws of
2263 Utah 2006, Chapter 248)
2264 **63I-3-205**, (Renumbered from 63-54-107, as renumbered and amended by Laws of
2265 Utah 2006, Chapter 248)
2266 **63I-3-206**, (Renumbered from 63-54-108, as renumbered and amended by Laws of
2267 Utah 2006, Chapter 248)
2268 **63I-3-207**, (Renumbered from 63-54-109, as renumbered and amended by Laws of
2269 Utah 2006, Chapter 248)
2270 **63I-4-102**, (Renumbered from 63-55a-1, as last amended by Laws of Utah 2003,
2271 Chapter 193)
2272 **63I-4-201**, (Renumbered from 63-55a-2, as last amended by Laws of Utah 2003,
2273 Chapter 193)
2274 **63I-4-202**, (Renumbered from 63-55a-3, as last amended by Laws of Utah 2003,
2275 Chapter 193)
2276 **63I-5-101**, (Renumbered from 63-91-101, as enacted by Laws of Utah 1995, Chapter
2277 280)
2278 **63I-5-102**, (Renumbered from 63-91-102, as last amended by Laws of Utah 2007,
2279 Chapter 329)
2280 **63I-5-201**, (Renumbered from 63-91-201, as last amended by Laws of Utah 2007,
2281 Chapter 356)
2282 **63I-5-301**, (Renumbered from 63-91-301, as last amended by Laws of Utah 1996,
2283 Chapter 293)
2284 **63I-5-302**, (Renumbered from 63-91-302, as last amended by Laws of Utah 1996,
2285 Chapter 293)
2286 **63I-5-401**, (Renumbered from 63-91-401, as last amended by Laws of Utah 1996,
2287 Chapter 293)
2288 **63J-1-101**, (Renumbered from 63-38-1, as enacted by Laws of Utah 1969, Chapter 207)
2289 **63J-1-103**, (Renumbered from 63-38-9.5, as last amended by Laws of Utah 2005,
2290 Chapter 71)

2291 **63J-1-201**, (Renumbered from 63-38-2, as last amended by Laws of Utah 2007,
2292 Chapter 179)
2293 **63J-1-202**, (Renumbered from 63-38-2.5, as last amended by Laws of Utah 2003,
2294 Chapters 88, and 319)
2295 **63J-1-203**, (Renumbered from 63-38-2.6, as last amended by Laws of Utah 2007,
2296 Chapter 122)
2297 **63J-1-204**, (Renumbered from 63-38-2.7, as enacted by Laws of Utah 2007, Chapter
2298 328)
2299 **63J-1-301**, (Renumbered from 63-38-3, as last amended by Laws of Utah 2006,
2300 Chapter 278)
2301 **63J-1-302**, (Renumbered from 63-38-3.1, as enacted by Laws of Utah 2001, Chapter
2302 267)
2303 **63J-1-303**, (Renumbered from 63-38-3.2, as last amended by Laws of Utah 2003,
2304 Chapter 16)
2305 **63J-1-304**, (Renumbered from 63-38-3.3, as last amended by Laws of Utah 2007,
2306 Chapter 329)
2307 **63J-1-305**, (Renumbered from 63-38-3.4, as enacted by Laws of Utah 2001, Chapter
2308 191)
2309 **63J-1-306**, (Renumbered from 63-38-3.5, as last amended by Laws of Utah 2003,
2310 Chapter 5)
2311 **63J-1-307**, (Renumbered from 63-38-3.6, as enacted by Laws of Utah 2002, Fifth
2312 Special Session, Chapter 20)
2313 **63J-1-308**, (Renumbered from 63-38-4, as enacted by Laws of Utah 1969, Chapter 207)
2314 **63J-1-309**, (Renumbered from 63-38-5, as last amended by Laws of Utah 1987,
2315 Chapter 92)
2316 **63J-1-310**, (Renumbered from 63-38-6, as last amended by Laws of Utah 2001,
2317 Chapter 175)
2318 **63J-1-311**, (Renumbered from 63-38-7, as last amended by Laws of Utah 1997,
2319 Chapter 169)
2320 **63J-1-401**, (Renumbered from 63-38-8, as last amended by Laws of Utah 2004,
2321 Chapter 179)

2322 **63J-1-402**, (Renumbered from 63-38-8.1, as last amended by Laws of Utah 2006,
2323 Chapter 278)
2324 **63J-1-403**, (Renumbered from 63-38-8.2, as enacted by Laws of Utah 2004, Chapter
2325 226)
2326 **63J-1-404**, (Renumbered from 63-38-9, as last amended by Laws of Utah 2007,
2327 Chapter 122)
2328 **63J-1-405**, (Renumbered from 63-38-10, as last amended by Laws of Utah 1987,
2329 Chapter 61)
2330 **63J-1-406**, (Renumbered from 63-38-11, as last amended by Laws of Utah 1994,
2331 Chapter 216)
2332 **63J-1-407**, (Renumbered from 63-38-11.5, as enacted by Laws of Utah 2004, Chapter
2333 352)
2334 **63J-1-408**, (Renumbered from 63-38-12, as enacted by Laws of Utah 1969, Chapter
2335 207)
2336 **63J-1-409**, (Renumbered from 63-38-13, as enacted by Laws of Utah 1969, Chapter
2337 207)
2338 **63J-1-501**, (Renumbered from 63-38-14, as last amended by Laws of Utah 2003,
2339 Chapter 16)
2340 **63J-1-502**, (Renumbered from 63-38-15, as last amended by Laws of Utah 2003,
2341 Chapter 16)
2342 **63J-1-503**, (Renumbered from 63-38-16, as enacted by Laws of Utah 1983, Chapter 10)
2343 **63J-2-101**, (Renumbered from 63-38a-101, as enacted by Laws of Utah 1992, Chapter
2344 259)
2345 **63J-2-102**, (Renumbered from 63-38a-102, as last amended by Laws of Utah 2005,
2346 Chapter 71)
2347 **63J-2-201**, (Renumbered from 63-38a-103, as enacted by Laws of Utah 1992, Chapter
2348 259)
2349 **63J-2-202**, (Renumbered from 63-38a-104, as last amended by Laws of Utah 1994,
2350 Chapter 211)
2351 **63J-3-101**, (Renumbered from 63-38c-101, as renumbered and amended by Laws of
2352 Utah 1996, Chapter 275)

2353 **63J-3-102**, (Renumbered from 63-38c-102, as last amended by Laws of Utah 2004,
2354 Chapter 318)
2355 **63J-3-103**, (Renumbered from 63-38c-103, as last amended by Laws of Utah 2007,
2356 Chapters 122, 206, and 328)
2357 **63J-3-201**, (Renumbered from 63-38c-201, as last amended by Laws of Utah 2004,
2358 Chapter 318)
2359 **63J-3-202**, (Renumbered from 63-38c-202, as last amended by Laws of Utah 2004,
2360 Chapter 318)
2361 **63J-3-203**, (Renumbered from 63-38c-203, as renumbered and amended by Laws of
2362 Utah 1996, Chapter 275)
2363 **63J-3-204**, (Renumbered from 63-38c-204, as renumbered and amended by Laws of
2364 Utah 1996, Chapter 275)
2365 **63J-3-205**, (Renumbered from 63-38c-205, as renumbered and amended by Laws of
2366 Utah 1996, Chapter 275)
2367 **63J-3-301**, (Renumbered from 63-38c-301, as renumbered and amended by Laws of
2368 Utah 1996, Chapter 275)
2369 **63J-3-401**, (Renumbered from 63-38c-401, as renumbered and amended by Laws of
2370 Utah 1996, Chapter 275)
2371 **63J-3-402**, (Renumbered from 63-38c-402, as last amended by Laws of Utah 2007,
2372 Chapters 201, and 206)
2373 **63J-4-101**, (Renumbered from 63-38d-101, as enacted by Laws of Utah 2003, Chapter
2374 16)
2375 **63J-4-102**, (Renumbered from 63-38d-102, as last amended by Laws of Utah 2007,
2376 Chapter 329)
2377 **63J-4-201**, (Renumbered from 63-38d-201, as enacted by Laws of Utah 2003, Chapter
2378 16)
2379 **63J-4-202**, (Renumbered from 63-38d-202, as enacted by Laws of Utah 2003, Chapter
2380 16)
2381 **63J-4-301**, (Renumbered from 63-38d-301, as last amended by Laws of Utah 2004,
2382 Chapter 352)
2383 **63J-4-401**, (Renumbered from 63-38d-401, as last amended by Laws of Utah 2005,

2384 Chapter 179)
2385 **63J-4-501**, (Renumbered from 63-38d-501, as enacted by Laws of Utah 2003, Chapter
2386 16)
2387 **63J-4-502**, (Renumbered from 63-38d-502, as last amended by Laws of Utah 2007,
2388 Chapter 66)
2389 **63J-4-503**, (Renumbered from 63-38d-503, as enacted by Laws of Utah 2003, Chapter
2390 16)
2391 **63J-4-504**, (Renumbered from 63-38d-504, as enacted by Laws of Utah 2003, Chapter
2392 16)
2393 **63J-4-505**, (Renumbered from 63-38d-505, as enacted by Laws of Utah 2003, Chapter
2394 16)
2395 **63J-4-601**, (Renumbered from 63-38d-601, as last amended by Laws of Utah 2007,
2396 Chapter 329)
2397 **63J-4-602**, (Renumbered from 63-38d-602, as enacted by Laws of Utah 2005, Chapter
2398 298)
2399 **63J-4-603**, (Renumbered from 63-38d-603, as last amended by Laws of Utah 2006,
2400 Chapter 292)
2401 **63J-4-604**, (Renumbered from 63-38d-604, as enacted by Laws of Utah 2005, Chapter
2402 298)
2403 **63J-4-605**, (Renumbered from 63-38d-605, as enacted by Laws of Utah 2005, Chapter
2404 298)
2405 **63J-5-102**, (Renumbered from 63-38e-101, as enacted by Laws of Utah 2004, Chapter
2406 352)
2407 **63J-5-103**, (Renumbered from 63-38e-102, as enacted by Laws of Utah 2004, Chapter
2408 352)
2409 **63J-5-201**, (Renumbered from 63-38e-201, as enacted by Laws of Utah 2004, Chapter
2410 352)
2411 **63J-5-202**, (Renumbered from 63-38e-202, as enacted by Laws of Utah 2004, Chapter
2412 352)
2413 **63J-5-203**, (Renumbered from 63-38e-203, as enacted by Laws of Utah 2004, Chapter
2414 352)

2415 **63J-5-204**, (Renumbered from 63-38e-204, as enacted by Laws of Utah 2004, Chapter
2416 352)
2417 **63J-6-201**, (Renumbered from 63-61-1, as enacted by Laws of Utah 1984, Chapter 5)
2418 **63J-6-202**, (Renumbered from 63-61-2, as last amended by Laws of Utah 1987,
2419 Chapter 202)
2420 **63J-6-203**, (Renumbered from 63-61-3, as last amended by Laws of Utah 1987,
2421 Chapter 202)
2422 **63J-6-204**, (Renumbered from 63-61-4, as enacted by Laws of Utah 1984, Chapter 5)
2423 **63K-1-101**, (Renumbered from 63-5b-101, as enacted by Laws of Utah 1992, Chapter
2424 294)
2425 **63K-1-102**, (Renumbered from 63-5b-102, as last amended by Laws of Utah 2007,
2426 Chapter 66)
2427 **63K-1-201**, (Renumbered from 63-5b-201, as enacted by Laws of Utah 1992, Chapter
2428 294)
2429 **63K-1-202**, (Renumbered from 63-5b-202, as enacted by Laws of Utah 1992, Chapter
2430 294)
2431 **63K-1-301**, (Renumbered from 63-5b-301, as last amended by Laws of Utah 2007,
2432 Chapter 66)
2433 **63K-1-302**, (Renumbered from 63-5b-302, as enacted by Laws of Utah 1992, Chapter
2434 294)
2435 **63K-1-401**, (Renumbered from 63-5b-401, as last amended by Laws of Utah 2006,
2436 Chapter 286)
2437 **63K-1-501**, (Renumbered from 63-5b-501, as enacted by Laws of Utah 1992, Chapter
2438 294)
2439 **63K-1-502**, (Renumbered from 63-5b-502, as enacted by Laws of Utah 1992, Chapter
2440 294)
2441 **63K-1-503**, (Renumbered from 63-5b-503, as enacted by Laws of Utah 1992, Chapter
2442 294)
2443 **63K-1-504**, (Renumbered from 63-5b-504, as enacted by Laws of Utah 1992, Chapter
2444 294)
2445 **63K-1-601**, (Renumbered from 63-5b-601, as enacted by Laws of Utah 1992, Chapter

2446 294)
2447 **63K-1-602**, (Renumbered from 63-5b-602, as enacted by Laws of Utah 1992, Chapter
2448 294)
2449 **63K-2-102**, (Renumbered from 63-53a-2, as enacted by Laws of Utah 1980, Chapter
2450 23)
2451 **63K-2-103**, (Renumbered from 63-53a-1, as enacted by Laws of Utah 1980, Chapter
2452 23)
2453 **63K-2-201**, (Renumbered from 63-53a-3, as enacted by Laws of Utah 1980, Chapter
2454 23)
2455 **63K-2-202**, (Renumbered from 63-53a-4, as enacted by Laws of Utah 1980, Chapter
2456 23)
2457 **63K-2-203**, (Renumbered from 63-53a-5, as enacted by Laws of Utah 1980, Chapter
2458 23)
2459 **63K-2-204**, (Renumbered from 63-53a-6, as last amended by Laws of Utah 2005,
2460 Chapter 214)
2461 **63K-2-205**, (Renumbered from 63-53a-7, as enacted by Laws of Utah 1980, Chapter
2462 23)
2463 **63K-2-206**, (Renumbered from 63-53a-10, as enacted by Laws of Utah 1980, Chapter
2464 23)
2465 **63K-2-301**, (Renumbered from 63-53a-8, as enacted by Laws of Utah 1980, Chapter
2466 23)
2467 **63K-2-302**, (Renumbered from 63-53a-9, as enacted by Laws of Utah 1980, Chapter
2468 23)
2469 **63K-2-303**, (Renumbered from 63-53a-11, as enacted by Laws of Utah 1980, Chapter
2470 23)
2471 **63K-3-102**, (Renumbered from 63-5-2, as enacted by Laws of Utah 1981, Chapter 254)
2472 **63K-3-201**, (Renumbered from 63-5-4, as last amended by Laws of Utah 2007, Chapter
2473 66)
2474 **63K-3-301**, (Renumbered from 63-5-5, as last amended by Laws of Utah 1996, Chapter
2475 243)
2476 **63K-4-102**, (Renumbered from 63-5a-1, as last amended by Laws of Utah 1994,

2477 Chapter 12)
2478 **63K-4-103**, (Renumbered from 63-5a-2, as last amended by Laws of Utah 2006,
2479 Chapter 286)
2480 **63K-4-201**, (Renumbered from 63-5a-3, as last amended by Laws of Utah 1994,
2481 Chapter 12)
2482 **63K-4-202**, (Renumbered from 63-5a-4, as last amended by Laws of Utah 2006,
2483 Chapter 286)
2484 **63K-4-203**, (Renumbered from 63-5a-5, as enacted by Laws of Utah 1981, Chapter
2485 253)
2486 **63K-4-301**, (Renumbered from 63-5a-6, as last amended by Laws of Utah 2006,
2487 Chapter 286)
2488 **63K-4-401**, (Renumbered from 63-5a-7, as last amended by Laws of Utah 2007,
2489 Chapter 177)
2490 **63K-4-402**, (Renumbered from 63-5a-8, as last amended by Laws of Utah 2007,
2491 Chapters 66, and 328)
2492 **63K-4-403**, (Renumbered from 63-5a-9, as enacted by Laws of Utah 1981, Chapter
2493 253)
2494 **63K-4-404**, (Renumbered from 63-5a-11, as enacted by Laws of Utah 1981, Chapter
2495 253)
2496 **63L-1-201**, (Renumbered from 63-8-1, as last amended by Laws of Utah 1981, Chapter
2497 262)
2498 **63L-1-202**, (Renumbered from 63-8-2, Utah Code Annotated 1953)
2499 **63L-1-203**, (Renumbered from 63-8-3, Utah Code Annotated 1953)
2500 **63L-1-204**, (Renumbered from 63-8-4, as last amended by Laws of Utah 1980, Chapter
2501 71)
2502 **63L-1-205**, (Renumbered from 63-8-5, as last amended by Laws of Utah 1983, Chapter
2503 292)
2504 **63L-1-206**, (Renumbered from 63-8-6, as enacted by Laws of Utah 1985, Chapter 233)
2505 **63L-1-207**, (Renumbered from 63-8-7, as enacted by Laws of Utah 1997, Chapter 239)
2506 **63L-2-201**, (Renumbered from 63-34b-101, as enacted by Laws of Utah 2001, Chapter
2507 287)

2508 **63L-3-101**, (Renumbered from 63-90-1, as renumbered and amended by Laws of Utah
2509 1994, Chapter 91)
2510 **63L-3-102**, (Renumbered from 63-90-2, as last amended by Laws of Utah 2007,
2511 Chapter 306)
2512 **63L-3-201**, (Renumbered from 63-90-3, as last amended by Laws of Utah 1997,
2513 Chapter 293)
2514 **63L-3-202**, (Renumbered from 63-90-4, as renumbered and amended by Laws of Utah
2515 1994, Chapter 91)
2516 **63L-4-102**, (Renumbered from 63-90a-1, as last amended by Laws of Utah 2007,
2517 Chapter 329)
2518 **63L-4-103**, (Renumbered from 63-90a-2, as enacted by Laws of Utah 1994, Chapter
2519 91)
2520 **63L-4-201**, (Renumbered from 63-90a-3, as enacted by Laws of Utah 1994, Chapter
2521 91)
2522 **63L-4-301**, (Renumbered from 63-90a-4, as last amended by Laws of Utah 1998,
2523 Chapters 295, and 321)
2524 **63L-5-101**, (Renumbered from 63-90b-101, as enacted by Laws of Utah 2005, Chapter
2525 99)
2526 **63L-5-102**, (Renumbered from 63-90b-102, as last amended by Laws of Utah 2007,
2527 Chapter 329)
2528 **63L-5-201**, (Renumbered from 63-90b-201, as enacted by Laws of Utah 2005, Chapter
2529 99)
2530 **63L-5-301**, (Renumbered from 63-90b-301, as enacted by Laws of Utah 2005, Chapter
2531 99)
2532 **63L-5-302**, (Renumbered from 63-90b-302, as enacted by Laws of Utah 2005, Chapter
2533 99)
2534 **63L-5-401**, (Renumbered from 63-90b-401, as enacted by Laws of Utah 2005, Chapter
2535 99)
2536 **63L-5-402**, (Renumbered from 63-90b-402, as enacted by Laws of Utah 2005, Chapter
2537 99)
2538 **63L-5-403**, (Renumbered from 63-90b-403, as enacted by Laws of Utah 2005, Chapter

2539 99)
2540 **63M-1-101**, (Renumbered from 63-38f-101, as renumbered and amended by Laws of
2541 Utah 2005, Chapter 148)
2542 **63M-1-102**, (Renumbered from 63-38f-102, as renumbered and amended by Laws of
2543 Utah 2005, Chapter 148)
2544 **63M-1-201**, (Renumbered from 63-38f-201, as enacted by Laws of Utah 2005, Chapter
2545 148)
2546 **63M-1-202**, (Renumbered from 63-38f-202, as renumbered and amended by Laws of
2547 Utah 2005, Chapter 148)
2548 **63M-1-203**, (Renumbered from 63-38f-203, as renumbered and amended by Laws of
2549 Utah 2005, Chapter 148)
2550 **63M-1-204**, (Renumbered from 63-38f-204, as renumbered and amended by Laws of
2551 Utah 2005, Chapter 148)
2552 **63M-1-205**, (Renumbered from 63-38f-205, as renumbered and amended by Laws of
2553 Utah 2005, Chapter 148)
2554 **63M-1-301**, (Renumbered from 63-38f-301, as renumbered and amended by Laws of
2555 Utah 2005, Chapter 148)
2556 **63M-1-302**, (Renumbered from 63-38f-302, as renumbered and amended by Laws of
2557 Utah 2005, Chapter 148)
2558 **63M-1-303**, (Renumbered from 63-38f-303, as last amended by Laws of Utah 2006,
2559 Chapter 52)
2560 **63M-1-304**, (Renumbered from 63-38f-304, as renumbered and amended by Laws of
2561 Utah 2005, Chapter 148)
2562 **63M-1-401**, (Renumbered from 63-38f-401, as renumbered and amended by Laws of
2563 Utah 2005, Chapter 148)
2564 **63M-1-402**, (Renumbered from 63-38f-402, as last amended by Laws of Utah 2006,
2565 Chapter 223)
2566 **63M-1-403**, (Renumbered from 63-38f-403, as renumbered and amended by Laws of
2567 Utah 2005, Chapter 148)
2568 **63M-1-404**, (Renumbered from 63-38f-404, as renumbered and amended by Laws of
2569 Utah 2005, Chapter 148)

2570 **63M-1-405**, (Renumbered from 63-38f-405, as renumbered and amended by Laws of
2571 Utah 2005, Chapter 148)
2572 **63M-1-406**, (Renumbered from 63-38f-406, as renumbered and amended by Laws of
2573 Utah 2005, Chapter 148)
2574 **63M-1-407**, (Renumbered from 63-38f-407, as renumbered and amended by Laws of
2575 Utah 2005, Chapter 148)
2576 **63M-1-408**, (Renumbered from 63-38f-408, as renumbered and amended by Laws of
2577 Utah 2005, Chapter 148)
2578 **63M-1-409**, (Renumbered from 63-38f-409, as renumbered and amended by Laws of
2579 Utah 2005, Chapter 148)
2580 **63M-1-410**, (Renumbered from 63-38f-410, as renumbered and amended by Laws of
2581 Utah 2005, Chapter 148)
2582 **63M-1-411**, (Renumbered from 63-38f-411, as renumbered and amended by Laws of
2583 Utah 2005, Chapter 148)
2584 **63M-1-412**, (Renumbered from 63-38f-412, as last amended by Laws of Utah 2006,
2585 Chapter 223)
2586 **63M-1-413**, (Renumbered from 63-38f-413, as last amended by Laws of Utah 2006,
2587 Chapter 223)
2588 **63M-1-414**, (Renumbered from 63-38f-414, as renumbered and amended by Laws of
2589 Utah 2005, Chapter 148)
2590 **63M-1-415**, (Renumbered from 63-38f-415, as renumbered and amended by Laws of
2591 Utah 2005, Chapter 148)
2592 **63M-1-416**, (Renumbered from 63-38f-416, as last amended by Laws of Utah 2006,
2593 Chapter 52)
2594 **63M-1-501**, (Renumbered from 63-38f-501, as last amended by Laws of Utah 2007,
2595 Chapter 306)
2596 **63M-1-502**, (Renumbered from 63-38f-501.5, as enacted by Laws of Utah 2006,
2597 Chapter 52)
2598 **63M-1-503**, (Renumbered from 63-38f-502, as last amended by Laws of Utah 2006,
2599 Chapter 223)
2600 **63M-1-504**, (Renumbered from 63-38f-503, as last amended by Laws of Utah 2006,

2601 Chapter 223)
2602 **63M-1-601**, (Renumbered from 63-38f-601, as renumbered and amended by Laws of
2603 Utah 2005, Chapter 148)
2604 **63M-1-602**, (Renumbered from 63-38f-602, as renumbered and amended by Laws of
2605 Utah 2005, Chapter 148)
2606 **63M-1-603**, (Renumbered from 63-38f-603, as renumbered and amended by Laws of
2607 Utah 2005, Chapter 148)
2608 **63M-1-604**, (Renumbered from 63-38f-604, as renumbered and amended by Laws of
2609 Utah 2005, Chapter 148)
2610 **63M-1-605**, (Renumbered from 63-38f-605, as renumbered and amended by Laws of
2611 Utah 2005, Chapter 148)
2612 **63M-1-606**, (Renumbered from 63-38f-606, as renumbered and amended by Laws of
2613 Utah 2005, Chapter 148)
2614 **63M-1-607**, (Renumbered from 63-38f-607, as renumbered and amended by Laws of
2615 Utah 2005, Chapter 148)
2616 **63M-1-608**, (Renumbered from 63-38f-608, as last amended by Laws of Utah 2007,
2617 Chapter 286)
2618 **63M-1-701**, (Renumbered from 63-38f-702, as last amended by Laws of Utah 2007,
2619 Chapter 11)
2620 **63M-1-702**, (Renumbered from 63-38f-701, as renumbered and amended by Laws of
2621 Utah 2005, Chapter 148)
2622 **63M-1-703**, (Renumbered from 63-38f-703, as last amended by Laws of Utah 2007,
2623 Chapter 11)
2624 **63M-1-704**, (Renumbered from 63-38f-704, as last amended by Laws of Utah 2007,
2625 Chapter 11)
2626 **63M-1-705**, (Renumbered from 63-38f-705, as enacted by Laws of Utah 2007, Chapter
2627 11)
2628 **63M-1-801**, (Renumbered from 63-38f-801, as renumbered and amended by Laws of
2629 Utah 2005, Chapter 148)
2630 **63M-1-802**, (Renumbered from 63-38f-802, as renumbered and amended by Laws of
2631 Utah 2005, Chapter 148)

2632 **63M-1-901**, (Renumbered from 63-38f-901, as renumbered and amended by Laws of
2633 Utah 2005, Chapter 148)
2634 **63M-1-902**, (Renumbered from 63-38f-902, as renumbered and amended by Laws of
2635 Utah 2005, Chapter 148)
2636 **63M-1-903**, (Renumbered from 63-38f-903, as renumbered and amended by Laws of
2637 Utah 2005, Chapter 148)
2638 **63M-1-904**, (Renumbered from 63-38f-903.5, as enacted by Laws of Utah 2007,
2639 Chapter 50)
2640 **63M-1-905**, (Renumbered from 63-38f-904, as last amended by Laws of Utah 2007,
2641 Chapter 328)
2642 **63M-1-906**, (Renumbered from 63-38f-905, as renumbered and amended by Laws of
2643 Utah 2005, Chapter 148)
2644 **63M-1-907**, (Renumbered from 63-38f-906, as renumbered and amended by Laws of
2645 Utah 2005, Chapter 148)
2646 **63M-1-908**, (Renumbered from 63-38f-907, as renumbered and amended by Laws of
2647 Utah 2005, Chapter 148)
2648 **63M-1-909**, (Renumbered from 63-38f-908, as renumbered and amended by Laws of
2649 Utah 2005, Chapter 148)
2650 **63M-1-910**, (Renumbered from 63-38f-909, as renumbered and amended by Laws of
2651 Utah 2005, Chapter 148)
2652 **63M-1-1001**, (Renumbered from 63-38f-1001, as renumbered and amended by Laws of
2653 Utah 2005, Chapter 148)
2654 **63M-1-1002**, (Renumbered from 63-38f-1002, as renumbered and amended by Laws of
2655 Utah 2005, Chapter 148)
2656 **63M-1-1003**, (Renumbered from 63-38f-1003, as renumbered and amended by Laws of
2657 Utah 2005, Chapter 148)
2658 **63M-1-1101**, (Renumbered from 63-38f-1101, as renumbered and amended by Laws of
2659 Utah 2005, Chapter 148)
2660 **63M-1-1102**, (Renumbered from 63-38f-1102, as last amended by Laws of Utah 2006,
2661 Chapter 223)
2662 **63M-1-1103**, (Renumbered from 63-38f-1103, as renumbered and amended by Laws of

2663 Utah 2005, Chapter 148)
2664 **63M-1-1104**, (Renumbered from 63-38f-1104, as renumbered and amended by Laws of
2665 Utah 2005, Chapter 148)
2666 **63M-1-1105**, (Renumbered from 63-38f-1105, as renumbered and amended by Laws of
2667 Utah 2005, Chapter 148)
2668 **63M-1-1106**, (Renumbered from 63-38f-1106, as renumbered and amended by Laws of
2669 Utah 2005, Chapter 148)
2670 **63M-1-1107**, (Renumbered from 63-38f-1107, as renumbered and amended by Laws of
2671 Utah 2005, Chapter 148)
2672 **63M-1-1108**, (Renumbered from 63-38f-1108, as renumbered and amended by Laws of
2673 Utah 2005, Chapter 148)
2674 **63M-1-1109**, (Renumbered from 63-38f-1109, as renumbered and amended by Laws of
2675 Utah 2005, Chapter 148)
2676 **63M-1-1110**, (Renumbered from 63-38f-1110, as last amended by Laws of Utah 2006,
2677 Chapter 223)
2678 **63M-1-1111**, (Renumbered from 63-38f-1111, as last amended by Laws of Utah 2006,
2679 Chapter 52)
2680 **63M-1-1112**, (Renumbered from 63-38f-1112, as renumbered and amended by Laws of
2681 Utah 2005, Chapter 148)
2682 **63M-1-1201**, (Renumbered from 63-38f-1201, as renumbered and amended by Laws of
2683 Utah 2005, Chapter 148)
2684 **63M-1-1202**, (Renumbered from 63-38f-1202, as last amended by Laws of Utah 2005,
2685 Chapter 14 and renumbered and amended by Laws of Utah 2005, Chapter 148)
2686 **63M-1-1203**, (Renumbered from 63-38f-1203, as last amended by Laws of Utah 2006,
2687 Chapter 223)
2688 **63M-1-1204**, (Renumbered from 63-38f-1204, as renumbered and amended by Laws of
2689 Utah 2005, Chapter 148)
2690 **63M-1-1205**, (Renumbered from 63-38f-1205, as last amended by Laws of Utah 2006,
2691 Chapter 14)
2692 **63M-1-1206**, (Renumbered from 63-38f-1206, as last amended by Laws of Utah 2006,
2693 Chapter 52)

2694 **63M-1-1207**, (Renumbered from 63-38f-1207, as renumbered and amended by Laws of
2695 Utah 2005, Chapter 148)
2696 **63M-1-1208**, (Renumbered from 63-38f-1208, as renumbered and amended by Laws of
2697 Utah 2005, Chapter 148)
2698 **63M-1-1209**, (Renumbered from 63-38f-1209, as renumbered and amended by Laws of
2699 Utah 2005, Chapter 148)
2700 **63M-1-1210**, (Renumbered from 63-38f-1210, as renumbered and amended by Laws of
2701 Utah 2005, Chapter 148)
2702 **63M-1-1211**, (Renumbered from 63-38f-1211, as last amended by Laws of Utah 2006,
2703 Chapters 46, and 52)
2704 **63M-1-1212**, (Renumbered from 63-38f-1212, as renumbered and amended by Laws of
2705 Utah 2005, Chapter 148)
2706 **63M-1-1213**, (Renumbered from 63-38f-1213, as renumbered and amended by Laws of
2707 Utah 2005, Chapter 148)
2708 **63M-1-1214**, (Renumbered from 63-38f-1214, as renumbered and amended by Laws of
2709 Utah 2005, Chapter 148)
2710 **63M-1-1215**, (Renumbered from 63-38f-1215, as last amended by Laws of Utah 2005,
2711 Chapter 14 and renumbered and amended by Laws of Utah 2005, Chapter 148)
2712 **63M-1-1216**, (Renumbered from 63-38f-1216, as renumbered and amended by Laws of
2713 Utah 2005, Chapter 148)
2714 **63M-1-1217**, (Renumbered from 63-38f-1217, as renumbered and amended by Laws of
2715 Utah 2005, Chapter 148)
2716 **63M-1-1218**, (Renumbered from 63-38f-1218, as last amended by Laws of Utah 2005,
2717 Chapter 14 and renumbered and amended by Laws of Utah 2005, Chapter 148)
2718 **63M-1-1219**, (Renumbered from 63-38f-1219, as last amended by Laws of Utah 2005,
2719 Chapter 14 and renumbered and amended by Laws of Utah 2005, Chapter 148)
2720 **63M-1-1220**, (Renumbered from 63-38f-1220, as last amended by Laws of Utah 2005,
2721 Chapter 14 and renumbered and amended by Laws of Utah 2005, Chapter 148)
2722 **63M-1-1221**, (Renumbered from 63-38f-1221, as renumbered and amended by Laws of
2723 Utah 2005, Chapter 148)
2724 **63M-1-1222**, (Renumbered from 63-38f-1222, as renumbered and amended by Laws of

2725 Utah 2005, Chapter 148)
2726 **63M-1-1223**, (Renumbered from 63-38f-1223, as renumbered and amended by Laws of
2727 Utah 2005, Chapter 148)
2728 **63M-1-1224**, (Renumbered from 63-38f-1224, as last amended by Laws of Utah 2006,
2729 Chapter 14)
2730 **63M-1-1301**, (Renumbered from 63-38f-1301, as renumbered and amended by Laws of
2731 Utah 2005, Chapter 148)
2732 **63M-1-1302**, (Renumbered from 63-38f-1302, as renumbered and amended by Laws of
2733 Utah 2005, Chapter 148)
2734 **63M-1-1303**, (Renumbered from 63-38f-1303, as last amended by Laws of Utah 2005,
2735 Chapter 3 and renumbered and amended by Laws of Utah 2005, Chapter 148)
2736 **63M-1-1304**, (Renumbered from 63-38f-1304, as last amended by Laws of Utah 2006,
2737 Chapter 52)
2738 **63M-1-1305**, (Renumbered from 63-38f-1305, as last amended by Laws of Utah 2006,
2739 Chapter 52)
2740 **63M-1-1306**, (Renumbered from 63-38f-1306, as renumbered and amended by Laws of
2741 Utah 2005, Chapter 148)
2742 **63M-1-1307**, (Renumbered from 63-38f-1307, as last amended by Laws of Utah 2006,
2743 Chapter 52)
2744 **63M-1-1308**, (Renumbered from 63-38f-1308, as renumbered and amended by Laws of
2745 Utah 2005, Chapter 148)
2746 **63M-1-1309**, (Renumbered from 63-38f-1309, as last amended by Laws of Utah 2005,
2747 Chapter 272 and renumbered and amended by Laws of Utah 2005, Chapter 148)
2748 **63M-1-1401**, (Renumbered from 63-38f-1406, as last amended by Laws of Utah 2005,
2749 First Special Session, Chapter 12)
2750 **63M-1-1402**, (Renumbered from 63-38f-1407, as last amended by Laws of Utah 2005,
2751 First Special Session, Chapter 12)
2752 **63M-1-1403**, (Renumbered from 63-38f-1408, as last amended by Laws of Utah 2005,
2753 First Special Session, Chapter 12)
2754 **63M-1-1404**, (Renumbered from 63-38f-1409, as last amended by Laws of Utah 2005,
2755 First Special Session, Chapter 12)

2756 **63M-1-1405**, (Renumbered from 63-38f-1410, as renumbered and amended by Laws of
2757 Utah 2005, Chapter 148)
2758 **63M-1-1406**, (Renumbered from 63-38f-1411, as last amended by Laws of Utah 2007,
2759 Chapter 128)
2760 **63M-1-1501**, (Renumbered from 63-38f-1501, as renumbered and amended by Laws of
2761 Utah 2005, Chapter 148)
2762 **63M-1-1502**, (Renumbered from 63-38f-1502, as renumbered and amended by Laws of
2763 Utah 2005, Chapter 148)
2764 **63M-1-1503**, (Renumbered from 63-38f-1503, as renumbered and amended by Laws of
2765 Utah 2005, Chapter 148)
2766 **63M-1-1504**, (Renumbered from 63-38f-1504, as renumbered and amended by Laws of
2767 Utah 2005, Chapter 148)
2768 **63M-1-1505**, (Renumbered from 63-38f-1505, as renumbered and amended by Laws of
2769 Utah 2005, Chapter 148)
2770 **63M-1-1601**, (Renumbered from 63-38f-1601, as renumbered and amended by Laws of
2771 Utah 2005, Chapter 148)
2772 **63M-1-1602**, (Renumbered from 63-38f-1602, as renumbered and amended by Laws of
2773 Utah 2005, Chapter 148)
2774 **63M-1-1603**, (Renumbered from 63-38f-1603, as renumbered and amended by Laws of
2775 Utah 2005, Chapter 148)
2776 **63M-1-1604**, (Renumbered from 63-38f-1604, as last amended by Laws of Utah 2006,
2777 Chapter 52)
2778 **63M-1-1605**, (Renumbered from 63-38f-1605, as renumbered and amended by Laws of
2779 Utah 2005, Chapter 148)
2780 **63M-1-1606**, (Renumbered from 63-38f-1606, as renumbered and amended by Laws of
2781 Utah 2005, Chapter 148)
2782 **63M-1-1701**, (Renumbered from 63-38f-1701, as enacted by Laws of Utah 2005,
2783 Chapter 272)
2784 **63M-1-1702**, (Renumbered from 63-38f-1702, as enacted by Laws of Utah 2005,
2785 Chapter 272)
2786 **63M-1-1703**, (Renumbered from 63-38f-1703, as enacted by Laws of Utah 2005,

2787 Chapter 272)
2788 **63M-1-1704**, (Renumbered from 63-38f-1704, as enacted by Laws of Utah 2005,
2789 Chapter 272)
2790 **63M-1-1705**, (Renumbered from 63-38f-1705, as enacted by Laws of Utah 2005,
2791 Chapter 272)
2792 **63M-1-1706**, (Renumbered from 63-38f-1706, as enacted by Laws of Utah 2005,
2793 Chapter 272)
2794 **63M-1-1801**, (Renumbered from 63-38f-1801, as enacted by Laws of Utah 2005,
2795 Chapter 210)
2796 **63M-1-1802**, (Renumbered from 63-38f-1802, as enacted by Laws of Utah 2005,
2797 Chapter 210)
2798 **63M-1-1803**, (Renumbered from 63-38f-1803, as enacted by Laws of Utah 2005,
2799 Chapter 210)
2800 **63M-1-1804**, (Renumbered from 63-38f-1804, as enacted by Laws of Utah 2005,
2801 Chapter 210)
2802 **63M-1-1805**, (Renumbered from 63-38f-1805, as enacted by Laws of Utah 2005,
2803 Chapter 210)
2804 **63M-1-1901**, (Renumbered from 63-38f-1901, as enacted by Laws of Utah 2005,
2805 Chapter 191)
2806 **63M-1-2001**, (Renumbered from 63-38f-2001, as enacted by Laws of Utah 2005,
2807 Chapter 151)
2808 **63M-1-2002**, (Renumbered from 63-38f-2002, as last amended by Laws of Utah 2007,
2809 Chapter 329)
2810 **63M-1-2003**, (Renumbered from 63-38f-2003, as enacted by Laws of Utah 2005,
2811 Chapter 151)
2812 **63M-1-2004**, (Renumbered from 63-38f-2004, as enacted by Laws of Utah 2005,
2813 Chapter 151)
2814 **63M-1-2005**, (Renumbered from 63-38f-2005, as enacted by Laws of Utah 2005,
2815 Chapter 151)
2816 **63M-1-2006**, (Renumbered from 63-38f-2006, as enacted by Laws of Utah 2005,
2817 Chapter 151)

2818 **63M-1-2101**, (Renumbered from 63-38f-2101, as enacted by Laws of Utah 2006,
2819 Chapter 146)
2820 **63M-1-2201**, (Renumbered from 63-38f-2201, as enacted by Laws of Utah 2007,
2821 Chapter 3)
2822 **63M-1-2202**, (Renumbered from 63-38f-2202, as enacted by Laws of Utah 2007,
2823 Chapter 3)
2824 **63M-1-2203**, (Renumbered from 63-38f-2203, as enacted by Laws of Utah 2007,
2825 Chapter 3)
2826 **63M-1-2301**, (Renumbered from 63-38f-2301, as enacted by Laws of Utah 2007,
2827 Chapter 327)
2828 **63M-1-2302**, (Renumbered from 63-38f-2302, as enacted by Laws of Utah 2007,
2829 Chapter 327)
2830 **63M-1-2303**, (Renumbered from 63-38f-2303, as enacted by Laws of Utah 2007,
2831 Chapter 327)
2832 **63M-1-2304**, (Renumbered from 63-38f-2304, as enacted by Laws of Utah 2007,
2833 Chapter 327)
2834 **63M-1-2305**, (Renumbered from 63-38f-2305, as enacted by Laws of Utah 2007,
2835 Chapter 327)
2836 **63M-1-2306**, (Renumbered from 63-38f-2306, as enacted by Laws of Utah 2007,
2837 Chapter 327)
2838 **63M-2-101**, (Renumbered from 63-38g-101, as enacted by Laws of Utah 2006, Chapter
2839 123)
2840 **63M-2-102**, (Renumbered from 63-38g-102, as enacted by Laws of Utah 2006, Chapter
2841 123)
2842 **63M-2-201**, (Renumbered from 63-38g-201, as enacted by Laws of Utah 2006, Chapter
2843 123)
2844 **63M-2-202**, (Renumbered from 63-38g-202, as enacted by Laws of Utah 2006, Chapter
2845 123)
2846 **63M-2-203**, (Renumbered from 63-38g-203, as enacted by Laws of Utah 2006, Chapter
2847 123)
2848 **63M-2-204**, (Renumbered from 63-38g-204, as enacted by Laws of Utah 2006, Chapter

2849 123)
2850 **63M-2-301**, (Renumbered from 63-38g-301, as enacted by Laws of Utah 2006, Chapter
2851 123)
2852 **63M-2-302**, (Renumbered from 63-38g-302, as enacted by Laws of Utah 2006, Chapter
2853 123)
2854 **63M-2-303**, (Renumbered from 63-38g-303, as enacted by Laws of Utah 2006, Chapter
2855 123)
2856 **63M-3-102**, (Renumbered from 63-45a-1, as last amended by Laws of Utah 1987,
2857 Chapter 92)
2858 **63M-3-103**, (Renumbered from 63-45a-2, as last amended by Laws of Utah 1994,
2859 Chapter 12)
2860 **63M-3-201**, (Renumbered from 63-45a-3, as enacted by Laws of Utah 1980, Chapter
2861 26)
2862 **63M-3-202**, (Renumbered from 63-45a-4, as enacted by Laws of Utah 1980, Chapter
2863 26)
2864 **63M-4-101**, (Renumbered from 63-53b-101, as enacted by Laws of Utah 2006, Chapter
2865 180)
2866 **63M-4-102**, (Renumbered from 63-53b-102, as enacted by Laws of Utah 2006, Chapter
2867 180)
2868 **63M-4-201**, (Renumbered from 63-53b-201, as last amended by Laws of Utah 2007,
2869 Chapter 66)
2870 **63M-4-202**, (Renumbered from 63-53b-202, as enacted by Laws of Utah 2006, Chapter
2871 180)
2872 **63M-4-203**, (Renumbered from 63-53b-203, as enacted by Laws of Utah 2006, Chapter
2873 180)
2874 **63M-4-301**, (Renumbered from 63-53b-301, as last amended by Laws of Utah 2007,
2875 Chapter 346)
2876 **63M-4-302**, (Renumbered from 63-53b-302, as enacted by Laws of Utah 2006, Chapter
2877 180)
2878 **63M-5-102**, (Renumbered from 63-51-1, as last amended by Laws of Utah 1981,
2879 Chapter 242)

2880 **63M-5-103**, (Renumbered from 63-51-2, as last amended by Laws of Utah 2007,
2881 Chapter 329)
2882 **63M-5-201**, (Renumbered from 63-51-3, as last amended by Laws of Utah 1988,
2883 Chapter 3)
2884 **63M-5-202**, (Renumbered from 63-51-4, as last amended by Laws of Utah 2006,
2885 Chapter 253)
2886 **63M-5-301**, (Renumbered from 63-51-5, as last amended by Laws of Utah 1991,
2887 Chapter 137)
2888 **63M-5-302**, (Renumbered from 63-51-6, as last amended by Laws of Utah 1994,
2889 Chapter 120)
2890 **63M-5-303**, (Renumbered from 63-51-7, as last amended by Laws of Utah 1987,
2891 Chapter 5)
2892 **63M-5-304**, (Renumbered from 63-51-8, as last amended by Laws of Utah 1994,
2893 Chapter 120)
2894 **63M-5-305**, (Renumbered from 63-51-9, as enacted by Laws of Utah 1975, Chapter
2895 133)
2896 **63M-5-306**, (Renumbered from 63-51-10, as last amended by Laws of Utah 2005,
2897 Chapter 148)
2898 **63M-6-201**, (Renumbered from 63-49a-1, as last amended by Laws of Utah 2005,
2899 Chapter 148)
2900 **63M-6-202**, (Renumbered from 63-49a-2, as last amended by Laws of Utah 2005,
2901 Chapter 148)
2902 **63M-6-203**, (Renumbered from 63-49a-3, as last amended by Laws of Utah 2005,
2903 Chapter 148)
2904 **63M-7-201**, (Renumbered from 63-25a-101, as last amended by Laws of Utah 1999,
2905 Chapter 270)
2906 **63M-7-202**, (Renumbered from 63-25a-102, as last amended by Laws of Utah 2007,
2907 Chapter 330)
2908 **63M-7-203**, (Renumbered from 63-25a-103, as last amended by Laws of Utah 2002,
2909 Chapter 176)
2910 **63M-7-204**, (Renumbered from 63-25a-104, as last amended by Laws of Utah 2007,

2911 Chapter 330)
2912 **63M-7-205**, (Renumbered from 63-25a-104.5, as last amended by Laws of Utah 1999,
2913 Chapter 270)
2914 **63M-7-206**, (Renumbered from 63-25a-105, as renumbered and amended by Laws of
2915 Utah 1996, Chapter 242)
2916 **63M-7-207**, (Renumbered from 63-25a-106, as renumbered and amended by Laws of
2917 Utah 1996, Chapter 242 and repealed and reenacted by Laws of Utah 1996, Chapter
2918 243)
2919 **63M-7-301**, (Renumbered from 63-25a-201, as last amended by Laws of Utah 2003,
2920 Chapter 171)
2921 **63M-7-302**, (Renumbered from 63-25a-202, as last amended by Laws of Utah 2002,
2922 Chapter 115)
2923 **63M-7-303**, (Renumbered from 63-25a-203, as last amended by Laws of Utah 2007,
2924 Chapter 218)
2925 **63M-7-304**, (Renumbered from 63-25a-205, as last amended by Laws of Utah 2002,
2926 Chapter 115)
2927 **63M-7-305**, (Renumbered from 63-25a-205.5, as last amended by Laws of Utah 2007,
2928 Chapter 218)
2929 **63M-7-306**, (Renumbered from 63-25a-207, as last amended by Laws of Utah 2002,
2930 Chapter 115)
2931 **63M-7-401**, (Renumbered from 63-25a-301, as last amended by Laws of Utah 2003,
2932 Chapter 171)
2933 **63M-7-402**, (Renumbered from 63-25a-302, as last amended by Laws of Utah 1997,
2934 Chapter 276)
2935 **63M-7-403**, (Renumbered from 63-25a-303, as renumbered and amended by Laws of
2936 Utah 1996, Chapter 242)
2937 **63M-7-404**, (Renumbered from 63-25a-304, as last amended by Laws of Utah 1997,
2938 Chapter 342)
2939 **63M-7-405**, (Renumbered from 63-25a-305, as last amended by Laws of Utah 1996,
2940 Chapter 243 and renumbered and amended by Laws of Utah 1996, Chapter 242)
2941 **63M-7-406**, (Renumbered from 63-25a-306, as renumbered and amended by Laws of

2942 Utah 1996, Chapter 242)
2943 **63M-7-501**, (Renumbered from 63-25a-401, as renumbered and amended by Laws of
2944 Utah 1996, Chapter 242)
2945 **63M-7-502**, (Renumbered from 63-25a-402, as last amended by Laws of Utah 2002,
2946 Chapter 256)
2947 **63M-7-503**, (Renumbered from 63-25a-403, as last amended by Laws of Utah 2002,
2948 Chapter 35)
2949 **63M-7-504**, (Renumbered from 63-25a-404, as last amended by Laws of Utah 2002,
2950 Chapter 176)
2951 **63M-7-505**, (Renumbered from 63-25a-405, as last amended by Laws of Utah 2002,
2952 Chapter 256)
2953 **63M-7-506**, (Renumbered from 63-25a-406, as last amended by Laws of Utah 2007,
2954 Chapter 300)
2955 **63M-7-507**, (Renumbered from 63-25a-407, as last amended by Laws of Utah 2002,
2956 Chapter 256)
2957 **63M-7-508**, (Renumbered from 63-25a-408, as renumbered and amended by Laws of
2958 Utah 1996, Chapter 242)
2959 **63M-7-509**, (Renumbered from 63-25a-409, as last amended by Laws of Utah 2000,
2960 Chapter 235)
2961 **63M-7-510**, (Renumbered from 63-25a-410, as last amended by Laws of Utah 2000,
2962 Chapters 28, and 235)
2963 **63M-7-511**, (Renumbered from 63-25a-411, as last amended by Laws of Utah 2002,
2964 Chapters 35, and 256)
2965 **63M-7-512**, (Renumbered from 63-25a-412, as last amended by Laws of Utah 2000,
2966 Chapter 235)
2967 **63M-7-513**, (Renumbered from 63-25a-413, as last amended by Laws of Utah 2001,
2968 Chapter 116)
2969 **63M-7-514**, (Renumbered from 63-25a-414, as last amended by Laws of Utah 2002,
2970 Chapter 256)
2971 **63M-7-515**, (Renumbered from 63-25a-415, as last amended by Laws of Utah 2000,
2972 Chapter 235)

2973 **63M-7-516**, (Renumbered from 63-25a-416, as renumbered and amended by Laws of
2974 Utah 1996, Chapter 242)
2975 **63M-7-517**, (Renumbered from 63-25a-417, as renumbered and amended by Laws of
2976 Utah 1996, Chapter 242)
2977 **63M-7-518**, (Renumbered from 63-25a-418, as renumbered and amended by Laws of
2978 Utah 1996, Chapter 242)
2979 **63M-7-519**, (Renumbered from 63-25a-419, as last amended by Laws of Utah 2002,
2980 Chapter 256)
2981 **63M-7-520**, (Renumbered from 63-25a-420, as renumbered and amended by Laws of
2982 Utah 1996, Chapter 242)
2983 **63M-7-521**, (Renumbered from 63-25a-421, as renumbered and amended by Laws of
2984 Utah 1996, Chapter 242)
2985 **63M-7-522**, (Renumbered from 63-25a-422, as renumbered and amended by Laws of
2986 Utah 1996, Chapter 242)
2987 **63M-7-523**, (Renumbered from 63-25a-423, as renumbered and amended by Laws of
2988 Utah 1996, Chapter 242)
2989 **63M-7-524**, (Renumbered from 63-25a-424, as renumbered and amended by Laws of
2990 Utah 1996, Chapter 242)
2991 **63M-7-525**, (Renumbered from 63-25a-428, as last amended by Laws of Utah 2002,
2992 Chapter 256)
2993 **63M-7-601**, (Renumbered from 63-25a-601, as enacted by Laws of Utah 2007, Chapter
2994 300)
2995 **63M-7-602**, (Renumbered from 63-25a-602, as enacted by Laws of Utah 2007, Chapter
2996 300)
2997 **63M-7-603**, (Renumbered from 63-25a-603, as enacted by Laws of Utah 2007, Chapter
2998 300)
2999 **63M-7-604**, (Renumbered from 63-25a-604, as enacted by Laws of Utah 2007, Chapter
3000 300)
3001 **63M-7-605**, (Renumbered from 63-25a-605, as enacted by Laws of Utah 2007, Chapter
3002 300)
3003 **63M-8-201**, (Renumbered from 63-47-1, as last amended by Laws of Utah 2004,

3004 Chapter 238)
3005 **63M-8-202**, (Renumbered from 63-47-2, as last amended by Laws of Utah 2004,
3006 Chapter 238)
3007 **63M-8-203**, (Renumbered from 63-47-3, as last amended by Laws of Utah 2004,
3008 Chapter 238)
3009 **63M-8-204**, (Renumbered from 63-47-4, as enacted by Laws of Utah 1973, Chapter
3010 173)
3011 **63M-8-301**, (Renumbered from 63-47-5, as last amended by Laws of Utah 2004,
3012 Chapter 238)
3013 **63M-8-302**, (Renumbered from 63-47-7, as last amended by Laws of Utah 2004,
3014 Chapters 238, and 352)
3015 **63M-8-303**, (Renumbered from 63-47-8, as enacted by Laws of Utah 1973, Chapter
3016 173)
3017 **63M-9-101**, (Renumbered from 63-75-1, as last amended by Laws of Utah 1996,
3018 Chapter 136)
3019 **63M-9-102**, (Renumbered from 63-75-2, as last amended by Laws of Utah 1999,
3020 Chapter 104)
3021 **63M-9-103**, (Renumbered from 63-75-3, as last amended by Laws of Utah 2003,
3022 Chapter 171)
3023 **63M-9-104**, (Renumbered from 63-75-8, as enacted by Laws of Utah 1996, Chapter
3024 136)
3025 **63M-9-201**, (Renumbered from 63-75-4, as last amended by Laws of Utah 1999,
3026 Chapter 104)
3027 **63M-9-202**, (Renumbered from 63-75-5, as last amended by Laws of Utah 2003,
3028 Chapter 171)
3029 **63M-9-203**, (Renumbered from 63-75-5.5, as enacted by Laws of Utah 1993, Chapter
3030 12)
3031 **63M-9-301**, (Renumbered from 63-75-5.7, as last amended by Laws of Utah 1996,
3032 Chapter 136)
3033 **63M-9-401**, (Renumbered from 63-75-6, as last amended by Laws of Utah 2005,
3034 Chapter 81)

3035 **63M-9-402**, (Renumbered from 63-75-6.5, as enacted by Laws of Utah 1996, Chapter
3036 136)
3037 **63M-9-501**, (Renumbered from 63-75-7, as last amended by Laws of Utah 2002,
3038 Chapter 210)
3039 **63M-10-101**, (Renumbered from 63-92-1, as enacted by Laws of Utah 1996, Chapter
3040 165)
3041 **63M-10-201**, (Renumbered from 63-92-2, as last amended by Laws of Utah 1999,
3042 Chapter 304)
3043 **63M-10-202**, (Renumbered from 63-92-3, as last amended by Laws of Utah 2003,
3044 Chapter 171)
3045 **63M-11-101**, (Renumbered from 63-99-101, as enacted by Laws of Utah 2005, Chapter
3046 279)
3047 **63M-11-102**, (Renumbered from 63-99-103, as enacted by Laws of Utah 2005, Chapter
3048 279)
3049 **63M-11-103**, (Renumbered from 63-99-102, as last amended by Laws of Utah 2007,
3050 Chapter 317)
3051 **63M-11-201**, (Renumbered from 63-99-104, as last amended by Laws of Utah 2007,
3052 Chapter 317)
3053 **63M-11-202**, (Renumbered from 63-99-105, as last amended by Laws of Utah 2007,
3054 Chapter 317)
3055 **63M-11-203**, (Renumbered from 63-99-106, as enacted by Laws of Utah 2005, Chapter
3056 279)
3057 **63M-11-204**, (Renumbered from 63-99-107, as enacted by Laws of Utah 2005, Chapter
3058 279)
3059 **63M-11-205**, (Renumbered from 63-99-108, as enacted by Laws of Utah 2005, Chapter
3060 279)
3061 **63M-11-206**, (Renumbered from 63-99-109, as enacted by Laws of Utah 2005, Chapter
3062 279)
3063 **63M-11-207**, (Renumbered from 63-99-110, as repealed and reenacted by Laws of Utah
3064 2007, Chapter 317)
3065 REPEALS:

3066 **63-46a-17**, as enacted by Laws of Utah 2001, Chapter 138
3067 **63-97-101**, as last amended by Laws of Utah 2000, Chapters 293, and 351
3068

3069 *Be it enacted by the Legislature of the state of Utah:*
3070 Section 1. Section **3-1-6** is amended to read:
3071 **3-1-6. Filing articles of incorporation -- Certificate of incorporation -- Fees --**
3072 **Constructive notice.**
3073 (1) The articles of incorporation shall be filed with the Division of Corporations and
3074 Commercial Code, which shall thereupon issue a certificate of incorporation. This certificate
3075 or a certified copy of the same shall be prima facie evidence of the due incorporation of the
3076 association. Upon the issuance of such certificate of incorporation, the corporate existence
3077 begins.
3078 (2) The Division of Corporations and Commercial Code shall establish a fee pursuant
3079 to Section [~~63-38-3.2~~] 63J-1-303 for filing articles of incorporation with the division, for
3080 securing a certified copy of the articles, for the issuance of a certificate of incorporation, and
3081 for filing amendments to the articles, whether incorporated with or without stock.
3082 (3) No person dealing with the association may be charged with constructive notice of
3083 the contents of the articles or amendments thereto by reason of such filing or recording.
3084 Section 2. Section **3-1-36** is amended to read:
3085 **3-1-36. Articles of merger or consolidation -- Execution, contents, and filing of**
3086 **articles -- Issuance of certificate of merger or consolidation -- Fees.**
3087 (1) Upon approval, articles of merger or consolidation shall be signed in duplicate by
3088 each party to the merger or consolidation by its president or a vice president and by its secretary
3089 or an assistant secretary and verified by one of the officers of each association and corporation
3090 signing the articles.
3091 (2) The articles shall set forth:
3092 (a) the plan of merger or consolidation;
3093 (b) a statement:
3094 (i) of the date of the meeting at which the plan of merger or consolidation was
3095 considered and voted upon;
3096 (ii) that a quorum was present at the meeting; and

3097 (iii) that notice of the meeting was given to all members and shareholders entitled to
3098 notice;
3099 (c) the number of members entitled to vote and the number of shares outstanding
3100 entitled to vote; and
3101 (d) the number of members who voted for and against the plan, respectively, and the
3102 number of shares voted for and against the plan, respectively.
3103 (3) (a) Duplicate originals of the articles of merger or consolidation shall be delivered
3104 to the Division of Corporations and Commercial Code and the fee established under Section
3105 [~~63-38-3.2~~] 63J-1-303 shall be paid.
3106 (b) If the Division of Corporations and Commercial Code finds that the articles
3107 conform to law, it shall, after the fees have been paid:
3108 (i) endorse on each of the duplicate originals the word "filed" and the month, day, and
3109 year of the filing;
3110 (ii) file one of the duplicate originals in its office; and
3111 (iii) issue a certificate of merger or consolidation, attach the other duplicate original,
3112 and return the certificate to the surviving or new corporation, or its representative.
3113 Section 3. Section **4-1-3.5** is amended to read:
3114 **4-1-3.5. Procedures -- Adjudicative proceedings.**
3115 The Department of Agriculture and Food and its divisions shall comply with the
3116 procedures and requirements of [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
3117 Procedures Act, in their adjudicative proceedings.
3118 Section 4. Section **4-2-2** is amended to read:
3119 **4-2-2. Functions, powers, and duties of department -- Fees for services --**
3120 **Marketing orders -- Procedure.**
3121 (1) The department shall:
3122 (a) inquire into and promote the interests and products of agriculture and its allied
3123 industries;
3124 (b) promote methods for increasing the production and facilitating the distribution of
3125 the agricultural products of the state;
3126 (c) (i) inquire into the cause of contagious, infectious, and communicable diseases
3127 among livestock and the means for their prevention and cure; and

3128 (ii) initiate, implement, and administer plans and programs to prevent the spread of
3129 diseases among livestock;
3130 (d) encourage experiments designed to determine the best means and methods for the
3131 control of diseases among domestic and wild animals;
3132 (e) issue marketing orders for any designated agricultural product to:
3133 (i) promote orderly market conditions for any product;
3134 (ii) give the producer a fair return on the producer's investment at the marketplace; and
3135 (iii) only promote and not restrict or restrain the marketing of Utah agricultural
3136 commodities;
3137 (f) administer and enforce all laws assigned to the department by the Legislature;
3138 (g) establish standards and grades for agricultural products and fix and collect
3139 reasonable fees for services performed by the department in conjunction with the grading of
3140 agricultural products;
3141 (h) establish operational standards for any establishment that manufactures, processes,
3142 produces, distributes, stores, sells, or offers for sale any agricultural product;
3143 (i) adopt, according to [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
3144 Administrative Rulemaking Act, rules necessary for the effective administration of the
3145 agricultural laws of the state;
3146 (j) when necessary, make investigations, subpoena witnesses and records, conduct
3147 hearings, issue orders, and make recommendations concerning all matters related to
3148 agriculture;
3149 (k) (i) inspect any nursery, orchard, farm, garden, park, cemetery, greenhouse, or any
3150 private or public place that may become infested or infected with harmful insects, plant
3151 diseases, noxious or poisonous weeds, or other agricultural pests;
3152 (ii) establish and enforce quarantines;
3153 (iii) issue and enforce orders and rules for the control and eradication of pests, wherever
3154 they may exist within the state; and
3155 (iv) perform other duties relating to plants and plant products considered advisable and
3156 not contrary to law;
3157 (l) inspect apiaries for diseases inimical to bees and beekeeping;
3158 (m) take charge of any agricultural exhibit within the state, if considered necessary by

3159 the department, and award premiums at that exhibit;
3160 (n) assist the Conservation Commission in the administration of Title 4, Chapter 18,
3161 Conservation Commission Act, and administer and disburse any funds available to assist
3162 conservation districts in the state in the conservation of the state's soil and water resources; and
3163 (o) perform any additional functions, powers, and duties provided by law.
3164 (2) The department, by following the procedures and requirements of Section
3165 [~~63-38-3.2~~] 63J-1-303, may adopt a schedule of fees assessed for services provided by the
3166 department.
3167 (3) (a) No marketing order issued under Subsection (1)(e) shall take effect until:
3168 (i) the department gives notice of the proposed order to the producers and handlers of
3169 the affected product;
3170 (ii) the commissioner conducts a hearing on the proposed order; and
3171 (iii) at least 50% of the registered producers and handlers of the affected products vote
3172 in favor of the proposed order.
3173 (b) (i) The department may establish boards of control to administer marketing orders
3174 and the proceeds derived from any order.
3175 (ii) The board of control shall:
3176 (A) ensure that all proceeds are placed in an account in the board of control's name in a
3177 depository institution; and
3178 (B) ensure that the account is annually audited by an accountant approved by the
3179 commissioner.
3180 (4) Funds collected by grain grading, as provided by Subsection (1)(g), shall be
3181 deposited in the General Fund as nonlapsing dedicated credits for the grain grading program.
3182 Section 5. Section **4-2-8.5** is amended to read:
3183 **4-2-8.5. Salinity Offset Fund.**
3184 (1) As used in this section, "Colorado River Salinity Offset Program" means a
3185 program, administered by the Division of Water Quality, allowing oil, gas, or mining
3186 companies and other entities to provide funds to finance salinity reduction projects in the
3187 Colorado River Basin by purchasing salinity credits as offsets against discharges made by the
3188 company under permits issued by the Division of Water Quality.
3189 (2) (a) There is created a restricted special revenue fund known as the "Salinity Offset

3190 Fund."
3191 (b) The fund shall consist of:
3192 (i) monies received from the Division of Water Quality that have been collected as part
3193 of the Colorado River Salinity Offset Program;
3194 (ii) grants from local governments, the state, or the federal government;
3195 (iii) grants from private entities; and
3196 (iv) interest on fund monies.
3197 (3) Any unallocated balance in the fund at the end of a fiscal year is nonlapsing.
3198 (4) (a) The department shall:
3199 (i) subject to the rules established under Subsection (4)(a)(ii), distribute fund monies to
3200 farmers, ranchers, mutual irrigation companies, and other entities in the state to assist in
3201 financing irrigation, rangeland, and watershed improvement projects that will, in accordance
3202 with the Colorado River Salinity Offset Program, reduce salinity in the Colorado River; and
3203 (ii) in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
3204 Administrative Rulemaking Act, make rules establishing:
3205 (A) a project funding application process;
3206 (B) project funding requirements;
3207 (C) project approval criteria; and
3208 (D) standards for evaluating the effectiveness of funded projects in reducing salinity in
3209 the Colorado River.
3210 (b) The department may require entities seeking fund monies to provide matching
3211 funds.
3212 (c) The department shall submit to the Water Quality Board's executive secretary
3213 proposed funding projects for the executive secretary's review and approval.
3214 (5) The department may use fund monies for the administration of the fund, but this
3215 amount may not exceed 10% of the annual receipts to the fund.
3216 Section 6. Section **4-3-2** is amended to read:
3217 **4-3-2. Authority to make and enforce rules.**
3218 The department is authorized and directed, subject to [~~Title 63, Chapter 46a~~] Title 63G,
3219 Chapter 3, Utah Administrative Rulemaking Act, to make and enforce such rules as may in its
3220 judgment and discretion be necessary to carry out the purposes of this chapter.

3221 Section 7. Section **4-3-14** is amended to read:
3222 **4-3-14. Sale of raw milk -- Suspension of producer's permit -- Severability not**
3223 **permitted.**
3224 (1) As used in this section:
3225 (a) "Batch" means all the milk emptied from one bulk tank and bottled in a single day.
3226 (b) "Self-owned retail store" means a retail store:
3227 (i) of which the producer owns at least 51% of the value of the real property and
3228 tangible personal property used in the operations of the retail store; or
3229 (ii) for which the producer has the power to vote at least 51% of any class of voting
3230 shares or ownership interest in the business entity that operates the retail store.
3231 (2) Raw milk may be sold if:
3232 (a) the producer obtains a permit from the department to produce milk under
3233 Subsection 4-3-8(5);
3234 (b) the sale and delivery of the milk is made upon the premises where the milk is
3235 produced, except as provided by Subsection (3);
3236 (c) it is sold to consumers for household use and not for resale;
3237 (d) it is bottled or packaged under sanitary conditions and in sanitary containers on the
3238 premises where the milk is produced;
3239 (e) it is labeled "raw milk" and meets the labeling requirements under 21 C.F.R. Parts
3240 101 and 131 and rules established by the department;
3241 (f) it is:
3242 (i) cooled to 50 degrees Fahrenheit or a lower temperature within one hour after being
3243 drawn from the animal;
3244 (ii) further cooled to 41 degrees Fahrenheit within two hours of being drawn from the
3245 animal; and
3246 (iii) maintained at 41 degrees Fahrenheit or a lower temperature until it is delivered to
3247 the consumer;
3248 (g) the bacterial count of the milk does not exceed 20,000 colony forming units per
3249 milliliter;
3250 (h) the bacterial plate count and the coliform count of the milk meet the bacterial and
3251 coliform enforcement standards for grade A pasteurized milk;

3252 (i) the production of the milk conforms to departmental rules for the production of
3253 grade A milk;
3254 (j) all dairy animals on the premises are:
3255 (i) permanently and individually identifiable; and
3256 (ii) free of tuberculosis, brucellosis, and other diseases carried through milk; and
3257 (k) any person on the premises performing any work in connection with the production,
3258 bottling, handling, or sale of the milk is free from communicable disease.
3259 (3) A producer may sell raw whole milk at a self-owned retail store, which is properly
3260 staffed, if, in addition to the requirements of Subsection (2), the producer:
3261 (a) transports the milk from the premises where the milk is produced to the self-owned
3262 retail store in a refrigerated truck where the milk is maintained at 41 degrees Fahrenheit or a
3263 lower temperature;
3264 (b) retains ownership of the milk until it is sold to the final consumer, including
3265 transporting the milk from the premises where the milk is produced to the self-owned retail
3266 store without any:
3267 (i) intervening storage;
3268 (ii) change of ownership; or
3269 (iii) loss of physical control;
3270 (c) stores the milk at 41 degrees Fahrenheit or a lower temperature in a display case
3271 equipped with a properly calibrated thermometer at the self-owned retail store;
3272 (d) places a sign above the display case at the self-owned retail store that reads, "Raw
3273 Unpasteurized Milk";
3274 (e) labels the milk with:
3275 (i) a date, no more than nine days after the milk is produced, by which the milk should
3276 be sold;
3277 (ii) the statement "Raw milk, no matter how carefully produced, may be unsafe.";
3278 (iii) handling instructions to preserve quality and avoid contamination or spoilage; and
3279 (iv) any other information required by rule;
3280 (f) refrains from offering the milk for sale until:
3281 (i) each batch of milk is tested for standard plate count and coliform count from an
3282 official sample taken at the self-owned retail store and tested by a third party certified by the

3283 department; and
3284 (ii) the test results meet the minimum standards established for those tests;
3285 (g) (i) maintains a database of the milk sales; and
3286 (ii) makes the database available to the Department of Health during the self-owned
3287 retail store's business hours for purposes of epidemiological investigation;
3288 (h) refrains from offering any pasteurized milk at the self-owned retail store;
3289 (i) ensures that the plant and retail store complies with Title 4, Chapter 5, Utah
3290 Wholesome Food Act, and the rules governing food establishments enacted under Section
3291 4-5-9;
3292 (j) participates in a hazard analysis critical control point system as established by the
3293 United States Food and Drug Administration;
3294 (k) conducts monthly tests on a sample taken from a batch of milk for:
3295 (i) Listeria monocytogenes;
3296 (ii) Salmonella typhimurium;
3297 (iii) Salmonella dublin;
3298 (iv) Campylobacter jejuni; and
3299 (v) E.Coli 0157:H7; and
3300 (l) complies with all applicable rules adopted as authorized by this chapter.
3301 (4) The person conducting the tests required by Subsection (3) shall send a copy of the
3302 test results to the department as soon as the test results are available.
3303 (5) (a) The department shall adopt rules, as authorized by Section 4-3-2, governing the
3304 sale of raw whole milk at a self-owned retail store.
3305 (b) The rules adopted by the department shall include rules regarding:
3306 (i) permits;
3307 (ii) building and premises requirements;
3308 (iii) sanitation and operating requirements, including bulk milk tanks requirements;
3309 (iv) additional tests, including a test for pathogens;
3310 (v) frequency of inspections, including random cooler checks;
3311 (vi) recordkeeping; and
3312 (vii) packaging and labeling.
3313 (c) (i) The department shall establish a fee for the tests and inspections required by this

3314 section and by rule by following the procedures and requirements of Section [~~63-38-3.2~~]
3315 63J-1-303.
3316 (ii) Notwithstanding Section [~~63-38-3.2~~] 63J-1-303, the department shall retain the fees
3317 as dedicated credits and may only use the fees to administer and enforce this section.
3318 (6) (a) The department shall suspend a permit issued under Section 4-3-8 if a producer
3319 violates any provision of this section or any rules adopted as authorized by this section.
3320 (b) The department may reissue a permit that has been suspended under Subsection
3321 (6)(a) if the producer has complied with all of the requirements of this section and rules
3322 adopted as authorized by this section.
3323 (7) For 2008 and 2009, the Department of Health and the Department of Agriculture
3324 and Food shall report on or before November 30th to the Natural Resources, Agriculture, and
3325 Environment Interim Committee and the Health and Human Services Interim Committee on
3326 any health problems resulting from the sale of raw whole milk at self-owned retail stores.
3327 (8) (a) If any subsection of this section or the application of any subsection to any
3328 person or circumstance is held invalid by a final decision of a court of competent jurisdiction,
3329 the remainder of the section may not be given effect without the invalid subsection or
3330 application.
3331 (b) The provisions of this section may not be severed.
3332 Section 8. Section **4-4-2** is amended to read:
3333 **4-4-2. Authority to make and enforce rules.**
3334 The department is authorized, subject to [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
3335 Utah Administrative Rulemaking Act, to make and enforce such rules as in its judgment are
3336 necessary to administer and enforce this chapter.
3337 Section 9. Section **4-5-9** is amended to read:
3338 **4-5-9. Registration of food establishments -- Fee -- Suspension and reinstatement**
3339 **of registration -- Inspection for compliance.**
3340 (1) (a) Pursuant to [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
3341 Rulemaking Act, the department shall establish rules providing for the registration of food
3342 establishments to protect public health and ensure a safe food supply.
3343 (b) The owner or operator of a food establishment shall register with the department
3344 before operating a food establishment.

3345 (c) Prior to granting a registration to the owner or operator of a food establishment, the
3346 department shall inspect and assess the food establishment to determine whether it complies
3347 with the rules established under Subsection (1)(a).
3348 (d) An applicant shall register with the department, in writing, using forms required by
3349 the department.
3350 (e) The department shall issue a registration to an applicant, if the department
3351 determines that the applicant meets the qualifications of registration established under
3352 Subsection (1)(a).
3353 (f) If the applicant does not meet the qualifications of registration, the department shall
3354 notify the applicant, in writing, that the applicant's registration is denied.
3355 (g) (i) If an applicant submits an incomplete application, a written notice of conditional
3356 denial of registration shall be provided to an applicant.
3357 (ii) The applicant must correct the deficiencies within the time period specified in the
3358 notice to receive a registration.
3359 (h) (i) The department may, as provided under Subsection 4-2-2(2), charge the food
3360 establishment a registration fee.
3361 (ii) The department shall retain the fees as dedicated credits and shall use the fees to
3362 administer the registration of food establishments.
3363 (2) (a) A registration, issued under this section, shall be valid from the date the
3364 department issues the registration, to December 31 of the year the registration is issued.
3365 (b) A registration may be renewed for the following year by applying for renewal by
3366 December 31 of the year the registration expires.
3367 (3) A registration, issued under this section, shall specify:
3368 (a) the name and address of the food establishment;
3369 (b) the name of the owner or operator of the food establishment; and
3370 (c) the registration issuance and expiration date.
3371 (4) (a) The department may immediately suspend a registration, issued under this
3372 section, if any of the conditions of registration have been violated.
3373 (b) (i) The holder of a registration suspended under Subsection (4)(a) may apply for the
3374 reinstatement of a registration.
3375 (ii) If the department determines that all registration requirements have been met, the

3376 department shall reinstate the registration.
3377 (5) (a) A food establishment, registered under this section, shall allow the department to
3378 have access to the food establishment to determine if the food establishment is complying with
3379 the registration requirements.
3380 (b) If a food establishment denies access for an inspection required under Subsection
3381 (5)(a), the department may suspend the food establishment's registration until the department is
3382 allowed access to the food establishment's premises.
3383 Section 10. Section **4-5-9.5** is amended to read:
3384 **4-5-9.5. Cottage food production operations.**
3385 (1) For purposes of this chapter:
3386 (a) "Cottage food production operation" means a person, who in the person's home,
3387 produces a food product that is not a potentially hazardous food or a food that requires
3388 time/temperature controls for safety.
3389 (b) "Home" means a primary residence:
3390 (i) occupied by the individual who is operating a cottage food production operation;
3391 and
3392 (ii) which contains:
3393 (A) a kitchen designed for common residential usage; and
3394 (B) appliances designed for common residential usage.
3395 (c) "Potentially hazardous food" or "food that requires time/temperature controls for
3396 safety":
3397 (i) means a food that requires time and or temperature control for safety to limit
3398 pathogenic microorganism growth or toxin formation and is in a form capable of supporting:
3399 (A) the rapid and progressive growth of infections or toxigenic microorganisms;
3400 (B) the growth and toxin production of Clostridium botulinum; or
3401 (C) in shell eggs, the growth of Salmonella enteritidis;
3402 (ii) includes:
3403 (A) an animal food;
3404 (B) a food of animal origin that is raw or heat treated;
3405 (C) a food of plant origin that is heat treated or consists of raw seed sprouts;
3406 (D) cut melons;

3407 (E) cut tomatoes; and
3408 (F) garlic and oil mixtures that are not acidified or otherwise modified at a food
3409 establishment in a way that results in mixtures that do not support growth as specified under
3410 Subsection (1)(c)(i); and
3411 (iii) does not include:
3412 (A) an air-cooled hard-boiled egg with shell intact;
3413 (B) a food with an actual weight or water activity value of 0.85 or less;
3414 (C) a food with pH level of 4.6 or below when measured at 24 degrees Centigrade;
3415 (D) a food, in an unopened hermetically sealed container, that is processed to achieve
3416 and maintain sterility under conditions of nonrefrigerated storage and distribution;
3417 (E) a food for which laboratory evidence demonstrates that the rapid and progressive
3418 growth of items listed in Subsection (1)(c)(i) cannot occur, such as a food that:
3419 (I) has an actual weight and a pH level that are above the levels specified under
3420 Subsections (1)(c)(iii)(B) and (C); or
3421 (II) contains a preservative or other barrier to the growth of microorganisms, or a
3422 combination of barriers that inhibit the growth of microorganisms; or
3423 (F) a food that does not support the growth of microorganisms as specified under
3424 Subsection (1)(c)(i) even though the food may contain an infectious or toxigenic
3425 microorganism or chemical or physical contaminant at a level sufficient to cause illness.
3426 (2) (a) The department shall adopt rules pursuant to [~~Title 63, Chapter 46a~~] Title 63G,
3427 Chapter 3, Utah Administrative Rulemaking Act, as necessary to protect public health and
3428 ensure a safe food supply.
3429 (b) Rules adopted pursuant to this Subsection (2) shall provide for:
3430 (i) the registration of cottage food production operations as food establishments under
3431 this chapter;
3432 (ii) the labeling of products from a cottage food production operation as "Home
3433 Produced"; and
3434 (iii) other exceptions to the chapter that the department determines are appropriate and
3435 that are consistent with this section.
3436 (3) Rules adopted pursuant to Subsection (2):
3437 (a) may not require:

3438 (i) the use of commercial surfaces such as stainless steel counters or cabinets;
3439 (ii) the use of a commercial grade:
3440 (A) sink;
3441 (B) dishwasher; or
3442 (C) oven;
3443 (iii) a separate kitchen for the cottage food production operation; or
3444 (iv) the submission of plans and specifications before construction of, or remodel of, a
3445 cottage food production operation; and
3446 (b) may require:
3447 (i) an inspection of a cottage food production operation:
3448 (A) prior to issuing a registration for the cottage food production operation; and
3449 (B) at other times if the department has reason to believe the cottage food production
3450 operation is operating:
3451 (I) in violation of this chapter or an administrative rule adopted pursuant to this
3452 section; or
3453 (II) in an unsanitary manner; and
3454 (ii) the use of finished and cleanable surfaces.
3455 (4) (a) The operator of a cottage food production operation shall:
3456 (i) register with the department as a cottage food production operation before operating
3457 as a cottage food production operation; and
3458 (ii) hold a valid food handler's permit.
3459 (b) Notwithstanding the provisions of Subsections 4-5-9(1)(a) and (c), the department
3460 shall issue a registration to an applicant for a cottage food production operation if the applicant
3461 for the registration:
3462 (i) passes the inspection required by Subsection (3)(b);
3463 (ii) pays the fees required by the department; and
3464 (iii) meets the requirements of this section.
3465 (5) Notwithstanding the provisions of Section 26A-1-114, a local health department:
3466 (a) does not have jurisdiction to regulate the production of food at a cottage food
3467 production operation operating in compliance with this section, as long as the products are not
3468 offered to the public for consumption on the premises; and

3469 (b) does have jurisdiction to investigate a cottage food production operation in any
3470 investigation into the cause of a food born illness outbreak.
3471 (6) A food service establishment as defined in Section 26-15a-102 may not use a
3472 product produced in a cottage food production operation as an ingredient in any food that is
3473 prepared by the food establishment and offered by the food establishment to the public for
3474 consumption.
3475 Section 11. Section **4-9-2** is amended to read:
3476 **4-9-2. Authority to promulgate rules.**
3477 The department is authorized, subject to [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
3478 Utah Administrative Rulemaking Act, to make and enforce such rules as in its judgment are
3479 necessary to administer and enforce this chapter.
3480 Section 12. Section **4-9-15** is amended to read:
3481 **4-9-15. Registration of commercial establishments using weights and measures --**
3482 **Approved weights and measures inspectors -- Application -- Fee -- Expiration -- Renewal.**
3483 (1) (a) Pursuant to [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
3484 Rulemaking Act, the department shall establish rules providing for the registration of weights
3485 and measures users and issuance of certification of weights and measures devices to ensure the
3486 use of correct weights and measures in commerce or trade.
3487 (b) The division may:
3488 (i) determine whether weights and measures are correct through:
3489 (A) inspection and testing by department employees; or
3490 (B) acceptance of an inspection and testing report prepared by a registered weights and
3491 measures service person;
3492 (ii) establish standards and qualifications for registered weights and measures service
3493 persons; and
3494 (iii) determine the form and content of an inspection and testing report.
3495 (c) A weights and measures user shall register with the department.
3496 (d) Prior to granting a registration to a weights and measures user, the department shall
3497 determine whether the weights and measures user complies with the rules established under
3498 Subsection (1)(a).
3499 (e) An applicant shall register with the department, in writing, using forms required by

3500 the department.
3501 (f) The department shall issue a registration to an applicant, if the department
3502 determines that the applicant meets the qualifications of registration established under
3503 Subsection (1)(a).
3504 (g) If the applicant does not meet the qualifications of registration, the department shall
3505 notify the applicant, in writing, that the applicant's registration is denied.
3506 (h) (i) If an applicant submits an incomplete application, a written notice of conditional
3507 denial of registration shall be provided to an applicant.
3508 (ii) The applicant must correct the deficiencies within the time period specified in the
3509 notice to receive a registration.
3510 (i) (i) The department may, as provided under Subsection 4-2-2(2), charge the weights
3511 and measures user a registration fee.
3512 (ii) The department shall retain the fees as dedicated credits and shall use the fees to
3513 administer the registration of weights and measures users.
3514 (2) (a) A registration, issued under this section, shall be valid from the date the
3515 department issues the registration, to December 31 of the year the registration is issued.
3516 (b) A registration may be renewed for the following year by applying for renewal by
3517 December 31 of the year the registration expires.
3518 (3) A registration, issued under this section, shall specify:
3519 (a) the name and address of the weights and measures user;
3520 (b) the registration issuance and expiration date; and
3521 (c) the number and type of weights and measures devices to be certified.
3522 (4) (a) The department may immediately suspend a registration, issued under this
3523 section, if any of the requirements of Section 4-9-12 are violated.
3524 (b) (i) The holder of a registration suspended under Subsection (4)(a) may apply for the
3525 reinstatement of a registration.
3526 (ii) If the department determines that all requirements under Section 4-9-12 are being
3527 met, the department shall reinstate the registration.
3528 (5) (a) A weights and measures user, registered under this section, shall allow the
3529 department access to the weights and measures user's place of business to determine if the
3530 weights and measures user is complying with the registration requirements.

3531 (b) If a weights and measures user denies access for an inspection required under
3532 Subsection (5)(a), the department may suspend the weights and measures user's registration
3533 until the department is allowed access to the weights and measures user's place of business.
3534 Section 13. Section **4-10-3** is amended to read:
3535 **4-10-3. Authority to make and enforce rules.**
3536 The department is authorized, subject to [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
3537 Utah Administrative Rulemaking Act, to make and enforce such rules as in its judgment are
3538 necessary to administer and enforce this chapter.
3539 Section 14. Section **4-11-3** is amended to read:
3540 **4-11-3. Department authorized to make and enforce rules.**
3541 The department is authorized, subject to [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
3542 Utah Administrative Rulemaking Act, to make and enforce such rules as it considers necessary
3543 for the administration and enforcement of this chapter. Such rules shall include provisions for
3544 the identification of each apiary within the state.
3545 Section 15. Section **4-12-3** is amended to read:
3546 **4-12-3. Department authorized to make and enforce rules -- Cooperation with**
3547 **state and federal agencies authorized.**
3548 The department is authorized, subject to [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
3549 Utah Administrative Rulemaking Act, to make and enforce such rules as in its judgment are
3550 necessary to administer and enforce this chapter and may cooperate with, or enter into
3551 agreements with, other agencies of this state, other states, and agencies of the United States in
3552 the administration and enforcement of this chapter.
3553 Section 16. Section **4-14-3** is amended to read:
3554 **4-14-3. Registration required for distribution -- Application -- Fees -- Renewal --**
3555 **Local needs registration -- Distributor or applicator license -- Fees -- Renewal.**
3556 (1) (a) No person may distribute a pesticide in this state that is not registered with the
3557 department.
3558 (b) Application for registration shall be made to the department upon forms prescribed
3559 and furnished by it accompanied with an annual registration fee determined by the department
3560 pursuant to Subsection 4-2-2(2) for each pesticide registered.
3561 (c) Upon receipt by the department of a proper application and payment of the

3562 appropriate fee, the commissioner shall issue a registration to the applicant allowing
3563 distribution of the registered pesticide in this state through June 30 of each year, subject to
3564 suspension or revocation for cause.
3565 (d) (i) Each registration is renewable for a period of one year upon the payment of an
3566 annual registration renewal fee in an amount equal to the current applicable original
3567 registration fee.
3568 (ii) Each renewal fee shall be paid on or before June 30 of each year.
3569 (2) The application shall include the following information:
3570 (a) the name and address of the applicant and the name and address of the person
3571 whose name will appear on the label, if other than the applicant's name;
3572 (b) the name of the pesticide;
3573 (c) a complete copy of the label which will appear on the pesticide; and
3574 (d) any information prescribed by rule of the department considered necessary for the
3575 safe and effective use of the pesticide.
3576 (3) (a) Forms for the renewal of registration shall be mailed to registrants at least 30
3577 days before their registration expires.
3578 (b) A registration in effect on June 30 for which a renewal application has been filed
3579 and the registration fee tendered shall continue in effect until the applicant is notified either
3580 that the registration is renewed or that it is suspended or revoked pursuant to Section 4-14-8.
3581 (4) The department may, before approval of any registration, require the applicant to
3582 submit the complete formula of any pesticide including active and inert ingredients and may
3583 also, for any pesticide not registered according to 7 U.S.C. Sec. 136a or for any pesticide on
3584 which restrictions are being considered, require a complete description of all tests and test
3585 results that support the claims made by the applicant or the manufacturer of the pesticide.
3586 (5) A registrant who desires to register a pesticide to meet special local needs
3587 according to 7 U.S.C. Sec. 136a(c) shall, in addition to complying with Subsections (1) and (2),
3588 satisfy the department that:
3589 (a) a special local need exists;
3590 (b) the pesticide warrants the claims made for it;
3591 (c) the pesticide, if used in accordance with commonly accepted practices, will not
3592 cause unreasonable adverse effects on the environment; and

3593 (d) the proposed classification for use conforms with 7 U.S.C. Sec. 136a(d).
3594 (6) No registration is required for a pesticide distributed in this state pursuant to an
3595 experimental use permit issued by the EPA or under Section 4-14-5.
3596 (7) No pesticide dealer may distribute a restricted use pesticide in this state without a
3597 license.
3598 (8) A person must receive a license before applying:
3599 (a) a restricted use pesticide; or
3600 (b) a general use pesticide for hire or in exchange for compensation.
3601 (9) (a) A license to engage in an activity listed in Subsection (7) or (8) may be obtained
3602 by:
3603 (i) submitting an application on a form provided by the department;
3604 (ii) paying the license fee determined by the department according to Subsection
3605 4-2-2(2); and
3606 (iii) complying with the rules adopted as authorized by this chapter.
3607 (b) A person may apply for a license that expires on December 31:
3608 (i) of the calendar year in which the license is issued; or
3609 (ii) of the second calendar year after the calendar year in which the license is issued.
3610 (c) (i) Notwithstanding Section [~~63-38-3.2~~] 63J-1-303, the department shall retain the
3611 fees as dedicated credits and may only use the fees to administer and enforce this chapter.
3612 (ii) The Legislature may annually designate the revenue generated from the fee as
3613 nonlapsing in an appropriations act.
3614 Section 17. Section **4-14-6** is amended to read:
3615 **4-14-6. Department authorized to make and enforce rules.**
3616 The department may, by following the procedures and requirements of [~~Title 63,~~
3617 ~~Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt rules to:
3618 (1) declare as a pest any form of plant or animal life that is injurious to health or the
3619 environment, except:
3620 (a) a human being; or
3621 (b) a bacteria, virus, or other microorganism on or in a living person or animal;
3622 (2) establish, in accordance with the regulations promulgated by the EPA under 7
3623 U.S.C. Sec. 136w(c)(2), whether pesticides registered for special local needs under the

3624 authority of 7 U.S.C. Sec. 136v(c) are highly toxic to man;
3625 (3) establish, consistent with EPA regulations, that certain pesticides or quantities of
3626 substances contained in these pesticides are injurious to the environment;
3627 (4) adopt a list of "restricted use pesticides" for the state or designated areas within the
3628 state if it determines upon substantial evidence presented at a public hearing and upon
3629 recommendation of the pesticide committee that restricted use is necessary to prevent damage
3630 to property or to the environment;
3631 (5) establish qualifications for a pesticide applicator business; and
3632 (6) adopt any rule, not inconsistent with federal regulations promulgated under FIFRA,
3633 considered necessary to administer and enforce this chapter, including rules relating to the
3634 sale, distribution, use, and disposition of pesticides if necessary to prevent damage and to
3635 protect the public health.
3636 Section 18. Section **4-14-13** is amended to read:
3637 **4-14-13. Registration required for a pesticide business.**
3638 (1) A pesticide applicator business shall register with the department by:
3639 (a) submitting an application on a form provided by the department;
3640 (b) paying the registration fee; and
3641 (c) certifying that the business is in compliance with this chapter and departmental
3642 rules authorized by this chapter.
3643 (2) (a) By following the procedures and requirements of Section [~~63-38-3.2~~]
3644 63J-1-303, the department shall establish a registration fee based on the number of pesticide
3645 applicators employed by the pesticide applicator business.
3646 (b) (i) Notwithstanding Section [~~63-38-3.2~~] 63J-1-303, the department shall retain the
3647 fees as dedicated credits and may only use the fees to administer and enforce this chapter.
3648 (ii) The Legislature may annually designate the revenue generated from the fee as
3649 nonlapsing in an appropriations act.
3650 (3) (a) The department shall issue a pesticide applicator business a registration
3651 certificate if the pesticide applicator business:
3652 (i) has complied with the requirements of this section; and
3653 (ii) meets the qualifications established by rule.
3654 (b) The department shall notify the pesticide applicator business in writing that the

3655 registration is denied if the pesticide applicator business does not meet the registration
3656 qualifications.
3657 (4) A registration certificate expires on December 31 of the second calendar year after
3658 the calendar year in which the registration certificate is issued.
3659 (5) (a) The department may suspend a registration certificate if the pesticide applicator
3660 business violates this chapter or any rules authorized by it.
3661 (b) A pesticide applicator business whose registration certificate has been suspended
3662 may apply to the department for reinstatement of the registration certificate by demonstrating
3663 compliance with this chapter and rules authorized by it.
3664 (6) A pesticide applicator business shall:
3665 (a) only employ a pesticide applicator who has received a license from the department,
3666 as required by Section 4-14-3; and
3667 (b) ensure that all employees comply with this chapter and the rules authorized by it.
3668 Section 19. Section **4-15-3** is amended to read:
3669 **4-15-3. Department authorized to make and enforce rules.**
3670 The department is authorized, subject to [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
3671 Utah Administrative Rulemaking Act, to make and enforce such rules as in its judgment are
3672 necessary to administer and enforce this chapter.
3673 Section 20. Section **4-16-3** is amended to read:
3674 **4-16-3. Department authorized to make and enforce rules -- Cooperation with**
3675 **state and federal agencies authorized.**
3676 The department is authorized, subject to [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
3677 Utah Administrative Rulemaking Act, to make and enforce such rules as in its judgment are
3678 deemed necessary to administer and enforce this chapter; and, in conjunction with its
3679 administration and enforcement, it is authorized to cooperate with other state agencies, other
3680 states, and with the United States Department of Agriculture or other departments or agencies
3681 of the federal government.
3682 Section 21. Section **4-18-5** is amended to read:
3683 **4-18-5. Conservation commission -- Functions and duties.**
3684 (1) The commission shall:
3685 (a) facilitate the development and implementation of the strategies and programs

3686 necessary to protect, conserve, utilize, and develop the soil and water resources of the state;
3687 (b) disseminate information regarding districts' activities and programs;
3688 (c) supervise the formation, reorganization, or dissolution of districts according to the
3689 requirements of Title 17A, Chapter 3, Part 8, Conservation Districts;
3690 (d) prescribe uniform accounting and recordkeeping procedures for districts and
3691 require each district to submit annually an audit of its funds to the commission;
3692 (e) approve and make loans for agricultural purposes, from the Agriculture Resource
3693 Development Fund for:
3694 (i) nonfederal rangeland improvement and management projects;
3695 (ii) watershed protection and flood prevention projects;
3696 (iii) agricultural cropland soil and water conservation projects; and
3697 (iv) programs designed to promote energy efficient farming practices;
3698 (f) administer federal or state funds in accordance with applicable federal or state
3699 guidelines and make loans or grants from those funds to land occupiers for the conservation of
3700 soil or water resources;
3701 (g) seek to coordinate soil and water protection, conservation, and development
3702 activities and programs of state agencies, local governmental units, other states, special interest
3703 groups, and federal agencies; and
3704 (h) plan watershed and flood control projects in cooperation with appropriate local,
3705 state, and federal authorities and coordinate flood control projects in the state.
3706 (2) The commission may:
3707 (a) employ, with the approval of the department, an administrator and necessary
3708 technical experts and employees;
3709 (b) execute contracts or other instruments necessary to exercise its powers;
3710 (c) sue and be sued; and
3711 (d) adopt rules, in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
3712 Administrative Rulemaking Act, necessary to carry out the powers and duties specified in
3713 Subsections (1)(d), (e), (f), and (2)(b).
3714 Section 22. Section **4-18-6.5** is amended to read:
3715 **4-18-6.5. Grants to improve manure management or control runoff at animal**
3716 **feeding operations.**

3717 (1) (a) The commission may make grants to owners or operators of animal feeding
3718 operations to pay for costs of plans or projects to improve manure management or control
3719 surface water runoff, including costs of preparing or implementing comprehensive nutrient
3720 management plans.
3721 (b) The commission shall make the grants described in Subsection (1)(a) from funds
3722 appropriated by the Legislature for that purpose.
3723 (2) (a) In awarding grants, the commission shall consider the following criteria:
3724 (i) the ability of the grantee to pay for costs of plans or projects to improve manure
3725 management or control surface water runoff;
3726 (ii) the availability of:
3727 (A) matching funds provided by the grantee or another source; or
3728 (B) material, labor, or other items of value provided in lieu of money by the grantee or
3729 another source; and
3730 (iii) the benefits that accrue to the general public by the awarding of a grant.
3731 (b) The commission may establish by rule additional criteria for the awarding of grants.
3732 (3) The commission shall make rules in accordance with [~~Title 63, Chapter 46a~~] Title
3733 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.
3734 Section 23. Section **4-20-1.5** is amended to read:
3735 **4-20-1.5. State Grazing Advisory Board -- Duties.**
3736 (1) (a) There is created within the department the State Grazing Advisory Board.
3737 (b) The commissioner shall appoint the following members:
3738 (i) one member from each regional board;
3739 (ii) one member from the Conservation Commission created in Section 4-18-4;
3740 (iii) one representative of the Department of Natural Resources;
3741 (iv) two livestock producers at-large; and
3742 (v) one representative of the oil, gas, or mining industry.
3743 (2) The term of office for a state board member is four years.
3744 (3) Members of the state board shall elect a chair, who shall serve for two years.
3745 (4) (a) (i) A member who is not a government employee may not receive compensation
3746 or benefits for the member's service, but may receive per diem and expenses incurred in the
3747 performance of the member's official duties at the rates established by the Division of Finance

3748 under Sections 63A-3-106 and 63A-3-107.
3749 (ii) A member may decline to receive per diem and expenses for the member's service.
3750 (b) (i) A state government officer and employee member who does not receive salary,
3751 per diem, or expenses from the agency the member represents for the member's service may
3752 receive per diem and expenses incurred in the performance of the member's official duties at
3753 the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
3754 (ii) A state government officer and employee member may decline to receive per diem
3755 and expenses for the member's service.
3756 (c) (i) A local government member who does not receive salary, per diem, or expenses
3757 from the entity that the member represents for the member's service may receive per diem and
3758 expenses incurred in the performance of the member's official duties at the rates established by
3759 the Division of Finance under Sections 63A-3-106 and 63A-3-107.
3760 (ii) A local government member may decline to receive per diem and expenses for the
3761 member's service.
3762 (5) The state board shall:
3763 (a) receive:
3764 (i) advice and recommendations from a regional board concerning:
3765 (A) management plans for public lands, state lands, and school and institutional trust
3766 lands as defined in Section 53C-1-103, within the regional board's region; and
3767 (B) any issue that impacts grazing on private lands, public lands, state lands, or school
3768 and institutional trust lands as defined in Section 53C-1-103, in its region; and
3769 (ii) requests for fund monies from the entities described in Subsections (5)(c)(i)
3770 through (iv);
3771 (b) recommend state policy positions and cooperative agency participation in federal
3772 and state land management plans to the department and to the Public Lands Policy
3773 Coordinating Office created under Section [~~63-38d-602~~] 63J-4-602; and
3774 (c) advise the department on the requests and recommendations of:
3775 (i) regional boards;
3776 (ii) county weed control boards created under Section 4-17-4;
3777 (iii) cooperative weed management associations; and
3778 (iv) conservation districts created under the authority of Title 17A, Chapter 3, Part 8,

3779 Conservation Districts.
3780 Section 24. Section **4-22-4.5** is amended to read:
3781 **4-22-4.5. Exemption from certain operational requirements.**
3782 The commission is exempt from:
3783 (1) Title 51, Chapter 5, Funds Consolidation Act;
3784 (2) Title 51, Chapter 7, State Money Management Act;
3785 (3) [~~Title 63, Chapter 38~~] Title 63J, Chapter 1, Budgetary Procedures Act;
3786 (4) Title 63A, Utah Administrative Services Code; and
3787 (5) Title 67, Chapter 19, Utah State Personnel Management Act.
3788 Section 25. Section **4-23-5** is amended to read:
3789 **4-23-5. Board responsibilities -- Damage prevention policy -- Rules -- Methods to**
3790 **control predators and depredating birds and animals.**
3791 (1) The board is responsible for the formulation of the agricultural and wildlife damage
3792 prevention policy of the state and in conjunction with its responsibility may, consistent with
3793 [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt rules
3794 to implement its policy which shall be administered by the department.
3795 (2) In its policy deliberations the board shall:
3796 (a) specify programs designed to prevent damage to livestock, poultry, and agricultural
3797 crops; and
3798 (b) specify methods for the prevention of damage and for the selective control of
3799 predators and depredating birds and animals including, but not limited to, hunting, trapping,
3800 chemical toxicants, and the use of aircraft.
3801 (3) The board may also:
3802 (a) specify bounties on designated predatory animals and recommend procedures for
3803 the payment of bounty claims, recommend bounty districts, recommend persons not authorized
3804 to receive bounty, and recommend to the department other actions it [~~deems~~] considers
3805 advisable for the enforcement of its policies; and
3806 (b) cooperate with federal, state, and local governments, educational institutions, and
3807 private persons or organizations, through agreement or otherwise, to effectuate its policies.
3808 Section 26. Section **4-24-3** is amended to read:
3809 **4-24-3. Department authorized to make and enforce rules.**

3810 The department is authorized, subject to [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
3811 Utah Administrative Rulemaking Act, to make and enforce such rules as in its judgment are
3812 necessary to administer and enforce this chapter.
3813 Section 27. Section **4-25-3** is amended to read:
3814 **4-25-3. Department authorized to make and enforce rules.**
3815 The department is authorized, subject to [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
3816 Utah Administrative Rulemaking Act, to make and enforce such rules as in its judgment are
3817 necessary to administer and enforce this chapter.
3818 Section 28. Section **4-29-1** is amended to read:
3819 **4-29-1. Department authorized to make and enforce rules.**
3820 The department is authorized, subject to [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
3821 Utah Administrative Rulemaking Act, to make and enforce such rules as it considers necessary
3822 for the administration and enforcement of this chapter.
3823 Section 29. Section **4-30-3** is amended to read:
3824 **4-30-3. Department authorized to make and enforce rules.**
3825 The department is authorized, subject to [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
3826 Utah Administrative Rulemaking Act, to make and enforce such rules as in its judgment are
3827 necessary to administer and enforce this chapter.
3828 Section 30. Section **4-31-16.5** is amended to read:
3829 **4-31-16.5. Brucellosis -- Vaccination required for certain cattle -- Testing**
3830 **required to import certain cattle.**
3831 (1) As used in this section, "test-eligible" has the meaning defined in 9 C.F.R. Sec.
3832 78.1.
3833 (2) (a) Instate origin replacement cattle that are kept for breeding stock must be official
3834 calfhood vaccinated for brucellosis.
3835 (b) Female cattle from within the state that are not kept for breeding stock will not be
3836 required to be vaccinated.
3837 (c) For purposes of this Subsection (2), the department may make rules in accordance
3838 with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
3839 governing non-legible brucellosis tattoos and may accept brucellosis vaccination record forms
3840 as evidence that brucellosis vaccinations were performed.

3841 (3) All female beef-breed cattle imported into the state are required to be official
3842 calfhood vaccinated for brucellosis except female cattle:
3843 (a) less than four months of age;
3844 (b) going directly to slaughter;
3845 (c) going to a qualified feedlot; or
3846 (d) going to an approved auction to be vaccinated on arrival or designated for slaughter
3847 only.
3848 (4) (a) Test-eligible cattle imported from states designated as brucellosis-free under 9
3849 C.F.R. Sec. 78.43, that are acquired directly from the farm of origin are not required to be
3850 tested for brucellosis before movement into the state.
3851 (b) Test-eligible cattle imported from states designated as brucellosis-free under 9
3852 C.F.R. Sec. 78.43, that are acquired through trading channels must test negative for brucellosis
3853 within 30 days before movement into the state.
3854 (5) Test-eligible cattle imported from states that have not been designated as
3855 brucellosis-free under 9 C.F.R. Sec. 78.43, must test negative for brucellosis within 30 days
3856 before movement into the state.
3857 (6) The department may investigate situations where fees for brucellosis vaccinations
3858 are considered to be excessive.
3859 (7) The department may make rules in accordance with [~~Title 63, Chapter 46a~~] Title
3860 63G, Chapter 3, Utah Administrative Rulemaking Act, for beef-breed cattle that are acquired
3861 for specialized breeding purposes, and may exempt those cattle from brucellosis vaccination
3862 requirements.
3863 (8) The department shall make rules in accordance with [~~Title 63, Chapter 46a~~] Title
3864 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.
3865 Section 31. Section **4-31-21** is amended to read:
3866 **4-31-21. Trichomoniasis -- Department to make rules.**
3867 The department shall make rules for the prevention and control of trichomoniasis in
3868 cattle and bison in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
3869 Administrative Rulemaking Act.
3870 Section 32. Section **4-32-7** is amended to read:
3871 **4-32-7. Mandatory functions, powers, and duties of department prescribed.**

3872 The department shall make rules pursuant to [~~Title 63, Chapter 46a~~] Title 63G, Chapter
3873 3, Utah Administrative Rulemaking Act, regarding the following functions, powers, and duties,
3874 in addition to those specified in Title 4, Chapter 1, Utah Agricultural Code, for the
3875 administration and enforcement of this chapter:
3876 (1) The department shall require antemortem and postmortem inspections, quarantine,
3877 segregation, and reinspections by inspectors appointed for those purposes with respect to the
3878 slaughter of livestock and poultry and the preparation of livestock and poultry products at
3879 official establishments, except as provided in Subsection 4-32-8(13).
3880 (2) The department shall require that:
3881 (a) livestock and poultry be identified for inspection purposes;
3882 (b) livestock or poultry products, or their containers be marked or labeled as:
3883 (i) "Utah Inspected and Passed" if, upon inspection, the products are found to be
3884 unadulterated; and
3885 (ii) "Utah Inspected and Condemned" if, upon inspection, the products are found to be
3886 adulterated; and
3887 (c) condemned products, which otherwise would be used for human consumption, be
3888 destroyed under the supervision of an inspector.
3889 (3) The department shall prohibit or limit livestock products, poultry products, or other
3890 materials not prepared under inspection procedures provided in this chapter, from being
3891 brought into official establishments.
3892 (4) The department shall require that labels and containers for livestock and poultry
3893 products:
3894 (a) bear all information required under Section 4-32-3 if the product leaves the official
3895 establishment; and
3896 (b) be approved prior to sale or transportation.
3897 (5) For official establishments required to be inspected under Subsection (1), the
3898 department shall:
3899 (a) prescribe sanitary standards;
3900 (b) require experts in sanitation or other competent investigators to investigate sanitary
3901 conditions; and
3902 (c) refuse to provide inspection service if the sanitary conditions allow adulteration of

3903 any livestock or poultry product.
3904 (6) (a) The department shall require that any person engaged in a business referred to in
3905 Subsection (6)(b) shall:
3906 (i) keep accurate records disclosing all pertinent business transactions;
3907 (ii) allow inspection of the business premises at reasonable times and examination of
3908 inventory, records, and facilities; and
3909 (iii) allow inventory samples to be taken after payment of their fair market value.
3910 (b) Subsection (6)(a) shall refer to any person who:
3911 (i) slaughters livestock or poultry;
3912 (ii) prepares, freezes, packages, labels, buys, sells, transports, or stores any livestock or
3913 poultry products for human or animal consumption;
3914 (iii) renders livestock or poultry; or
3915 (iv) buys, sells, or transports any dead, dying, disabled, or diseased livestock or poultry,
3916 or parts of their carcasses that died by a method other than slaughter.
3917 (7) (a) The department shall:
3918 (i) adopt by reference rules and regulations under federal acts with changes that the
3919 commissioner considers appropriate to make the rules and regulations applicable to operations
3920 and transactions subject to this chapter; and
3921 (ii) promulgate any other rules considered necessary for the efficient execution of the
3922 provisions of this chapter, including rules of practice providing an opportunity for hearing in
3923 connection with the issuance of orders under Subsection (5) or under Subsection 4-32-8(1), (2),
3924 or (3) and prescribing procedures for proceedings in these cases.
3925 (b) These procedures shall not preclude requiring that a label or container be withheld
3926 from use, or inspection be refused under Subsections (1) and (5), or Subsection 4-32-8(3),
3927 pending issuance of a final order in the proceeding.
3928 (8) (a) To prevent the inhumane slaughtering of livestock and poultry, inspectors shall
3929 be appointed to examine and inspect methods of handling and slaughtering livestock and
3930 poultry.
3931 (b) Inspection of new slaughtering establishments may be refused or temporarily
3932 suspended if livestock or poultry have been slaughtered or handled by any method not in
3933 accordance with the Humane Methods of Slaughter Act of 1978, Public Law 95-445.

3934 (9) (a) The department shall require all livestock and poultry showing symptoms of
3935 disease during antemortem inspection, performed by an inspector appointed for that purpose, to
3936 be set apart and slaughtered separately from other livestock and poultry.
3937 (b) When slaughtered, the carcasses of livestock and poultry shall be subject to careful
3938 examination and inspection in accordance with rules prescribed by the commissioner.
3939 Section 33. Section **4-33-4** is amended to read:
3940 **4-33-4. Administrative and enforcement powers of department.**
3941 The department shall administer and enforce this chapter and may:
3942 (1) make and enforce such rules, subject to [~~Title 63, Chapter 46a~~] Title 63G, Chapter
3943 3, Utah Administrative Rulemaking Act, as it considers necessary for the effective
3944 administration and enforcement of this chapter;
3945 (2) acquire and test motor fuel samples to determine compliance with this chapter;
3946 (3) maintain and staff a laboratory to test motor fuel samples;
3947 (4) enter public or private premises during normal working hours to enforce this
3948 chapter;
3949 (5) stop and detain any commercial vehicle transporting motor fuel to inspect its
3950 contents and applicable documents or to acquire motor fuel samples; and
3951 (6) require that records applicable to this chapter be available for examination and
3952 review upon request by the department.
3953 Section 34. Section **4-37-109** is amended to read:
3954 **4-37-109. Department to make rules.**
3955 (1) The department shall make rules in accordance with [~~Title 63, Chapter 46a~~] Title
3956 63G, Chapter 3, Utah Administrative Rulemaking Act:
3957 (a) specifying procedures for the application and renewal of certificates of registration
3958 for operating an aquaculture or fee fishing facility; and
3959 (b) governing the disposal or removal of aquatic animals from an aquaculture or fee
3960 fishing facility for which the certificate of registration has lapsed or been revoked.
3961 (2) (a) The department may make other rules consistent with its responsibilities set
3962 forth in Section 4-37-104.
3963 (b) Except as provided by this chapter, the rules authorized by Subsection (2)(a) must
3964 be consistent with the suggested procedures for the detection and identification of pathogens

3965 published by the American Fisheries Society's Fish Health Section.
3966 Section 35. Section **4-37-201** is amended to read:
3967 **4-37-201. Certificate of registration required to operate an aquaculture facility.**
3968 (1) A person may not operate an aquaculture facility without first obtaining a certificate
3969 of registration from the department.
3970 (2) (a) Each application for a certificate of registration to operate an aquaculture
3971 facility shall be accompanied by a fee.
3972 (b) The fee shall be established by the department in accordance with Section
3973 [~~63-38-3.2~~] 63J-1-303.
3974 (3) The department shall coordinate with the Division of Wildlife Resources:
3975 (a) on the suitability of the proposed site relative to potential impacts on adjacent
3976 aquatic wildlife populations; and
3977 (b) in determining which species the holder of the certificate of registration may
3978 propagate, possess, transport, or sell.
3979 (4) The department shall list on the certificate of registration the species which the
3980 holder may propagate, possess, transport, or sell.
3981 Section 36. Section **4-37-301** is amended to read:
3982 **4-37-301. Certificate of registration required to operate a fee fishing facility.**
3983 (1) A person may not operate a fee fishing facility without first obtaining a certificate
3984 of registration from the department.
3985 (2) (a) Each application for a certificate of registration to operate a fee fishing facility
3986 shall be accompanied by a fee.
3987 (b) The fee shall be established by the department in accordance with Section
3988 [~~63-38-3.2~~] 63J-1-303.
3989 (3) The department shall coordinate with the Division of Wildlife Resources:
3990 (a) on the suitability of the proposed site relative to potential impacts on adjacent
3991 aquatic wildlife populations; and
3992 (b) in determining which species the holder of the certificate of registration may
3993 possess or transport to or stock into the facility.
3994 (4) The department shall list on the certificate of registration the species which the
3995 holder may possess or transport to or stock into the facility.

3996 (5) A person holding a certificate of registration for an aquaculture facility may also
3997 operate a fee fishing facility without obtaining an additional certificate of registration, if the fee
3998 fishing facility:
3999 (a) is in a body of water meeting the criteria of Section 4-37-111 which is connected
4000 with the aquaculture facility;
4001 (b) contains only those aquatic animals specified on the certificate of registration for
4002 the aquaculture facility; and
4003 (c) is designated on the certificate of registration for the aquaculture facility.
4004 Section 37. Section **4-37-602** is amended to read:
4005 **4-37-602. Adjudicative proceedings -- Presiding officer.**
4006 (1) Adjudicative proceedings under this chapter shall be conducted in accordance with
4007 [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
4008 (2) The revocation of an aquaculture facility's certificate of registration, the denial of
4009 an aquaculture facility's future certificate of registration, and a denial or cancellation of an
4010 aquaculture facility's health approval number is a state agency action governed by [~~Title 63,~~
4011 ~~Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
4012 (3) (a) An owner or operator of an aquaculture facility may ask for an agency review,
4013 as provided by Section [~~63-46b-12~~] 63G-4-301, of an agency action specified in Subsection
4014 (2).
4015 (b) The presiding officer, as defined in Section [~~63-46b-2~~] 63G-4-103, conducting the
4016 agency review shall consist of three members as follows:
4017 (i) the person representing sport fishermen, appointed under Subsection
4018 4-37-503(4)(a)(i)(C);
4019 (ii) one person representing the aquaculture industry, appointed by the governor from
4020 names submitted by a nonprofit corporation, as defined in Section 16-6a-102, that promotes the
4021 efficient production, distribution, and marketing of aquaculture products and the welfare of all
4022 persons engaged in aquaculture; and
4023 (iii) one person, appointed by the governor, who is knowledgeable about aquatic
4024 diseases and is employed by an institution of higher education.
4025 (c) If the governor rejects all the names submitted under Subsection (3)(b)(ii), the
4026 recommending nonprofit corporation shall submit additional names.

4027 (d) The final decision of the presiding officer shall be adopted upon approval of at least
4028 two of the members.
4029 (e) The term and compensation for the member listed in Subsection (3)(b)(i) shall be
4030 the same as provided in Section 4-37-503.
4031 (f) The term for the members appointed under Subsections (3)(b)(ii) and (iii) shall be
4032 four years.
4033 (g) (i) (A) A higher education member who does not receive salary, per diem, or
4034 expenses from the entity that the member represents for the member's service may receive per
4035 diem and expenses incurred in the performance of the member's official duties at the rates
4036 established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
4037 (B) A higher education member may decline to receive per diem and expenses for the
4038 member's service.
4039 (ii) (A) A member who is not a government employee may not receive compensation
4040 or benefits for the member's service, but may receive per diem and expenses incurred in
4041 performance of the member's official duties at rates established by the Division of Finance
4042 under Sections 63A-3-106 and 63A-3-107.
4043 (B) A member may decline to receive per diem and expenses for the member's service.
4044 Section 38. Section **4-38-4** is amended to read:
4045 **4-38-4. Powers and duties of commission.**
4046 (1) The commission shall:
4047 (a) license, regulate, and supervise all persons involved in the racing of horses as
4048 provided in this chapter;
4049 (b) license, regulate, and supervise all recognized race meets held in this state under the
4050 terms of this chapter;
4051 (c) cause the various places where recognized race meets are held to be visited and
4052 inspected at least once a year;
4053 (d) assist in procuring public liability insurance coverage from a private insurance
4054 company for those licensees unable to otherwise obtain the insurance required under this
4055 chapter;
4056 (e) make rules in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
4057 Administrative Rulemaking Act, to govern race meets, including rules:

4058 (i) to resolve scheduling conflicts and settle disputes among licensees;
4059 (ii) to supervise, discipline, suspend, fine, and bar from events all persons required to
4060 be licensed by this chapter; and
4061 (iii) to hold, conduct, and operate all recognized race meets conducted pursuant to this
4062 chapter;
4063 (f) determine which persons participating, directly or indirectly, in recognized race
4064 meets require licenses;
4065 (g) announce the time, place, and duration of recognized race meets for which licenses
4066 shall be required; and
4067 (h) establish reasonable fees for all licenses provided for under this chapter.
4068 (2) The commission may:
4069 (a) grant, suspend, or revoke licenses issued under this chapter;
4070 (b) impose fines as provided in this chapter;
4071 (c) access criminal history record information for all licensees and commission
4072 employees; and
4073 (d) exclude from any racetrack facility in this state any person who the commission
4074 considers detrimental to the best interests of racing or any person who violates any provisions
4075 of this chapter or any rule or order of the commission.
4076 Section 39. Section **4-38-6** is amended to read:
4077 **4-38-6. Public records.**
4078 All records of the commission shall be subject to [~~Title 63, Chapter 2~~] Title 63G,
4079 Chapter 2, Government Records Access and Management Act.
4080 Section 40. Section **4-38-14** is amended to read:
4081 **4-38-14. Hearings.**
4082 (1) Except as otherwise provided in this section, all proceedings before the commission
4083 or its hearing officer with respect to the denial, suspension, or revocation of licenses or the
4084 imposition of fines shall be conducted pursuant to [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
4085 Administrative Procedures Act.
4086 (2) These proceedings shall be held in the county where the commission has its office
4087 or in any other place the commission designates. The commission shall notify the applicant or
4088 licensee by mailing, by first class mail, a copy of the written notice required to the last address

4089 furnished by the application or licensee to the commission at least seven days in advance of the
4090 hearing.
4091 (3) The commission may delegate its authority to conduct hearings with respect to the
4092 denial or suspension of licenses or the imposition of a fine to a hearing officer.
4093 (4) Proceedings before the board of stewards need not be governed by the procedural or
4094 other requirements of the Administrative Procedures Act, but rather shall be conducted in
4095 accordance with rules adopted by the commission.
4096 (5) The commission and the board of stewards may administer oaths and affirmations,
4097 sign and issue subpoenas, order the production of documents and other evidence, and regulate
4098 the course of the hearing pursuant to rules adopted by it.
4099 (6) Any person aggrieved by a final order or ruling issued by a board of stewards may
4100 appeal the order or ruling to the commission pursuant to procedural rules adopted by the
4101 commission. The aggrieved party may petition the commission for a stay of execution pending
4102 appeal to the commission.
4103 Section 41. Section **4-39-106** is amended to read:
4104 **4-39-106. Department to make rules.**
4105 (1) The department shall make rules in accordance with [~~Title 63, Chapter 46a~~] Title
4106 63G, Chapter 3, Utah Administrative Rulemaking Act, after considering the recommendations
4107 of the advisory council:
4108 (a) specifying procedures for the application and renewal of licenses for operating a
4109 domesticated elk facility;
4110 (b) governing the disposal or removal of domesticated elk from a domesticated elk
4111 facility for which the license has lapsed or been revoked;
4112 (c) setting standards and requirements for operating a domesticated elk facility;
4113 (d) setting health requirements and standards for health inspections; and
4114 (e) governing the possession, transportation, and accompanying documentation of
4115 domesticated elk carcasses.
4116 (2) The department may make other rules consistent with its responsibilities set forth in
4117 Section 4-39-103.
4118 Section 42. Section **4-39-203** is amended to read:
4119 **4-39-203. License required to operate a domesticated elk facility.**

4120 (1) A person may not operate a domesticated elk facility without first obtaining a
4121 license from the department.
4122 (2) (a) Each application for a license to operate a domesticated elk facility shall be
4123 accompanied by a fee.
4124 (b) The fee shall be established by the department in accordance with Section
4125 [~~63-38-3.2~~] 63J-1-303.
4126 (3) Each applicant for a domesticated elk facility license shall submit an application
4127 providing all information in the form and manner as required by the department.
4128 (4) (a) No license shall be issued until the department has inspected and approved the
4129 facility.
4130 (b) The department shall:
4131 (i) notify the Division of Wildlife Resources at least 48 hours prior to a scheduled
4132 inspection so that a Division of Wildlife Resources representative may be present at the
4133 inspection; and
4134 (ii) provide the Division of Wildlife Resources with copies of all licensing and
4135 inspection reports.
4136 (5) Each separate location of the domesticated elk operation shall be licensed
4137 separately.
4138 (6) (a) If a domesticated elk facility is operated under more than one business name
4139 from a single location, the name of each operation shall be listed with the department in the
4140 form and manner required by the department.
4141 (b) The department shall require that a separate fee be paid for each business name
4142 listed.
4143 (c) If a domesticated elk facility operates under more than one business name from a
4144 single location, the facility shall maintain separate records.
4145 (7) Each person or business entity with an equity interest in the domesticated elk shall
4146 be listed on the application for license.
4147 (8) Each domesticated elk facility license shall expire on July 1 in the year following
4148 the year of issuance.
4149 (9) Each licensee shall report to the department, in the form and manner required by
4150 the department, any change in the information provided in the licensee's application or in the

4151 reports previously submitted, within 15 days of each change.
4152 (10) Licenses issued pursuant to this section are not transferable.
4153 Section 43. Section **4-39-502** is amended to read:
4154 **4-39-502. Adjudicative proceedings.**
4155 Adjudicative proceedings under this chapter shall be conducted in accordance with
4156 [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
4157 Section 44. Section **7-1-105** is amended to read:
4158 **7-1-105. Procedures -- Adjudicative proceedings.**
4159 The commissioner and the department shall, except to the extent exempted, comply
4160 with the procedures and requirements of [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
4161 Administrative Procedures Act, in their adjudicative proceedings.
4162 Section 45. Section **7-1-301** is amended to read:
4163 **7-1-301. Powers and duties of commissioner -- Rulemaking.**
4164 Without limiting the other powers, duties, and responsibilities specified in this title, the
4165 commissioner has all the functions, powers, duties, and responsibilities with respect to
4166 institutions, persons, or businesses subject to the jurisdiction of the department contained in
4167 this title, including all of the functions, powers, duties, and responsibilities described in
4168 Subsections (1) through (15).
4169 (1) The commissioner may govern the administration and operation of the department.
4170 (2) The commissioner may supervise the conduct, operation, management,
4171 examination, and statements and reports of examinations of financial institutions and other
4172 persons subject to the jurisdiction of the department.
4173 (3) (a) The commissioner may authorize a state chartered depository institution to
4174 engage in any activity it could engage in, and to grant to that institution all additional rights,
4175 powers, privileges, benefits, or immunities it would possess, if it were chartered under the laws
4176 of the United States.
4177 (b) The commissioner may authorize a depository institution chartered by this state to
4178 engage in any activity that a Utah branch of an out-of-state depository institution of the same
4179 class can engage in, and to grant to the Utah institution all additional rights, powers, privileges,
4180 benefits, or immunities it needs to engage in the activity.
4181 (c) In granting authority under this Subsection (3), the commissioner shall consider:

4182 (i) the need for competitive equality between institutions chartered by this state and
4183 institutions operating in this state that are chartered by another state or by the federal
4184 government; and
4185 (ii) the adverse effect on shareholders, members, depositors, and other customers of
4186 financial institutions chartered by this state if equal power and protection of those institutions,
4187 compared with federally chartered or out-of-state institutions of the same class, are not
4188 promptly available.
4189 (4) The commissioner may safeguard the interest of shareholders, members, depositors,
4190 and other customers of institutions and other persons subject to the jurisdiction of the
4191 department.
4192 (5) (a) The commissioner may establish criteria consistent with this title to be applied
4193 in granting applications for approval of:
4194 (i) a new institution;
4195 (ii) a new branch;
4196 (iii) the relocation of an office or branch;
4197 (iv) a merger;
4198 (v) a consolidation;
4199 (vi) a change in control of an institution or other person subject to the jurisdiction of
4200 the department; and
4201 (vii) other applications specified in this title.
4202 (b) The criteria established under Subsection (5)(a) may not be applied to make it more
4203 difficult for a state chartered institution to obtain approval of an application than for a federally
4204 chartered institution in the same class to obtain approval from the appropriate federal
4205 regulatory agency or administrator.
4206 (6) (a) The commissioner may protect the privacy of the records of any institution
4207 subject to the jurisdiction of the department pertaining to a particular depositor or other
4208 customer of the institution. Rules adopted under this Subsection (6) shall be consistent with
4209 federal laws and regulations applicable to the institution.
4210 (b) Any institution that consents to produce records or that is required to produce
4211 records in compliance with a subpoena or other order of a court of competent jurisdiction or in
4212 compliance with an order obtained pursuant to Sections 78-27-45 through 78-27-50.5 shall be

4213 reimbursed for the cost of retrieval and reproduction of the records by the party seeking the
4214 information. The commissioner may by rule establish the rates and conditions under which
4215 reimbursement is made.
4216 (7) (a) The commissioner may classify all records kept by institutions subject to the
4217 jurisdiction of the department and to prescribe the period for which each class of records is
4218 retained.
4219 (b) Rules adopted under this Subsection (7) for any class of financial institution shall
4220 be consistent with federal laws and regulations applicable to the class.
4221 (c) Rules made under this Subsection (7) shall provide that:
4222 (i) An institution may dispose of any record after retaining it for the period prescribed
4223 by the commissioner for retention of records of its class. If an institution disposes of a record
4224 after the prescribed period, the institution has no duty to produce it in any action or proceeding
4225 and is not liable to any person by reason of that disposition.
4226 (ii) Any institution may keep records in its custody in the form of microfilm or
4227 equivalent reproduction. Any such reproduction shall have the same force and effect as the
4228 original and shall be admissible into evidence as if it were the original.
4229 (d) In adopting rules under this Subsection (7), the commissioner shall take into
4230 consideration:
4231 (i) actions at law and administrative proceedings in which the production of the records
4232 might be necessary or desirable;
4233 (ii) state and federal statutes of limitation applicable to the actions or proceedings;
4234 (iii) the availability from other sources of information contained in these records; and
4235 (iv) other matters the commissioner considers pertinent in formulating rules that
4236 require institutions to retain their records for as short a period as commensurate with the
4237 interest in having the records available of:
4238 (A) customers, members, depositors, and shareholders of the institutions; and
4239 (B) the people of this state.
4240 (8) (a) The commissioner may establish reasonable classes of depository and other
4241 financial institutions including separate classes for:
4242 (i) savings and loan associations and related institutions;
4243 (ii) banks and related institutions;

4244 (iii) credit unions; and
4245 (iv) industrial banks.
4246 (b) If the restrictions or requirements the commissioner imposes are not more stringent
4247 than those applicable under federal law or regulation to federally chartered institutions of the
4248 same class, the commissioner may establish the following for each class in a manner consistent
4249 with this title:
4250 (i) eligible classes and types of investments for the deposits and other funds of those
4251 financial institutions;
4252 (ii) minimum standards, in amounts sufficient to protect depositors and other creditors,
4253 for the amount and types of capital required to engage in the business conducted by each class
4254 or to obtain a license or to establish a branch or additional office of an institution of each class;
4255 (iii) eligible obligations, reserves, and other accounts to be included in the computation
4256 of capital;
4257 (iv) minimum liquidity requirements for financial institutions within each class in
4258 amounts sufficient to meet the demands of depositors and other creditors for liquid funds;
4259 (v) limitations on the amount and type of borrowings by each class of financial
4260 institution in relation to the amount of its capital and the character and condition of its assets
4261 and its deposits and other liabilities;
4262 (vi) limitations on the amount and nature of loans and extensions of credit to any
4263 person or related persons by each class of financial institution in relation to the amount of its
4264 capital; and
4265 (vii) limitations on the amount and nature of loans and extensions of credit by a
4266 financial institution or other person within each class to an executive officer, director, or
4267 principal shareholder of:
4268 (A) the institution or other person;
4269 (B) any company of which the institution or other person is a subsidiary;
4270 (C) any subsidiary of the institution or other person;
4271 (D) any affiliate of the institution; and
4272 (E) a company controlled by an executive officer, director, or principal shareholder of
4273 the institution.
4274 (9) The commissioner may define unfair trade practices of financial institutions and

4275 other persons subject to the jurisdiction of the department and to prohibit or restrict these
4276 practices.
4277 (10) The commissioner may establish reasonable standards to promote the fair and
4278 truthful advertising of:
4279 (a) services offered by a financial institution;
4280 (b) the charges for the services advertised under Subsection (10)(a);
4281 (c) the interest or other compensation to be paid on deposits or any debt instrument
4282 offered for sale by the institution;
4283 (d) the nature and extent of any:
4284 (i) insurance on deposits;
4285 (ii) savings accounts;
4286 (iii) share accounts;
4287 (iv) certificates of deposit;
4288 (v) time deposit accounts;
4289 (vi) NOW accounts;
4290 (vii) share draft accounts;
4291 (viii) transaction accounts; or
4292 (ix) any evidence of indebtedness issued, offered for sale, offered to sell or sold by any
4293 financial institution or other person subject to the jurisdiction of the department; and
4294 (e) the safety or financial soundness of any financial institution or other person subject
4295 to the jurisdiction of the department.
4296 (11) The commissioner may define what constitutes an impairment of capital for each
4297 class of financial institution or other person subject to the jurisdiction of the department.
4298 (12) The commissioner may designate days on which depository institutions are closed
4299 in accordance with Section 7-1-808.
4300 (13) The commissioner may regulate the issuance, advertising, offer for sale, and sale
4301 of a security to the extent authorized by Section 7-1-503.
4302 (14) The commissioner may require the officers of any institution or other person
4303 subject to the commissioner's jurisdiction to open and keep a standard set of books, computer
4304 records, or both for the purpose of keeping accurate and convenient records of the transactions
4305 and accounts of the institution in a manner to enable the commissioner, supervisors, and

4306 department examiners to readily ascertain the institution's true condition. These requirements
4307 shall be consistent with generally accepted accounting principles for financial institutions.
4308 (15) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
4309 Administrative Rulemaking Act, the commissioner may adopt and issue rules consistent with
4310 the purposes and provisions of this title, and may revise, amend, or repeal the rules adopted.
4311 Section 46. Section **7-1-323** is amended to read:
4312 **7-1-323. Regulation of interstate operations -- Coordination of efforts.**
4313 (1) The commissioner may:
4314 (a) examine, supervise, and regulate a branch operated in this state by a depository
4315 institution chartered by another state and take any action or issue any order with regard to that
4316 branch;
4317 (b) examine, supervise, and regulate a branch operated in another state by a depository
4318 institution chartered by this state and take any action or issue any order with regard to that
4319 branch; and
4320 (c) coordinate these activities with any other state or federal agency that shares
4321 jurisdiction over the institution.
4322 (2) The commissioner may coordinate the examination, supervision, and regulation of
4323 any depository institution chartered by this state with the examination, supervision, and
4324 regulation of an affiliated depository institution operating in another state.
4325 (3) The commissioner may take any reasonable and lawful action in furtherance of
4326 coordinating the regulation of interstate operations, including:
4327 (a) negotiating and entering into cooperative agreements with an agency of another
4328 state or of the federal government;
4329 (b) sharing information and reports in accordance with Section 7-1-802 with an agency
4330 that shares jurisdiction over the institution;
4331 (c) accepting as sufficient, if appropriate, examination reports and other information
4332 compiled or generated by or for an agency that shares jurisdiction over the institution;
4333 (d) contracting with an agency that shares jurisdiction over the institution to engage the
4334 services of its examiners at a reasonable rate of compensation;
4335 (e) offering the services of the department's examiners at a reasonable rate of
4336 compensation to an agency that shares jurisdiction over the institution;

4337 (f) collecting fees on behalf of, or receiving payment of fees through, an agency that
4338 shares jurisdiction over the institution; and
4339 (g) cooperating in any other way with other supervisory agencies and professional
4340 associations to promote the efficient, safe, and sound operation and regulation of interstate
4341 depository institution activities, including the formulation of interstate examination policies
4342 and procedures and the drafting of model laws, rules, and agreements.
4343 (4) A contract between the department and an agency that shares jurisdiction over a
4344 depository institution to provide examiners to aid in interstate examination and regulation is
4345 considered a sole source contract under Section [~~63-56-410~~] 63G-6-410.
4346 Section 47. Section **7-1-324** is amended to read:
4347 **7-1-324. Debt cancellation agreements and debt suspension agreements.**
4348 (1) As used in this section:
4349 (a) "Class of depository institution" means a class consisting of:
4350 (i) banks;
4351 (ii) credit unions;
4352 (iii) industrial banks;
4353 (iv) savings and loan associations; or
4354 (v) wholly owned subsidiaries of a depository institution listed in this Subsection
4355 (1)(a).
4356 (b) "Debt cancellation agreement" is as defined in Section 31A-21-109.
4357 (c) "Debt suspension agreement" is as defined in Section 31A-21-109.
4358 (2) Subject to the other provisions of this section, the commissioner may by rule, made
4359 in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
4360 Rulemaking Act:
4361 (a) authorize any member of a class of depository institution that is subject to the
4362 jurisdiction of the department to issue:
4363 (i) a debt cancellation agreement; or
4364 (ii) a debt suspension agreement; and
4365 (b) regulate the issuance of a debt cancellation agreement or a debt suspension
4366 agreement issued in this state by a member of a class of depository institution.
4367 (3) (a) Any rule adopted by the commissioner under this section as applied to a class of

4368 depository institution shall be substantially similar to any federal regulation applying to the
4369 same class of depository institution.
4370 (b) Any rule adopted by the commissioner applicable to a class of depository institution
4371 described in this Subsection (3)(b) shall be substantially similar to any federal regulation
4372 applicable to a bank if no federal regulation authorizes or regulates the issuance of a debt
4373 cancellation agreement or debt suspension agreement for that class of depository institution.
4374 (4) (a) An out-of-state depository institution may issue a debt cancellation agreement
4375 or debt suspension agreement in this state if:
4376 (i) the home state of the out-of-state depository institution authorizes and regulates the
4377 issuance of a debt cancellation agreement or debt suspension agreement by the out-of-state
4378 depository institution; and
4379 (ii) subject to Subsection (4)(b), the out-of-state depository institution complies with
4380 regulations from the out-of-state depository institution's home state that regulate the issuance of
4381 a debt cancellation agreement or a debt suspension agreement.
4382 (b) Notwithstanding Subsection (4)(a), an out-of-state depository institution described
4383 in Subsection (4)(a) shall comply with rules adopted by the commissioner under this section
4384 that regulate the issuance of a debt cancellation agreement or a debt suspension agreement in
4385 this state by the class of depository institution to which the out-of-state depository institution
4386 belongs if the regulations of the out-of-state depository institution's home state do not provide
4387 at least the same level of protection with respect to a debt cancellation agreement or debt
4388 suspension agreement as the rules adopted by the commissioner under this section with respect
4389 to the same class of depository institution:
4390 (i) for the safety and soundness of the depository institution; and
4391 (ii) for consumer protections for the borrowers of the depository institution.
4392 Section 48. Section **7-1-325** is amended to read:
4393 **7-1-325. Compliance with applicable federal law.**
4394 (1) As used in this section, "federal law" means:
4395 (a) a statute passed by the Congress of the United States; or
4396 (b) a final regulation:
4397 (i) adopted by an administrative agency of the United States government; and
4398 (ii) published in the code of federal regulations or the federal register.

4399 (2) (a) An institution subject to the jurisdiction of the department violates this title if
4400 the institution violates a federal law:
4401 (i) that is applicable to the institution; and
4402 (ii) pursuant to the terms of the federal law in effect on the day the institution violates
4403 the federal law.
4404 (b) The department shall by rule, made in accordance with [~~Title 63, Chapter 46a~~] Title
4405 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this title, designate
4406 which one or more federal laws are applicable to an institution subject to the jurisdiction of the
4407 department.
4408 (3) Except for criminal penalties, the department may enforce a violation described in
4409 Subsection (2) by taking any action:
4410 (a) permitted by:
4411 (i) this part;
4412 (ii) Chapter 2, Possession of Depository Institution by Commissioner;
4413 (iii) Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies;
4414 (iv) in the case of a check casher, Chapter 23, Check Cashing Registration Act; or
4415 (v) in the case of a title lender, Chapter 24, Title Lending Registration Act; and
4416 (b) including bringing an action permitted under this title in state court.
4417 Section 49. Section **7-1-704** is amended to read:
4418 **7-1-704. Authorization required to engage in business -- Exemptions --**
4419 **Procedure.**
4420 (1) (a) An institution subject to the jurisdiction of the department may maintain an
4421 office in this state or engage in the activities of a financial institution in this state only if it is
4422 authorized to do so by the department.
4423 (b) This Subsection (1) does not apply to:
4424 (i) any person who is lawfully engaging in the activities of a financial institution in this
4425 state on July 1, 1981, unless the institution was not subject to the jurisdiction of the department
4426 before that date;
4427 (ii) an application to establish a branch or additional office; or
4428 (iii) the establishment of a service corporation or service organization.
4429 (2) An applicant for authorization to become an institution subject to the jurisdiction of

4430 the department shall pay to the department the appropriate filing fee, as provided in Section
4431 7-1-401, and shall file with the commissioner:
4432 (a) its undertaking to pay all expenses incurred in conducting any administrative
4433 proceedings forming part of the department's consideration of the application;
4434 (b) its proposed articles of incorporation and by-laws;
4435 (c) an application in a form prescribed by the commissioner that includes all
4436 information the commissioner requires about the source of the proposed original capital and
4437 about the identity, personal history, business background and experience, financial condition,
4438 and participation in any litigation or administrative proceeding of the organizers, the proposed
4439 members of the board of directors, and the principal officers; and
4440 (d) any other information the commissioner requires.
4441 (3) In addition to the requirements of [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
4442 Administrative Procedures Act, the commissioner shall, at the expense of the applicant:
4443 (a) give notice of the application by publication in three successive issues of a
4444 newspaper of general circulation in the county where the principal place of business is to be
4445 established;
4446 (b) give notice of the application to other institutions subject to the jurisdiction of the
4447 department in a manner and to an extent the commissioner considers appropriate;
4448 (c) cause the appropriate supervisor to make a careful investigation and examination of
4449 the following:
4450 (i) the character, reputation, and financial standing and ability of the organizers;
4451 (ii) the character, financial responsibility, experience, and business qualifications of
4452 those proposed as officers;
4453 (iii) the character and standing in the community of those proposed as directors,
4454 principal stockholders, or owners;
4455 (iv) the need in the service area where the institution would be located, giving
4456 particular consideration to the adequacy of existing financial facilities and the effect the
4457 proposed institution would have on existing institutions in the area;
4458 (v) the ability of the proposed service area to support the proposed institution,
4459 including the extent and nature of existing competition, the economic history and future
4460 prospects of the community, and the opportunity for profitable employment of financial

4461 institution funds; and
4462 (vi) other facts and circumstances bearing on the proposed institution that the
4463 supervisor considers relevant.
4464 (4) (a) The supervisor shall submit findings and recommendations in writing to the
4465 commissioner.
4466 (b) The application, any additional information furnished by the applicant, and the
4467 findings and recommendations of the supervisor may be inspected by any person at the
4468 department's office, except those portions of the application or report the commissioner
4469 declares to be confidential, pursuant to the applicant's request, in order to prevent a clearly
4470 unwarranted invasion of privacy.
4471 (5) (a) If a hearing is held, the applicant shall publish notice of the hearing at the
4472 applicant's expense in a newspaper of general circulation within the county where the proposed
4473 institution is to be located at least once a week for three successive weeks before the date of
4474 hearing.
4475 (b) The notice shall include the date, time, and place of the hearing and any other
4476 information required by the commissioner.
4477 (c) The commissioner shall act on the record before him within 30 days after receipt of
4478 the transcript of the hearing.
4479 (6) If no hearing is held, the commissioner may, within 90 days of acceptance of the
4480 application as complete, approve or disapprove the application based on the papers filed with
4481 him, together with the supervisor's findings and recommendations.
4482 (7) (a) The commissioner may not approve the application unless [~~he~~] the
4483 commissioner finds that the applicant has established by the preponderance of the evidence
4484 that:
4485 (i) in light of the need for financial services in the area, the adequacy of existing
4486 facilities, and the effect the proposed institution would have on existing institutions in the area,
4487 the public need and convenience will be promoted by the establishment of the proposed
4488 institution;
4489 (ii) in light of the ability of the proposed service area to support the proposed
4490 institution, including the extent and nature of existing competition, the economic history and
4491 future prospects of the community, and the opportunity for profitable employment of financial

4492 institution funds, conditions in the service area in which the proposed institution would transact
4493 business afford reasonable promise of a successful operation;
4494 (iii) the institution is being formed only for legitimate purposes allowed by the laws of
4495 this state;
4496 (iv) the proposed capital equals or exceeds the required minimum and is adequate in
4497 light of current and prospective conditions;
4498 (v) if the applicant is seeking authority to accept deposits, the deposits will be insured
4499 or guaranteed by an agency of the federal government;
4500 (vi) the proposed officers and directors have sufficient experience, ability, and standing
4501 to afford reasonable promise of a successful operation;
4502 (vii) the name of the proposed financial institution does not resemble the name of any
4503 other institution transacting business in this state so closely as to cause confusion;
4504 (viii) the applicants have complied with all of the provisions of law; and
4505 (ix) no properly managed and soundly operated existing institutions offering
4506 substantially similar services in the service area to which the application relates will be unduly
4507 injured by approval of the application.
4508 (b) The commissioner may condition approval of the application on the institution's
4509 acceptance of requirements or conditions with respect to insurance that the commissioner
4510 considers necessary to protect depositors.
4511 (8) (a) The commissioner shall provide written findings and conclusions on the
4512 application.
4513 (b) Upon approving an application, the commissioner shall:
4514 (i) endorse the approval on the articles of incorporation;
4515 (ii) file one copy with the Division of Corporations and Commercial Code;
4516 (iii) retain one file copy; and
4517 (iv) return one copy to the applicant within ten days after the date of [~~his~~] the
4518 commissioner's decision approving the application.
4519 (c) Upon disapproving an application, the commissioner shall mail notice of the
4520 disapproval to the applicant within ten days.
4521 (d) The commissioner may approve an application subject to conditions [~~he~~] the
4522 commissioner considers appropriate to protect the public interest and carry out the purposes of

4523 this title.
4524 (e) The commissioner shall give written notice of the decision to all persons who have
4525 filed a protest to the application.
4526 (9) Upon approval of an application for authorization to conduct a business subject to
4527 the jurisdiction of the department, the commissioner shall issue a license, permit, or other
4528 appropriate certificate of authority if:
4529 (a) except in the case of credit unions, all of the capital of the institution being formed
4530 has been paid in; and
4531 (b) all the conditions and other requirements for approval of the application have been
4532 met.
4533 (10) (a) Any approval by the commissioner of an application under this section is
4534 considered revoked unless the business is open and operating within one year from the date of
4535 the approval.
4536 (b) The commissioner, on written application made before the expiration of that period,
4537 and for good cause shown, may extend the date for activation for additional periods not to
4538 exceed six months each.
4539 (11) No person may obtain, for the purpose of resale, a certificate of approval to
4540 operate any institution under the jurisdiction of the department.
4541 (12) The commissioner may approve an application without any notice to other
4542 financial institutions to respond to an emergency arising from the insolvency of an existing
4543 institution or to prevent the failure of an existing institution if the commissioner makes the
4544 findings required by Subsection (7).
4545 Section 50. Section **7-1-810** is amended to read:
4546 **7-1-810. Limited liability companies.**
4547 (1) Notwithstanding any other provision of this title and subject to Subsection (8), if
4548 the conditions of this section are met, the following may be organized as or convert to a limited
4549 liability company under Title 48, Chapter 2c, Utah Revised Limited Liability Company Act:
4550 (a) an industrial bank chartered under Chapter 8, Industrial Banks;
4551 (b) an industrial loan company as defined in Section 7-8-21; or
4552 (c) any of the following if the institution is an S Corporation, as defined in Section
4553 1361, Internal Revenue Code, immediately before becoming a limited liability company:

4554 (i) a bank chartered under Chapter 3, Banks;
4555 (ii) a savings and loan association chartered under Chapter 7, Savings and Loan
4556 Associations Act; or
4557 (iii) a depository institution holding company.
4558 (2) (a) Before an institution described in Subsection (1) may organize as or convert to a
4559 limited liability company, the institution shall obtain approval of the commissioner.
4560 (b) (i) To obtain the approval under this section from the commissioner, the institution
4561 shall file a request for approval with the commissioner at least 30 days before the day on which
4562 the institution becomes a limited liability company.
4563 (ii) If the commissioner does not disapprove the request for approval within 30 days
4564 from the day on which the commissioner receives the request, the request is considered
4565 approved.
4566 (iii) When taking action on a request for approval filed under this section, the
4567 commissioner may:
4568 (A) approve the request;
4569 (B) approve the request subject to terms and conditions the commissioner considers
4570 necessary; or
4571 (C) disapprove the request.
4572 (3) To approve a request for approval, the commissioner shall find:
4573 (a) for an institution described in Subsection (1) that is required to be insured by a
4574 federal deposit insurance agency, that the institution:
4575 (i) will operate in a safe and sound manner;
4576 (ii) has the following characteristics:
4577 (A) the institution is not subject to automatic termination, dissolution, or suspension
4578 upon the happening of some event other than the passage of time;
4579 (B) the exclusive authority to manage the institution is vested in a board of managers
4580 or directors that:
4581 (I) is elected or appointed by the owners;
4582 (II) is not required to have owners of the institution included on the board;
4583 (III) possesses adequate independence and authority to supervise the operation of the
4584 institution; and

4585 (IV) operates with substantially the same rights, powers, privileges, duties, and
4586 responsibilities as the board of directors of a corporation;
4587 (C) neither state law, nor the institution's operating agreement, bylaws, or other
4588 organizational documents provide that an owner of the institution is liable for the debts,
4589 liabilities, and obligations of the institution in excess of the amount of the owner's investment;
4590 and
4591 (D) (I) neither state law, nor the institution's operating agreement, bylaws, or other
4592 organizational documents require the consent of any other owner of the institution in order for
4593 any owner to transfer an ownership interest in the institution, including voting rights; and
4594 (II) the institution is able to obtain new investment funding if needed to maintain
4595 adequate capital; and
4596 (iii) is able to comply with all legal and regulatory requirements for an insured
4597 depository institution under applicable federal and state law; and
4598 (b) for an institution described in Subsection (1) that is not required to be insured by a
4599 federal deposit insurance agency, that the institution will operate in a safe and sound manner.
4600 (4) An institution described in Subsection (3)(a) that is organized as a limited liability
4601 company shall maintain the characteristics listed in Subsection (3)(a)(ii) during such time as it
4602 is authorized to conduct business under this title as a limited liability company.
4603 (5) (a) All rights, privileges, powers, duties, and obligations of an institution described
4604 in Subsection (1) that is organized as a limited liability company and its members and
4605 managers shall be governed by Title 48, Chapter 2c, Utah Revised Limited Liability Company
4606 Act, except:
4607 (i) the following sections do not apply to an institution that is described in Subsection
4608 (3)(a):
4609 (A) Subsection 48-2c-402(2)(a)(ii);
4610 (B) Section 48-2c-604;
4611 (C) Section 48-2c-703;
4612 (D) Section 48-2c-708;
4613 (E) Subsection 48-2c-801(2);
4614 (F) Section 48-2c-1102;
4615 (G) Section 48-2c-1104; and

4616 (H) Subsections 48-2c-1201(2) through (5); and
4617 (ii) as otherwise provided in this title.
4618 (b) Notwithstanding Subsection (5)(a), for an institution that is described in Subsection
4619 (3)(a):
4620 (i) for purposes of transferring a member's interests in the institution, a member's
4621 interest in the institution shall be treated like a share of stock in a corporation; and
4622 (ii) if a member's interest in the institution is transferred voluntarily or involuntarily to
4623 another person, the person who receives the member's interest shall obtain the member's entire
4624 rights associated with the member's interest in the institution including:
4625 (A) all economic rights; and
4626 (B) all voting rights.
4627 (c) An institution described in Subsection (3)(a) may not by agreement or otherwise
4628 change the application of Subsection (5)(a) to the institution.
4629 (6) Unless the context requires otherwise, for the purpose of applying this title to an
4630 institution described in Subsection (1) that is organized as a limited liability company:
4631 (a) a citation to Title 16, Chapter 10a, Utah Revised Business Corporation Act,
4632 includes the equivalent citation to Title 48, Chapter 2c, Utah Revised Limited Liability
4633 Company Act;
4634 (b) "articles of incorporation" includes a limited liability company's articles of
4635 organization as that term is used in Section 48-2c-403;
4636 (c) "board of directors" includes one or more persons who have, with respect to an
4637 institution described in Subsection (1), authority substantially similar to that of a board of
4638 directors of a corporation;
4639 (d) "bylaws" includes a limited liability company's operating agreement as that term is
4640 defined in Section 48-2c-102;
4641 (e) "corporation" includes a limited liability company organized under Title 48,
4642 Chapter 2c, Utah Revised Limited Liability Company Act;
4643 (f) "director" includes any of the following of a limited liability company:
4644 (i) a manager;
4645 (ii) a director; or
4646 (iii) other person who has with respect to the institution described in Subsection (1),

4647 authority substantially similar to that of a director of a corporation;
4648 (g) "dividend" includes distributions made by a limited liability company under Title
4649 48, Chapter 2c, Part 10, Distributions;
4650 (h) "incorporator" includes the organizers of a limited liability company as provided in
4651 Title 48, Chapter 2c, Part 4, Formation;
4652 (i) "officer" includes any of the following of an institution described in Subsection (1):
4653 (i) an officer; or
4654 (ii) other person who has with respect to the institution described in Subsection (1)
4655 authority substantially similar to that of an officer of a corporation;
4656 (j) "security," "shares," or "stock" of a corporation includes:
4657 (i) a membership interest in a limited liability company as provided in Title 48,
4658 Chapter 2c, Part 7, Members; and
4659 (ii) any certificate or other evidence of an ownership interest in a limited liability
4660 company; and
4661 (k) "stockholder" or "shareholder" includes an owner of an interest in an institution
4662 described in Subsection (1) including a member as provided in Title 48, Chapter 2c, Part 7,
4663 Members.
4664 (7) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
4665 Administrative Rulemaking Act, the commissioner shall make rules governing the form of a
4666 request for approval filed under this section.
4667 (8) A depository institution organized under the laws of this state may not be organized
4668 as or converted to a series of members, managers, or interests in a limited liability company as
4669 provided in Section 48-2c-606.
4670 Section 51. Section **7-2-9** is amended to read:
4671 **7-2-9. Conservatorship, receivership, or liquidation of institution -- Appointment**
4672 **of receiver -- Review of actions.**
4673 (1) Upon taking possession of the institution, the commissioner may appoint a receiver
4674 to perform the duties of the commissioner. Subject to any limitations, conditions, or
4675 requirements specified by the commissioner and approved by the court, a receiver shall have all
4676 the powers and duties of the commissioner under this chapter and the laws of this state to act as
4677 a conservator, receiver, or liquidator of the institution. Actions of the commissioner in

4678 appointing a receiver shall be subject to review only as provided in Section 7-2-2.
4679 (2) (a) If the deposits of the institution are to any extent insured by a federal deposit
4680 insurance agency, the commissioner may appoint that agency as receiver. After receiving
4681 notice in writing of the acceptance of the appointment, the commissioner shall file a certificate
4682 of appointment in [~~his~~] the commissioner's office and with the clerk of the district court. After
4683 the filing of the certificate, the possession of all assets, business, and property of the institution
4684 is considered transferred from the institution and the commissioner to the agency, and title to
4685 all assets, business, and property of the institution is vested in the agency without the execution
4686 of any instruments of conveyance, assignment, transfer, or endorsement.
4687 (b) If a federal deposit insurance agency accepts an appointment as receiver, it has all
4688 the powers and privileges provided by the laws of this state and the United States with respect
4689 to the conservatorship, receivership, or liquidation of an institution and the rights of its
4690 depositors, and other creditors, including authority to make an agreement for the purchase of
4691 assets and assumption of deposit and other liabilities by another depository institution or take
4692 other action authorized by Title 12 of the United States Code to maintain the stability of the
4693 banking system. Such action by a federal deposit insurance agency may be taken upon
4694 approval by the court, with or without prior notice. Such actions or agreements may be
4695 disapproved, amended, or rescinded only upon a finding by the court that the decisions or
4696 actions of the receiver are arbitrary, capricious, fraudulent, or contrary to law. In the event of
4697 any conflict between state and federal law, including provisions for adjudicating claims against
4698 the institution or receiver, the receiver shall comply with the federal law and any resulting
4699 violation of state law shall not by itself constitute grounds for the court to disapprove the
4700 actions of the receiver or impose any penalty for such violation.
4701 (c) The commissioner or any receiver appointed by him shall possess all the rights and
4702 claims of the institution against any person whose breach of fiduciary duty or violations of the
4703 laws of this state or the United States applicable to depository institutions may have caused or
4704 contributed to a condition which resulted in any loss incurred by the institution or to its assets
4705 in the possession of the commissioner or receiver. As used in this Subsection (2)(c), fiduciary
4706 duty includes those duties and standards applicable under statutes and laws of this state and the
4707 United States to a director, officer, or other party employed by or rendering professional
4708 services to a depository institution whose deposits are insured by a federal deposit insurance

4709 agency. Upon taking possession of an institution, no person other than the commissioner or
4710 receiver shall have standing to assert any such right or claim of the institution, including its
4711 depositors, creditors, or shareholders unless the right or claim has been abandoned by the
4712 commissioner or receiver with approval of the court. Any judgment based on the rights and
4713 claims of the commissioner or receiver shall have priority in payment from the assets of the
4714 judgment debtors.
4715 (d) For the purposes of this section, the term "federal deposit insurance agency" shall
4716 include the Federal Deposit Insurance Corporation, the National Credit Union Administration
4717 and any departments thereof or successors thereto, and any other federal agency authorized by
4718 federal law to act as a conservator, receiver, and liquidator of a federally insured depository
4719 institution, including the Resolution Trust Corporation and any department thereof or successor
4720 thereto.
4721 (3) The receiver may employ assistants, agents, accountants, and legal counsel. If the
4722 receiver is not a federal deposit insurance agency, the compensation to be paid such assistants,
4723 agents, accountants, and legal counsel shall be approved by the commissioner. All expenses
4724 incident to the receivership shall be paid out of the assets of the institution. If a receiver is not
4725 a federal deposit insurance agency, the receiver and any assistants and agents shall provide
4726 bond or other security specified by the commissioner and approved by the court for the faithful
4727 discharge of all duties and responsibilities in connection with the receivership including the
4728 accounting for money received and paid. The cost of the bond shall be paid from the assets of
4729 the institution. Suit may be maintained on the bond by the commissioner or by any person
4730 injured by a breach of the condition of the bond.
4731 (4) (a) Upon the appointment of a receiver for an institution in possession pursuant to
4732 this chapter, the commissioner and the department are exempt from liability or damages for any
4733 act or omission of any receiver appointed pursuant to this section.
4734 (b) This section does not limit the right of the commissioner to prescribe and enforce
4735 rules regulating a receiver in carrying out its duties with respect to an institution subject to the
4736 jurisdiction of the department.
4737 (c) Any act or omission of the commissioner or of any federal deposit insurance agency
4738 as a receiver appointed by him while acting pursuant to this chapter shall be deemed to be the
4739 exercise of a discretionary function within the meaning of Section [~~63-30d-301~~] 63G-7-301 of

4740 the laws of this state or Section 28 U.S.C. 2680(a) of the laws of the United States.
4741 (5) Actions, decisions, or agreements of a receiver under this chapter, other than
4742 allowance or disallowance of claims under Section 7-2-6, shall be subject to judicial review
4743 only as follows:
4744 (a) A petition for review shall be filed with the court having jurisdiction under Section
4745 7-2-2 not more than 90 days after the date the act, decision, or agreement became effective or
4746 its terms are filed with the court.
4747 (b) The petition shall state in simple, concise, and direct terms the facts and principles
4748 of law upon which the petitioner claims the act, decision, or agreement of the receiver was or
4749 would be arbitrary, capricious, fraudulent, or contrary to law and how the petitioner is or may
4750 be damaged thereby. The court shall dismiss any petition which fails to allege that the
4751 petitioner would be directly injured or damaged by the act, decision, or agreement which is the
4752 subject of the petition. Rule 11 of the Utah Rules of Civil Procedure shall apply to all parties
4753 with respect to the allegations set forth in a petition or response.
4754 (c) The receiver shall have 30 days after service of the petition within which to
4755 respond.
4756 (d) All further proceedings are to be conducted in accordance with the Utah Rules of
4757 Civil Procedure.
4758 (6) All notices required under this section shall be made in accordance with the Utah
4759 Rules of Civil Procedure and served upon the attorney general of the state of Utah, the
4760 commissioner of financial institutions, the receiver of the institution appointed under this
4761 chapter, and upon the designated representative of any party in interest who requests in writing
4762 such notice.
4763 Section 52. Section **7-2-21** is amended to read:
4764 **7-2-21. Applicability of Utah Procurement Code.**
4765 No action of the commissioner taken under this chapter or Chapter 19 is subject to the
4766 provisions of [~~Title 63, Chapter 56, the~~] Title 63G, Chapter 6, Utah Procurement Code.
4767 Section 53. Section **7-9-59** is amended to read:
4768 **7-9-59. Credit union service organizations -- Limitations on providing services**
4769 **through other entities.**
4770 (1) This section applies to a credit union service organization in which a credit union

4771 organized under this chapter has an ownership interest.
4772 (2) (a) A credit union service organization may provide a service only if the service is:
4773 (i) (A) listed in Subsection (2)(b); or
4774 (B) approved by the commissioner in accordance with Subsection (4)(b); and
4775 (ii) (A) except for the extension of credit by the credit union service organization,
4776 limited primarily to:
4777 (I) credit unions that hold an ownership interest in the credit union service
4778 organization;
4779 (II) members of credit unions that hold an ownership interest in the credit union service
4780 organization;
4781 (III) members of credit unions that contract with the credit union service organization;
4782 or
4783 (IV) credit unions that contract with the credit union service organization but do not
4784 hold an ownership interest in the credit union service organization; or
4785 (B) for purposes of the extension of credit by the credit union service organization,
4786 limited to members of a credit union that holds an ownership interest in the credit union service
4787 organization.
4788 (b) Subsection (2)(a) applies to:
4789 (i) the following checking and currency services:
4790 (A) check cashing;
4791 (B) coin and currency services; and
4792 (C) services related to:
4793 (I) a money order;
4794 (II) a savings bond;
4795 (III) a travelers check; or
4796 (IV) the purchase and sale of United States Mint commemorative coins;
4797 (ii) the following clerical, professional, and management services:
4798 (A) accounting services;
4799 (B) courier services;
4800 (C) credit analysis;
4801 (D) facsimile transmission and copying services;

4802 (E) services related to conducting an internal audit for a credit union;
4803 (F) locator services;
4804 (G) services related to management and personnel training and support;
4805 (H) marketing services;
4806 (I) research services; or
4807 (J) services related to a supervisory committee audit;
4808 (iii) consumer mortgage loan origination;
4809 (iv) the following electronic transaction services:
4810 (A) automated teller machine services;
4811 (B) credit card services;
4812 (C) debit card services;
4813 (D) data processing services;
4814 (E) electronic fund transfer services;
4815 (F) services related to electronic income tax filings;
4816 (G) payment item processing;
4817 (H) wire transfer services; or
4818 (I) cyber financial services;
4819 (v) the following financial counseling services:
4820 (A) developing and administering personnel benefit plans including:
4821 (I) individual retirement accounts;
4822 (II) Keogh plans; or
4823 (III) deferred compensation plans;
4824 (B) estate planning;
4825 (C) financial planning and counseling;
4826 (D) income tax preparation;
4827 (E) investment counseling; or
4828 (F) retirement counseling;
4829 (vi) fixed asset services related to the:
4830 (A) management, development, sale, or lease of fixed assets; or
4831 (B) sale, lease, or servicing of computer hardware or software;
4832 (vii) the following insurance brokerage or agency services:

4833 (A) operating as an agency for sale of insurance;
4834 (B) providing vehicle warranty programs; or
4835 (C) providing group purchasing programs;
4836 (viii) the following leasing services:
4837 (A) leasing of personal property; or
4838 (B) real estate leasing of excess credit union service organization property;
4839 (ix) the following loan support services:
4840 (A) debt collection services;
4841 (B) loan processing, servicing, and sales; or
4842 (C) sale of repossessed collateral;
4843 (x) the extension of credit including member-business loans;
4844 (xi) the following record retention, security, and disaster recovery services:
4845 (A) alarm-monitoring and other security services;
4846 (B) disaster recovery services;
4847 (C) services related to:
4848 (I) microfilm;
4849 (II) microfiche;
4850 (III) optical and electronic imaging; or
4851 (IV) CD-ROM data storage retrieval;
4852 (D) providing forms and supplies; or
4853 (E) services related to record retention and storage;
4854 (xii) securities brokerage services;
4855 (xiii) operation of shared credit union branch services, including service centers;
4856 (xiv) student loan origination;
4857 (xv) travel agency services;
4858 (xvi) the following trust and trust-related services:
4859 (A) acting as an administrator for a prepaid legal service plan;
4860 (B) acting in a fiduciary capacity including as:
4861 (I) trustee;
4862 (II) guardian;
4863 (III) conservator; or

4864 (IV) estate administrator; or
4865 (C) trust services; or
4866 (xvii) making credit union service organization investments in noncredit union service
4867 organization service providers.
4868 (3) (a) One or more credit unions organized under this chapter may form a credit union
4869 service organization on or after the day on which each credit union forming the credit union
4870 service organization obtains in accordance with this section the approval by the commissioner
4871 for the formation of the credit union service organization.
4872 (b) To obtain approval from the commissioner for the formation of a credit union
4873 service organization, each credit union that is forming a credit union service organization shall
4874 file an application with the commissioner that specifies:
4875 (i) whether the credit union meets the capital and surplus standards established by rule
4876 by the commissioner;
4877 (ii) the services to be provided by the credit union service organization; and
4878 (iii) any information required by rule by the commissioner.
4879 (c) The commissioner may by rule establish the requirements for forming of a credit
4880 union service organization to ensure that:
4881 (i) the credit union service organization as formed:
4882 (A) has the financial capacity to provide the services described in the application
4883 requesting the formation of the credit union service organization in a safe and sound manner;
4884 and
4885 (B) has the managerial expertise to provide the services described in the application
4886 requesting the formation of the credit union service organization in a safe and sound manner;
4887 and
4888 (ii) any potential harm that granting the approval may have on other institutions subject
4889 to the jurisdiction of the department does not clearly outweigh the probable beneficial effect of
4890 the credit union service organization providing the services.
4891 (4) (a) A credit union service organization may provide a service that is described in
4892 Subsection (2)(b) but not listed in the application requesting the formation of the credit union
4893 service organization by filing written notice with the commissioner at least 30 days before the
4894 day on which the credit union service organization first provides the service.

4895 (b) A credit union service organization may provide a service not described in
4896 Subsection (2)(b) if:
4897 (i) the credit union service organization files a written request for approval to provide
4898 the service with the commissioner; and
4899 (ii) the commissioner approves the credit union service organization providing that
4900 service.
4901 (c) The commissioner may at any time limit the services engaged in by a credit union
4902 service organization on the basis of:
4903 (i) a supervisory reason;
4904 (ii) a legal reason; or
4905 (iii) a safety and soundness reason.
4906 (5) The commissioner may conduct examinations of a credit union service organization
4907 in accordance with Section 7-1-314.
4908 (6) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
4909 Administrative Rulemaking Act, the commissioner may make rules for purposes of this
4910 section:
4911 (a) defining what constitutes an ownership interest held by a credit union;
4912 (b) specifying the information required to be included in an application seeking to form
4913 a credit union service organization;
4914 (c) specifying in accordance with Subsection (3), the requirements for forming a credit
4915 union service organization;
4916 (d) specifying the procedure for obtaining approval to provide a service under
4917 Subsection (4)(a); and
4918 (e) specifying the conditions under which a credit union service organization may
4919 provide a service described in Subsection (2).
4920 (7) (a) Except as provided in Subsection (7)(b), a credit union may not provide any
4921 service to a member of the credit union through:
4922 (i) a person who is controlled by or is under common control with the credit union
4923 whether or not the control is exercised:
4924 (A) directly; or
4925 (B) indirectly through one or more intermediary controls; or

4926 (ii) an entity in which the credit union holds an ownership interest.
4927 (b) Notwithstanding Subsection (7)(a), a credit union may provide services to a
4928 member of a credit union:
4929 (i) through a credit union service organization to the extent permitted by this section;
4930 or
4931 (ii) through a loan production office to the extent those services are authorized by
4932 Section 7-1-715.
4933 (c) Notwithstanding Section 7-1-103, for purposes of this section, "control" means the
4934 power, directly, or indirectly, to:
4935 (i) direct or exercise a controlling influence over:
4936 (A) the management or policies of an entity; or
4937 (B) the election of a majority of the directors or trustees of an entity;
4938 (ii) vote 20% or more of any class of voting securities of an entity by an individual; or
4939 (iii) vote more than 5% of any class of voting securities of an entity by a person other
4940 than an individual.
4941 (d) Nothing within this section may be interpreted as prohibiting a credit union from
4942 entering into a contract or agreement to provide services to members of the credit union if the
4943 person with whom the credit union enters into the contract agreement is not a person described
4944 in Subsection (7)(a).
4945 (8) (a) A credit union holding an ownership interest in a credit union service
4946 organization operating on May 5, 2003 is not required to file an application requesting to form
4947 that credit union service organization.
4948 (b) A credit union service organization operating on May 5, 2003:
4949 (i) shall provide the commissioner written notice of the services the credit union
4950 service organization provides by no later than July 1, 2003; and
4951 (ii) may provide a service not described in Subsection (2)(b) on or after July 1, 2003
4952 only if the credit union service organization has obtained approval from the commissioner in
4953 accordance with Subsection (4).
4954 Section 54. Section **7-23-103** is amended to read:
4955 **7-23-103. Registration -- Rulemaking.**
4956 (1) (a) It is unlawful for a person to engage in the business of a check casher in Utah or

4957 with a Utah resident unless the person:
4958 (i) registers with the department in accordance with this chapter; and
4959 (ii) maintains a valid registration.
4960 (b) It is unlawful for a person to operate a mobile facility in this state to engage in the
4961 business of a check casher.
4962 (2) (a) A registration and a renewal of a registration expires on April 30 of each year
4963 unless on or before that date the person renews the registration.
4964 (b) To register under this section, a person shall:
4965 (i) pay an original registration fee established under Subsection 7-1-401(8); and
4966 (ii) submit a registration statement containing the information described in Subsection
4967 (2)(d).
4968 (c) To renew a registration under this section, a person shall:
4969 (i) pay the annual fee established under Subsection 7-1-401(5); and
4970 (ii) submit a renewal statement containing the information described in Subsection
4971 (2)(d).
4972 (d) A registration or renewal statement shall state:
4973 (i) the name of the person;
4974 (ii) the name in which the business will be transacted if different from that required in
4975 Subsection (2)(d)(i);
4976 (iii) the address of the person's principal business office, which may be outside this
4977 state;
4978 (iv) the addresses of all offices in this state at which the person conducts the business
4979 of a check casher;
4980 (v) if the person conducts the business of a check casher in this state but does not
4981 maintain an office in this state, a brief description of the manner in which the business is
4982 conducted;
4983 (vi) the name and address in this state of a designated agent upon whom service of
4984 process may be made;
4985 (vii) disclosure of any injunction, judgment, administrative order, or conviction of any
4986 crime involving moral turpitude with respect to that person or any officer, director, manager,
4987 operator, or principal of that person; and

4988 (viii) any other information required by the rules of the department.
4989 (e) (i) The commissioner may impose an administrative fine determined under
4990 Subsection (2)(e)(ii) on a person if:
4991 (A) the person is required to be registered under this chapter;
4992 (B) the person fails to register or renew a registration in accordance with this chapter;
4993 (C) the department notifies the person that the person is in violation of this chapter for
4994 failure to be registered; and
4995 (D) the person fails to register within 30 days after the day on which the person
4996 receives the notice described in Subsection (2)(e)(i)(C).
4997 (ii) Subject to Subsection (2)(e)(iii), the administrative fine imposed under this section
4998 is:
4999 (A) $500 if the person:
5000 (I) has no office in this state at which the person conducts the business of a check
5001 casher; or
5002 (II) has one office in this state at which the person conducts the business of a check
5003 casher; or
5004 (B) if the person has two or more offices in this state at which the person conducts the
5005 business of a check casher, $500 for each office at which the person conducts the business of a
5006 check casher.
5007 (iii) The commissioner may reduce or waive a fine imposed under this Subsection
5008 (2)(e) if the person shows good cause.
5009 (3) If the information in a registration or renewal statement required under Subsection
5010 (2) becomes inaccurate after filing, a person is not required to notify the department until:
5011 (a) that person is required to renew the registration; or
5012 (b) the department specifically requests earlier notification.
5013 (4) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
5014 Administrative Rulemaking Act, the department may make rules consistent with this section
5015 providing for the form, content, and filing of a registration and renewal statement.
5016 Section 55. Section **7-23-106** is amended to read:
5017 **7-23-106. Enforcement by department -- Rulemaking.**
5018 (1) Subject to the requirements of [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,

5019 Administrative Procedures Act, the department may:
5020 (a) receive and act on complaints;
5021 (b) take action designed to obtain voluntary compliance with this chapter;
5022 (c) commence administrative or judicial proceedings on its own initiative to enforce
5023 compliance with this chapter; or
5024 (d) take action against any check casher that fails to:
5025 (i) respond to the department, in writing within 30 business days of the day on which
5026 the check casher receives notice from the department of a complaint filed with the department;
5027 or
5028 (ii) submit information as requested by the department.
5029 (2) The department may:
5030 (a) counsel persons and groups on their rights and duties under this chapter;
5031 (b) make rules in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
5032 Administrative Rulemaking Act, to:
5033 (i) restrict or prohibit lending or servicing practices that are misleading, unfair, or
5034 abusive;
5035 (ii) promote or assure fair and full disclosure of the terms and conditions of agreements
5036 and communications between check cashers and customers; or
5037 (iii) promote or assure uniform application of or to resolve ambiguities in applicable
5038 state or federal laws or federal regulations; and
5039 (c) employ hearing examiners, clerks, and other employees and agents as necessary to
5040 perform the department's duties under this chapter.
5041 Section 56. Section **7-23-108** is amended to read:
5042 **7-23-108. Penalties.**
5043 (1) A person who violates this chapter or who files materially false information with a
5044 registration or renewal under Section 7-23-103 is:
5045 (a) guilty of a class B misdemeanor, except for a violation of:
5046 (i) Subsection 7-23-105(1)(f)(i), (ii), or (iii); or
5047 (ii) rules made under Subsection 7-23-106(2)(b); and
5048 (b) subject to revocation of a person's registration under this chapter.
5049 (2) Subject to [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures

5050 Act, if the department determines that a person is engaging in the business of cashing checks in
5051 violation of this chapter, the department may:
5052 (a) revoke that person's registration under this chapter;
5053 (b) issue a cease and desist order from committing any further violations;
5054 (c) prohibit the person from continuing to engage in the business of a check casher;
5055 (d) impose an administrative fine not to exceed $1,000 per violation, except that:
5056 (i) a fine imposed under Subsection 7-23-103(2)(e) shall comply with Subsection
5057 7-23-103(2)(e); and
5058 (ii) the aggregate total of fines imposed under this chapter against a person in a
5059 calendar year may not exceed $30,000 for that calendar year; or
5060 (e) take any combination of actions listed under this Subsection (2).
5061 Section 57. Section **7-24-201** is amended to read:
5062 **7-24-201. Registration -- Rulemaking.**
5063 (1) (a) It is unlawful for a person to extend a title loan in Utah or with a Utah resident
5064 unless the person:
5065 (i) registers with the department in accordance with this chapter; and
5066 (ii) maintains a valid registration.
5067 (b) It is unlawful for a person to operate a mobile facility in this state to extend a title
5068 loan.
5069 (2) (a) A registration and a renewal of a registration expires on April 30 of each year
5070 unless on or before that date the person renews the registration.
5071 (b) To register under this section, a person shall:
5072 (i) pay an original registration fee established under Subsection 7-1-401(8); and
5073 (ii) submit a registration statement containing the information described in Subsection
5074 (2)(d).
5075 (c) To renew a registration under this section, a person shall:
5076 (i) pay the annual fee established under Subsection 7-1-401(5); and
5077 (ii) submit a renewal statement containing the information described in Subsection
5078 (2)(d).
5079 (d) A registration or renewal statement shall state:
5080 (i) the name of the person;

5081 (ii) the name in which the business will be transacted if different from that required in
5082 Subsection (2)(d)(i);
5083 (iii) the address of the person's principal business office, which may be outside this
5084 state;
5085 (iv) the addresses of all offices in this state at which the person extends title loans;
5086 (v) if the person extends title loans in this state but does not maintain an office in this
5087 state, a brief description of the manner in which the business is conducted;
5088 (vi) the name and address in this state of a designated agent upon whom service of
5089 process may be made;
5090 (vii) disclosure of any injunction, judgment, administrative order, or conviction of any
5091 crime involving moral turpitude with respect to that person or any officer, director, manager,
5092 operator, or principal of that person; and
5093 (viii) any other information required by the rules of the department.
5094 (e) (i) The commissioner may impose an administrative fine determined under
5095 Subsection (2)(e)(ii) on a person if:
5096 (A) the person is required to be registered under this chapter;
5097 (B) the person fails to register or renew a registration in accordance with this chapter;
5098 (C) the department notifies the person that the person is in violation of this chapter for
5099 failure to be registered; and
5100 (D) the person fails to register within 30 days after the day on which the person
5101 receives the notice described in Subsection (2)(e)(i)(C).
5102 (ii) Subject to Subsection (2)(e)(iii), the administrative fine imposed under this
5103 Subsection (2)(e) is:
5104 (A) $500 if the person:
5105 (I) has no office in this state at which the person extends a title loan; or
5106 (II) has one office in this state at which the person extends a title loan; or
5107 (B) if the person has two or more offices in this state at which the person extends a title
5108 loan, $500 for each office at which the person extends a title loan.
5109 (iii) The commissioner may reduce or waive a fine imposed under this Subsection
5110 (2)(e) if the person shows good cause.
5111 (3) If the information in a registration or renewal statement required under Subsection

5112 (2) becomes inaccurate after filing, a person is not required to notify the department until:
5113 (a) that person is required to renew the registration; or
5114 (b) the department specifically requests earlier notification.
5115 (4) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
5116 Administrative Rulemaking Act, the department may make rules consistent with this section
5117 providing for the form, content, and filing of a registration and renewal statement.
5118 Section 58. Section **7-24-203** is amended to read:
5119 **7-24-203. Disclosure form for title loans.**
5120 (1) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
5121 Administrative Rulemaking Act, the department shall adopt a disclosure form for title loans
5122 that complies with this section.
5123 (2) The department shall specify by rule:
5124 (a) the information to be provided in the disclosure form including:
5125 (i) the costs of obtaining a title loan;
5126 (ii) the consequences of defaulting on a title loan;
5127 (iii) generally available alternatives to a title loan; and
5128 (iv) methods of obtaining credit counseling or other financial advice;
5129 (b) the type size of the disclosure form; and
5130 (c) the manner in which a title lender shall conspicuously provide the disclosure form
5131 to a person seeking a title loan.
5132 Section 59. Section **7-24-301** is amended to read:
5133 **7-24-301. Enforcement by department -- Rulemaking.**
5134 (1) Subject to the requirements of [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
5135 Administrative Procedures Act, the department may:
5136 (a) receive and act on complaints;
5137 (b) take action designed to obtain voluntary compliance with this chapter; or
5138 (c) commence administrative or judicial proceedings on its own initiative to enforce
5139 compliance with this chapter.
5140 (2) The department may:
5141 (a) counsel persons and groups on their rights and duties under this chapter;
5142 (b) make rules to:

5143 (i) restrict or prohibit lending or servicing practices that are misleading, unfair, or
5144 abusive;
5145 (ii) promote or assure fair and full disclosure of the terms and conditions of agreements
5146 and communications between title lenders and customers; or
5147 (iii) promote or assure uniform application of or to resolve ambiguities in applicable
5148 state or federal laws or federal regulations; and
5149 (c) employ hearing examiners, clerks, and other employees and agents as necessary to
5150 perform the department's duties under this chapter.
5151 Section 60. Section **7-24-303** is amended to read:
5152 **7-24-303. Penalties.**
5153 (1) A person who violates this chapter or who files materially false information with a
5154 registration or renewal under Section 7-24-201 is:
5155 (a) guilty of a class B misdemeanor except for a violation of:
5156 (i) Subsection 7-24-202(1)(e)(i), (ii), or (iii); or
5157 (ii) rules made under Subsection 7-24-301(2)(b); and
5158 (b) subject to revocation of a person's registration under this chapter.
5159 (2) Subject to [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures
5160 Act, if the department determines that a person is extending title loans in violation of this
5161 chapter, the department may:
5162 (a) revoke that person's registration under this chapter;
5163 (b) issue a cease and desist order from committing any further violations;
5164 (c) prohibit the person from continuing to extend title loans;
5165 (d) impose an administrative fine not to exceed $1,000 per violation, except that:
5166 (i) a fine imposed under Subsection 7-24-201(2)(e) shall comply with Subsection
5167 7-24-201(2)(e); and
5168 (ii) the aggregate total of fines imposed under this chapter against a person in a
5169 calendar year may not exceed $30,000 for that calendar year; or
5170 (e) take any combination of actions listed under this Subsection (2).
5171 (3) A person is not subject to the penalties under this section for a violation of this
5172 chapter that was not willful or intentional, including a violation resulting from a clerical error.
5173 Section 61. Section **9-1-203** is amended to read:

5174 **9-1-203. Compliance with Administrative Procedures Act.**
5175 The department and all of its divisions, boards, offices, bureaus, commissions, and
5176 other entities shall comply with the procedures and requirements of [~~Title 63, Chapter 46b~~]
5177 Title 63G, Chapter 4, Administrative Procedures Act, in their adjudicative proceedings.
5178 Section 62. Section **9-1-809** is amended to read:
5179 **9-1-809. Commission duties.**
5180 (1) The commission shall, in the performance of its tasks and functions:
5181 (a) ensure that its funding decisions meet all federal and state statutory requirements;
5182 (b) recommend innovative, creative, statewide service programs to increase volunteer
5183 participation in all age groups and community-based problem-solving among diverse
5184 participants;
5185 (c) develop and implement a centralized, organized system of obtaining information
5186 and technical support concerning volunteerism and community service recruitment, projects,
5187 training methods, materials, and activities throughout the state and share such information and
5188 support upon request;
5189 (d) promote strong interagency collaboration as an avenue for maximizing resources
5190 and providing that model on the state level;
5191 (e) provide public recognition and support of individual volunteer efforts and
5192 successful or promising private sector initiatives and public/private partnerships that address
5193 community needs;
5194 (f) stimulate increased community awareness of the impact of volunteer services in the
5195 state;
5196 (g) utilize local, state, and, subject to [~~Title 63, Chapter 38e~~] Title 63J, Chapter 5,
5197 Federal Funds Procedures, federal resources to reinforce, expand, and initiate quality service
5198 programs;
5199 (h) assist in the planning and implementation of volunteer programs;
5200 (i) serve as the state's liaison and voice to appropriate national and state organizations
5201 that support its mission;
5202 (j) develop a three-year comprehensive state and community service plan and establish
5203 state priorities;
5204 (k) preselect programs and prepare applications to the corporation pursuant to the act;

5205 (l) prepare service learning applications;
5206 (m) administer the grants program and oversee and monitor the performance and
5207 progress of funded programs;
5208 (n) implement comprehensive, nonduplicative evaluation and monitoring systems;
5209 (o) provide technical assistance to local nonprofit organizations and other entities;
5210 (p) assist in the development of programs established in the act;
5211 (q) develop mechanisms for recruitment and placement of people interested in
5212 participating in national service programs;
5213 (r) assist in the provision of health care and child care benefits to participants under the
5214 act;
5215 (s) make priority program recommendations to the corporation;
5216 (t) coordinate its activities with the activities of other state agencies that administer
5217 federal block grants; and
5218 (u) coordinate its activities with the activities of other volunteer service programs.
5219 (2) The commission may not directly operate or run any national service program
5220 receiving financial assistance, in any form, from the corporation.
5221 (3) The commission may, subject to [~~Title 63, Chapter 38c~~] Title 63J, Chapter 5,
5222 Federal Funds Procedures, receive and accept federal funds, and may receive and accept private
5223 gifts, donations, or funds from any source. All moneys shall be deposited with the state and
5224 shall be continuously available to the commission to carry out the purposes of this part.
5225 (4) (a) The commission shall establish a community volunteer training program to
5226 assist the state's school districts in implementing the literacy programs required under Section
5227 53A-1-801.
5228 (b) The program shall focus on:
5229 (i) recruitment of volunteers to assist public schools in reading improvement programs;
5230 (ii) providing for the training of volunteers recruited under Subsection (4)(b)(i), which
5231 may include training in teaching phonetic decoding skills and phonemic awareness, to assist
5232 public schools and community based, not-for-profit literacy programs in accomplishing the
5233 literacy goals established in Section 53A-1-801;
5234 (iii) providing grants to entities whose primary purpose is to support literacy by
5235 working with either school districts or individual schools to accomplish their literacy goals;

5236 and
5237 (iv) providing materials and supplies which may be used by the commission or the
5238 public schools or both to help public education accomplish its literacy goals under Section
5239 53A-1-801.
5240 (c) The commission shall coordinate its activities under this Subsection (4) with other
5241 state and community entities engaged in child literacy programs.
5242 (d) (i) The commission shall make an annual report to the State Board of Education on:
5243 (A) how public monies were spent on the programs authorized under this Subsection
5244 (4); and
5245 (B) the number of volunteers recruited for and participating in the program.
5246 (ii) The commission shall make its report by July 1, with the first report required by
5247 July 1, 2000.
5248 Section 63. Section **9-3-308** is amended to read:
5249 **9-3-308. Relation to certain acts.**
5250 (1) The authority is exempt from:
5251 (a) Title 51, Chapter 5, Funds Consolidation Act;
5252 (b) [~~Title 63, Chapter 38~~] Title 63J, Chapter 1, Budgetary Procedures Act;
5253 (c) [~~Title 63, Chapter 56~~] Title 63G, Chapter 6, Utah Procurement Code;
5254 (d) Title 63A, Chapter 1, Utah Administrative Services Code; and
5255 (e) Title 67, Chapter 19, Utah State Personnel Management Act.
5256 (2) The authority shall be subject to audit by the state auditor pursuant to Title 67,
5257 Chapter 3, and by the legislative auditor general pursuant to Section 36-12-15.
5258 Section 64. Section **9-3-410** is amended to read:
5259 **9-3-410. Relation to certain acts.**
5260 (1) The authority is exempt from:
5261 (a) Title 51, Chapter 5, Funds Consolidation Act;
5262 (b) [~~Title 63, Chapter 38~~] Title 63J, Chapter 1, Budgetary Procedures Act;
5263 (c) [~~Title 63, Chapter 56~~] Title 63G, Chapter 6, Utah Procurement Code;
5264 (d) Title 63A, Chapter 1, Utah Administrative Services Code; and
5265 (e) Title 67, Chapter 19, Utah State Personnel Management Act.
5266 (2) The authority shall be subject to audit by:

5267 (a) the state auditor pursuant to Title 67, Chapter 3, Auditor; and
5268 (b) the legislative auditor general pursuant to Section 36-12-15.
5269 (3) The authority shall annually report to the Retirement and Independent Entities
5270 Committee created under Section 63E-1-201 concerning the authority's implementation of this
5271 part.
5272 Section 65. Section **9-4-202** is amended to read:
5273 **9-4-202. Powers and duties of division.**
5274 (1) The division shall:
5275 (a) assist local governments and citizens in the planning, development, and
5276 maintenance of necessary public infrastructure and services;
5277 (b) cooperate with, and provide technical assistance to, counties, cities, towns, regional
5278 planning commissions, area-wide clearinghouses, zoning commissions, parks or recreation
5279 boards, community development groups, community action agencies, and other agencies
5280 created for the purpose of aiding and encouraging an orderly, productive, and coordinated
5281 development of the state and its political subdivisions;
5282 (c) assist the governor in coordinating the activities of state agencies which have an
5283 impact on the solution of community development problems and the implementation of
5284 community plans;
5285 (d) serve as a clearinghouse for information, data, and other materials which may be
5286 helpful to local governments in discharging their responsibilities and provide information on
5287 available federal and state financial and technical assistance;
5288 (e) carry out continuing studies and analyses of the problems faced by communities
5289 within the state and develop such recommendations for administrative or legislative action as
5290 appear necessary;
5291 (f) assist in funding affordable housing and addressing problems of homelessness;
5292 (g) support economic development activities through grants, loans, and direct programs
5293 financial assistance;
5294 (h) certify project funding at the local level in conformance with federal, state, and
5295 other requirements;
5296 (i) utilize the capabilities and facilities of public and private universities and colleges
5297 within the state in carrying out its functions;

5298 (j) assist and support local governments, community action agencies, and citizens in
5299 the planning, development, and maintenance of home weatherization, energy efficiency, and
5300 antipoverty activities; and
5301 (k) assist and support volunteer efforts in the state.
5302 (2) The division may:
5303 (a) by following the procedures and requirements of [~~Title 63, Chapter 38c~~] Title 63J,
5304 Chapter 5, Federal Funds Procedures, seek federal grants, loans, or participation in federal
5305 programs;
5306 (b) if any federal program requires the expenditure of state funds as a condition to
5307 participation by the state in any fund, property, or service, with the governor's approval, expend
5308 whatever funds are necessary out of the money provided by the Legislature for the use of the
5309 department;
5310 (c) in accordance with Part 13, Domestic Violence Shelters, assist in developing,
5311 constructing, and improving shelters for victims of domestic violence, as described in Section
5312 77-36-1, through loans and grants to nonprofit and governmental entities; and
5313 (d) assist, when requested by a county or municipality, in the development of
5314 accessible housing.
5315 (3) (a) The division is recognized as an issuing authority as defined in Subsection
5316 9-4-502(7), entitled to issue bonds from the Small Issue Bond Account created in Subsection
5317 9-4-506(1)(c) as a part of the state's private activity bond volume cap authorized by the Internal
5318 Revenue Code of 1986 and computed under Section 146 of the code.
5319 (b) To promote and encourage the issuance of bonds from the Small Issue Bond
5320 Account for manufacturing projects, the division may:
5321 (i) develop campaigns and materials that inform qualified small manufacturing
5322 businesses about the existence of the program and the application process;
5323 (ii) assist small businesses in applying for and qualifying for these bonds; or
5324 (iii) develop strategies to lower the cost to small businesses of applying for and
5325 qualifying for these bonds, including making arrangements with financial advisors,
5326 underwriters, bond counsel, and other professionals involved in the issuance process to provide
5327 their services at a reduced rate when the division can provide them with a high volume of
5328 applicants or issues.

5329 Section 66. Section **9-4-306** is amended to read:
5330 **9-4-306. Powers.**
5331 The impact board may:
5332 (1) appoint, where it considers this appropriate, a hearing examiner or administrative
5333 law judge with authority to conduct any hearings, make determinations, and enter appropriate
5334 findings of facts, conclusions of law, and orders under authority of the impact board under
5335 Sections 11-13-306 and 11-13-307;
5336 (2) appoint additional professional and administrative staff necessary to effectuate
5337 Sections 11-13-306 and 11-13-307;
5338 (3) make independent studies regarding matters submitted to it under Sections
5339 11-13-306 and 11-13-307 that the impact board, in its discretion, considers necessary, which
5340 studies shall be made a part of the record and may be considered in the impact board's
5341 determination; and
5342 (4) make rules under [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
5343 Rulemaking Act it considers necessary to perform its responsibilities under Sections 11-13-306
5344 and 11-13-307.
5345 Section 67. Section **9-4-307** is amended to read:
5346 **9-4-307. Impact fund administered by impact board -- Eligibility for assistance --**
5347 **Review by board -- Administration costs -- Annual report.**
5348 (1) (a) The impact board shall:
5349 (i) administer the impact fund in a manner that will keep a portion of the impact fund
5350 revolving;
5351 (ii) determine provisions for repayment of loans; and
5352 (iii) establish criteria for determining eligibility for assistance under this part.
5353 (b) (i) Criteria for awarding loans or grants made from funds described in Subsection
5354 9-4-303(5) shall be consistent with Subsection 9-4-303(5).
5355 (ii) Criteria for awarding grants made from funds described in Subsection 9-4-303
5356 (2)(c) shall be consistent with Subsection 9-4-303(6).
5357 (c) In order to receive assistance under this part, subdivisions and interlocal agencies
5358 shall submit formal applications containing the information that the impact board requires.
5359 (2) In determining eligibility for loans and grants under this part, the impact board shall

5360 consider the following:
5361 (a) the subdivision's or interlocal agency's current mineral lease production;
5362 (b) the feasibility of the actual development of a resource that may impact the
5363 subdivision or interlocal agency directly or indirectly;
5364 (c) current taxes being paid by the subdivision's or interlocal agency's residents;
5365 (d) the borrowing capacity of the subdivision or interlocal agency, its ability and
5366 willingness to sell bonds or other securities in the open market, and its current and authorized
5367 indebtedness;
5368 (e) all possible additional sources of state and local revenue, including utility user
5369 charges;
5370 (f) the availability of federal assistance funds;
5371 (g) probable growth of population due to actual or prospective natural resource
5372 development in an area;
5373 (h) existing public facilities and services;
5374 (i) the extent of the expected direct or indirect impact upon public facilities and
5375 services of the actual or prospective natural resource development in an area; and
5376 (j) the extent of industry participation in an impact alleviation plan, either as specified
5377 in [~~Title 63, Chapter 51~~] Title 63M, Chapter 5, Resource Development, or otherwise.
5378 (3) The impact board may not fund any education project that could otherwise have
5379 reasonably been funded by a school district through a program of annual budgeting, capital
5380 budgeting, bonded indebtedness, or special assessments.
5381 (4) The impact board may restructure all or part of the agency's or subdivision's
5382 liability to repay loans for extenuating circumstances.
5383 (5) The impact board shall:
5384 (a) review the proposed uses of the impact fund for loans or grants before approving
5385 them and may condition its approval on whatever assurances that the impact board considers to
5386 be necessary to ensure that the proceeds of the loan or grant will be used in accordance with the
5387 Leasing Act and this part; and
5388 (b) ensure that each loan specifies the terms for repayment and is evidenced by general
5389 obligation, special assessment, or revenue bonds, notes, or other obligations of the appropriate
5390 subdivision or interlocal agency issued to the impact board under whatever authority for the

5391 issuance of those bonds, notes, or obligations exists at the time of the loan.
5392 (6) The impact board shall allocate from the impact fund to the department those funds
5393 that are appropriated by the Legislature for the administration of the impact fund, but this
5394 amount may not exceed 2% of the annual receipts to the impact fund.
5395 (7) The department shall make an annual report to the Legislature concerning the
5396 number and type of loans and grants made as well as a list of subdivisions and interlocal
5397 agencies that received this assistance.
5398 Section 68. Section **9-4-509** is amended to read:
5399 **9-4-509. Procedures -- Adjudicative proceedings.**
5400 The board of review shall comply with the procedures and requirements of [~~Title 63,~~
5401 ~~Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative
5402 proceedings.
5403 Section 69. Section **9-4-704** is amended to read:
5404 **9-4-704. Distribution of fund moneys.**
5405 (1) The executive director shall:
5406 (a) make grants and loans from the fund for any of the activities authorized by Section
5407 9-4-705, as directed by the board;
5408 (b) establish the criteria with the approval of the board by which loans and grants will
5409 be made; and
5410 (c) determine with the approval of the board the order in which projects will be funded.
5411 (2) The executive director shall distribute, as directed by the board, any federal moneys
5412 contained in the fund according to the procedures, conditions, and restrictions placed upon the
5413 use of those moneys by the federal government.
5414 (3) (a) The executive director shall distribute, as directed by the board, any funds
5415 received pursuant to Section 17C-1-412 to pay the costs of providing income targeted housing
5416 within the community that created the community development and renewal agency under Title
5417 17C, Limited Purpose Local Government Entities - Community Development and Renewal
5418 Agencies.
5419 (b) As used in Subsection (3)(a):
5420 (i) "Community" has the meaning as defined in Section 17C-1-102.
5421 (ii) "Income targeted housing" has the meaning as defined in Section 17C-1-102.

5422 (4) Except federal money and money received under Section 17C-1-412, the executive
5423 director shall distribute, as directed by the board, all other moneys from the fund according to
5424 the following requirements:
5425 (a) Not less than 30% of all fund moneys shall be distributed to rural areas of the state.
5426 (b) At least 50% of the moneys in the fund shall be distributed as loans to be repaid to
5427 the fund by the entity receiving them.
5428 (i) (A) Of the fund moneys distributed as loans, at least 50% shall be distributed to
5429 benefit persons whose annual income is at or below 50% of the median family income for the
5430 state.
5431 (B) The remaining loan moneys shall be distributed to benefit persons whose annual
5432 income is at or below 80% of the median family income for the state.
5433 (ii) The executive director or [~~his~~] the executive director's designee shall lend moneys
5434 in accordance with this Subsection (4) at a rate based upon the borrower's ability to pay.
5435 (c) Any fund moneys not distributed as loans shall be distributed as grants.
5436 (i) At least 90% of the fund moneys distributed as grants shall be distributed to benefit
5437 persons whose annual income is at or below 50% of the median family income for the state.
5438 (ii) The remaining fund moneys distributed as grants may be used by the executive
5439 director to obtain federal matching funds or for other uses consistent with the intent of this part,
5440 including the payment of reasonable loan servicing costs, but no more than 3% of the revenues
5441 of the fund may be used to offset other department or board administrative expenses.
5442 (5) The executive director may with the approval of the board:
5443 (a) enact rules to establish procedures for the grant and loan process by following the
5444 procedures and requirements of [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
5445 Administrative Rulemaking Act; and
5446 (b) service or contract, pursuant to [~~Title 63, Chapter 56~~] Title 63G, Chapter 6, Utah
5447 Procurement Code, for the servicing of loans made by the fund.
5448 Section 70. Section **9-4-906** is amended to read:
5449 **9-4-906. Relation to certain acts.**
5450 (1) The corporation is exempt from:
5451 (a) Title 51, Chapter 5, Funds Consolidation Act;
5452 (b) Title 51, Chapter 7, State Money Management Act;

5453 (c) [~~Title 63, Chapter 38~~] Title 63J, Chapter 1, Budgetary Procedures Act;
5454 (d) [~~Title 63, Chapter 38a~~] Title 63J, Chapter 2, Revenue Procedures and Control Act;
5455 (e) [~~Title 63, Chapter 56~~] Title 63G, Chapter 6, Utah Procurement Code;
5456 (f) Title 63A, Utah Administrative Services Code; and
5457 (g) Title 67, Chapter 19, Utah State Personnel Management Act.
5458 (2) The corporation shall comply with:
5459 (a) Title 52, Chapter 4, Open and Public Meetings Act; and
5460 (b) [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records Access and
5461 Management Act.
5462 Section 71. Section **9-4-917** is amended to read:
5463 **9-4-917. Notes, bonds, other obligations -- Not debt liability -- Expenses payable**
5464 **from funds provided -- Corporation without authority to incur liability on behalf of state**
5465 **-- Relationship to Governmental Immunity Act of Utah.**
5466 (1) (a) Notes, bonds, and other obligations issued under this part do not constitute a
5467 debt or liability of this state or of any county, city, town, village, school district, or any other
5468 political subdivision of the state, nor shall the notes, bonds, or other obligations constitute the
5469 loaning of credit of the state or of any county, city, town, township, district, or any other
5470 political subdivision of the state, nor may the notes, bonds, or other obligations be payable
5471 from funds other than those of the corporation.
5472 (b) All notes, bonds, or other obligations shall contain on their face a statement to the
5473 effect that:
5474 (i) the corporation is obligated to pay the note, bond, or obligation solely from the
5475 revenues or other funds of the corporation;
5476 (ii) neither this state nor any political subdivision of it is obligated to pay the note,
5477 bond, or obligation; and
5478 (iii) neither the faith and credit nor the taxing power of this state or any political
5479 subdivision of it is pledged to the payment of principal, or redemption price of, or the interest
5480 on the notes, bonds, or other obligations.
5481 (2) All expenses incurred in carrying out this act shall be payable solely from funds
5482 provided under this part, and nothing in this part shall be construed to authorize the corporation
5483 to incur indebtedness or liability on behalf of or payable by this state or any political

5484 subdivision of it.
5485 (3) (a) [~~Title 63, Chapter 30d~~] Title 63G, Chapter 7, Governmental Immunity Act of
5486 Utah, shall apply to the corporation.
5487 (b) Notwithstanding Subsection (3)(a), no claim may be brought against the state, any
5488 public official or employee of the state, another public entity, or any public official or
5489 employee of another public entity, based on or arising from:
5490 (i) any failure or alleged failure to fulfill a contractual obligation of the corporation;
5491 (ii) any act or failure to act of the corporation or any of its trustees, officers, employees,
5492 agents, or representatives; or
5493 (iii) any failure of the corporation to comply with the requirements of any law or
5494 regulation.
5495 (c) The provisions of Subsection (3)(b) do not apply to a claim of a current or former
5496 officer or employee of the corporation for the retirement or insurance benefits.
5497 Section 72. Section **9-4-1103** is amended to read:
5498 **9-4-1103. Utah State Fair Corporation -- Legal status -- Powers.**
5499 (1) There is created an independent public nonprofit corporation known as the "Utah
5500 State Fair Corporation."
5501 (2) The board shall file articles of incorporation for the corporation with the Division
5502 of Corporations and Commercial Code.
5503 (3) The corporation shall, subject to this part, have all powers and authority permitted
5504 nonprofit corporations by law.
5505 (4) The corporation shall, subject to approval of the board:
5506 (a) have general management, supervision, and control over all activities relating to the
5507 state fair and have charge of all state expositions except as otherwise provided by statute;
5508 (b) for public entertainment, displays, and exhibits or similar events:
5509 (i) provide, sponsor, or arrange the events;
5510 (ii) publicize and promote the events; and
5511 (iii) secure funds to cover the cost of the exhibits from:
5512 (A) private contributions;
5513 (B) public appropriations;
5514 (C) admission charges; and

5515 (D) other lawful means;
5516 (c) establish the time, place, and purpose of state expositions; and
5517 (d) acquire and designate exposition sites.
5518 (5) (a) The corporation shall:
5519 (i) use generally accepted accounting principals in accounting for its assets, liabilities,
5520 and operations;
5521 (ii) seek corporate sponsorships for the state fair park and for individual buildings or
5522 facilities within the fair park;
5523 (iii) work with county and municipal governments, the Salt Lake Convention and
5524 Visitor's Bureau, the Utah Travel Council, and other entities to develop and promote
5525 expositions and the use of the state fair park;
5526 (iv) develop and maintain a marketing program to promote expositions and the use of
5527 the state fair park;
5528 (v) in cooperation with the Division of Facilities Construction and Management,
5529 maintain the physical appearance and structural integrity of the state fair park and the buildings
5530 located at the state fair park;
5531 (vi) hold an annual exhibition that:
5532 (A) is called the state fair or a similar name;
5533 (B) includes expositions of livestock, poultry, agricultural, domestic science,
5534 horticultural, floricultural, mineral, and industrial products, manufactured articles, and
5535 domestic animals that, in the corporation's opinion will best stimulate agricultural, industrial,
5536 artistic, and educational pursuits and the sharing of talents among the people of Utah;
5537 (C) includes the award of premiums for the best specimens of the exhibited articles and
5538 animals;
5539 (D) permits competition by livestock exhibited by citizens of other states and territories
5540 of the United States; and
5541 (E) is arranged according to plans approved by the board;
5542 (vii) fix the conditions of entry to the exposition described in Subsection (5)(a)(vi); and
5543 (viii) publish a list of premiums that will be awarded at the exhibition described in
5544 Subsection (5)(a)(vi) for the best specimens of exhibited articles and animals.
5545 (b) In addition to the state fair to be held in accordance with Subsection (5)(a)(vi), the

5546 corporation may hold other exhibitions of livestock, poultry, agricultural, domestic science,
5547 horticultural, floricultural, mineral, and industrial products, manufactured articles, and
5548 domestic animals that, in its opinion, will best stimulate agricultural, industrial, artistic, and
5549 educational pursuits and the sharing of talents among the people of Utah.
5550 (6) The corporation may:
5551 (a) employ advisers, consultants, and agents, including financial experts and
5552 independent legal counsel, and fix their compensation;
5553 (b) procure insurance against any loss in connection with its property and other assets,
5554 including mortgage loans;
5555 (c) receive and accept aid or contributions of money, property, labor, or other things of
5556 value from any source, including any grants or appropriations from any department, agency, or
5557 instrumentality of the United States or Utah;
5558 (d) hold, use, loan, grant, and apply that aid and those contributions to carry out the
5559 purposes of the corporation, subject to the conditions, if any, upon which the aid and
5560 contributions were made;
5561 (e) enter into management agreements with any person or entity for the performance of
5562 its functions or powers;
5563 (f) establish whatever accounts and procedures as necessary to budget, receive, and
5564 disburse, account for, and audit all funds received, appropriated, or generated;
5565 (g) enter into agreements for the leasing of any of the facilities at the state fair park, if
5566 approved by the board; and
5567 (h) sponsor events as approved by the board.
5568 (7) (a) Except as provided in Subsection (7)(c), as an independent agency of Utah, the
5569 corporation is exempt from:
5570 (i) [~~Title 63, Chapter 38~~] Title 63J, Chapter 1, Budgetary Procedures Act;
5571 (ii) Title 51, Chapter 7, State Money Management Act;
5572 (iii) Title 63A, Utah Administrative Services Code;
5573 (iv) Title 51, Chapter 5, Funds Consolidation Act;
5574 (v) [~~Title 63, Chapter 56~~] Title 63G, Chapter 6, Utah Procurement Code; and
5575 (vi) Title 67, Chapter 19, Utah State Personnel Management Act.
5576 (b) The board shall adopt policies parallel to and consistent with:

5577 (i) [~~Title 63, Chapter 38~~] Title 63J, Chapter 1, Budgetary Procedures Act;
5578 (ii) Title 51, Chapter 7, State Money Management Act;
5579 (iii) Title 63A, Utah Administrative Services Code;
5580 (iv) Title 51, Chapter 5, Funds Consolidation Act; and
5581 (v) [~~Title 63, Chapter 56~~] Title 63G, Chapter 6, Utah Procurement Code.
5582 (c) The corporation shall comply with the legislative approval requirements for new
5583 facilities established in Subsection 63A-5-104(3).
5584 Section 73. Section **9-4-1301** is amended to read:
5585 **9-4-1301. Assistance to domestic violence shelters -- Rulemaking authority.**
5586 (1) The Division of Child and Family Services within the Department of Human
5587 Services has statutory responsibility to provide violence services, including temporary shelter,
5588 to victims of domestic violence pursuant to the provisions of Sections 62A-4a-101 and
5589 62A-4a-105. The division may assist the Division of Child and Family Services by providing
5590 for the development, construction, and improvement of shelters for victims of domestic
5591 violence, as described in Section 77-36-1, through loans and grants to nonprofit and
5592 governmental entities.
5593 (2) No later than July 1, 2001, the division shall, in accordance with [~~Title 63, Chapter~~
5594 ~~46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules establishing:
5595 (a) procedures for applying for loans and grants;
5596 (b) criteria for awarding loans and grants; and
5597 (c) requirements for the repayment of loans.
5598 (3) The division may appoint an advisory panel to:
5599 (a) assist the division in developing rules under Subsection (2); and
5600 (b) recommend how available funds should be disbursed.
5601 (4) The division shall make loans and grants with monies specifically appropriated for
5602 that purpose.
5603 (5) The division shall coordinate with the Division of Child and Family Services in
5604 complying with the provisions of this section.
5605 Section 74. Section **9-4-1404** is amended to read:
5606 **9-4-1404. Duties of office.**
5607 The office shall:

5608 (1) coordinate state activities designed to reduce poverty;
5609 (2) encourage entities in the private sector to participate in efforts to ameliorate poverty
5610 in the community;
5611 (3) cooperate with agencies of local, state, and federal government in reducing poverty
5612 and implementing community, social, and economic programs;
5613 (4) receive and expend funds for the purposes outlined in this part;
5614 (5) enter into contracts with and award grants to public and private nonprofit agencies
5615 and organizations;
5616 (6) develop a state plan based on needs identified by community action agencies and
5617 community action statewide organizations;
5618 (7) designate community action agencies to receive funds through the Community
5619 Services Block Grant program;
5620 (8) fund community action agencies and community action statewide organizations;
5621 (9) make rules in conjunction with the division pursuant to [~~Title 63, Chapter 46a~~]
5622 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the purposes of this
5623 part;
5624 (10) provide assistance to local governments or private organizations for the purpose of
5625 establishing and operating a community action agency;
5626 (11) provide technical assistance to community action agencies to improve program
5627 planning, program development, administration, and the mobilization of public and private
5628 resources;
5629 (12) convene public meetings which provide citizens the opportunity to comment on
5630 public policies and programs to reduce poverty;
5631 (13) advise the governor and Legislature of the nature and extent of poverty in the state
5632 and make recommendations concerning changes in state and federal policies and programs;
5633 (14) encourage Utah's nonprofit humanitarian assistance agencies serving low-income
5634 persons by facilitating, coordinating, training, partnerships, and providing technical assistance
5635 in addressing Utah's low-income persons by enhancing management, improving service and
5636 program delivery, and preserving flexibility and local initiative;
5637 (15) develop and implement management goals which fulfill the Community Services
5638 Block Grant mission, state requirements, and the mandates of federal legislation;

5639 (16) prepare a Community Services Block Grant plan which contains provisions
5640 describing how the state will carry out the assurances of the Community Services Block Grant
5641 Act;
5642 (17) act as the state agency responsible for the evaluation and improvement of
5643 emergency food assistance services in the state;
5644 (18) monitor the impact of social policies on the emergency food network;
5645 (19) provide training and technical assistance to all grantees to assist them in program
5646 development and implementation, compliance with state and federal regulations, and reporting
5647 and management information systems;
5648 (20) certify, monitor, and decertify qualified emergency food agencies for purposes of
5649 the sales tax refund under Section 59-12-902; and
5650 (21) administer other programs to alleviate poverty assigned to the office.
5651 Section 75. Section **9-4-1406** is amended to read:
5652 **9-4-1406. Evaluations -- Reports.**
5653 (1) The office shall periodically evaluate grantees of Community Services Block Grant
5654 funds as established by rule by the division in accordance with [~~Title 63, Chapter 46a~~] Title
5655 63G, Chapter 3, Utah Administrative Rulemaking Act.
5656 (2) Grantees of Community Services Block Grant funds shall submit to the office a
5657 year-end report, covering a reporting period consistent with the federal fiscal year, which
5658 provides an account of all programs operated with or supported by Community Services Block
5659 Grant funds, including:
5660 (a) types of programs operated by that grantee;
5661 (b) the program outcomes;
5662 (c) the number of persons served;
5663 (d) the number of times service was given; and
5664 (e) an accounting of all Community Services Block Grant funds expended by the
5665 grantee.
5666 (3) The office shall report annually to the appropriate legislative appropriations
5667 subcommittee on the distribution and expenditure of Community Services Block Grant funds.
5668 Section 76. Section **9-6-205** is amended to read:
5669 **9-6-205. Board powers and duties.**

5670 (1) The board may:
5671 (a) make, amend, or repeal rules for the conduct of its business in governing the
5672 institute and the division in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
5673 Administrative Rulemaking Act;
5674 (b) receive gifts, bequests, and property; and
5675 (c) issue certificates and offer and confer prizes, certificates, and awards for works of
5676 art and achievement in the arts.
5677 (2) The board shall make policy for the institute and for the division.
5678 Section 77. Section **9-6-504** is amended to read:
5679 **9-6-504. Duties of board.**
5680 The board shall:
5681 (1) allocate moneys from the state fund to the endowment fund created by a qualifying
5682 organization under Section 9-6-503;
5683 (2) determine the eligibility of each qualifying organization to receive moneys from the
5684 state fund into the endowment fund of the qualifying organization and be the final arbiter of
5685 eligibility;
5686 (3) determine the matching amount each qualifying organization must raise in order to
5687 qualify to receive moneys from the state fund;
5688 (4) establish a date by which each qualifying organization must provide its matching
5689 funds;
5690 (5) verify that matching funds have been provided by each qualifying organization by
5691 the date determined in Subsection (4); and
5692 (6) in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
5693 Administrative Rulemaking Act, establish criteria by rule not otherwise prescribed in this
5694 chapter for determining the eligibility of qualifying organizations to receive moneys from the
5695 state fund.
5696 Section 78. Section **9-6-605** is amended to read:
5697 **9-6-605. Board -- Duties.**
5698 (1) The board is the policymaking body for the office.
5699 (2) The board shall, in consultation with the director of the office:
5700 (a) set policies and, in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,

5701 Utah Administrative Rulemaking Act, make rules governing:
5702 (i) the office grants program; and
5703 (ii) the awarding of grants to assist Utah's eligible museums; and
5704 (b) set eligibility guidelines for grants administered through the office.
5705 Section 79. Section **9-7-213** is amended to read:
5706 **9-7-213. Rulemaking.**
5707 The division may make rules in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
5708 Chapter 3, Utah Administrative Rulemaking Act, necessary to implement and administer the
5709 provisions of this chapter including:
5710 (1) standards which must be met by libraries to obtain and retain a designation as a
5711 depository library;
5712 (2) the method by which grants are made to individual libraries, but not including
5713 appropriations made directly to any other agency or institution;
5714 (3) standards for the certification of public librarians; and
5715 (4) standards for the public library online access policy required in Section 9-7-215.
5716 Section 80. Section **9-7-302** is amended to read:
5717 **9-7-302. Public access -- Rules.**
5718 (1) The public shall have access to the State Law Library.
5719 (2) The board of control may make rules in accordance with [~~Title 63, Chapter 46a~~]
5720 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and not inconsistent with the
5721 provisions of this part.
5722 Section 81. Section **9-8-203** is amended to read:
5723 **9-8-203. Division duties.**
5724 (1) The division shall:
5725 (a) stimulate research, study, and activity in the field of Utah history and related
5726 history;
5727 (b) maintain a specialized history library;
5728 (c) mark and preserve historic sites, areas, and remains;
5729 (d) collect, preserve, and administer historical records relating to the history of Utah;
5730 (e) administer, collect, preserve, document, interpret, develop, and exhibit historical
5731 artifacts, documentary materials, and other objects relating to the history of Utah for

5732 educational and cultural purposes;
5733 (f) edit and publish historical records;
5734 (g) cooperate with local, state, and federal agencies and schools and museums to
5735 provide coordinated and organized activities for the collection, documentation, preservation,
5736 interpretation, and exhibition of historical artifacts related to the state;
5737 (h) provide grants and technical assistance as necessary and appropriate; and
5738 (i) comply with the procedures and requirements of [~~Title 63, Chapter 46b~~] Title 63G,
5739 Chapter 4, Administrative Procedures Act, in its adjudicative proceedings.
5740 (2) The division may acquire or produce reproductions of historical artifacts and
5741 documentary materials for educational and cultural use.
5742 (3) To promote an appreciation of Utah history and to increase heritage tourism in the
5743 state, the division shall:
5744 (a) (i) create and maintain an inventory of all historic markers and monuments that are
5745 accessible to the public throughout the state;
5746 (ii) enter into cooperative agreements with other groups and organizations to collect
5747 and maintain the information needed for the inventory;
5748 (iii) encourage the use of volunteers to help collect the information and to maintain the
5749 inventory;
5750 (iv) publicize the information in the inventory in a variety of forms and media,
5751 especially to encourage Utah citizens and tourists to visit the markers and monuments;
5752 (v) work with public and private landowners, heritage organizations, and volunteer
5753 groups to help maintain, repair, and landscape around the markers and monuments; and
5754 (vi) make the inventory available upon request to all other public and private history
5755 and heritage organizations, tourism organizations and businesses, and others;
5756 (b) (i) create and maintain an inventory of all active and inactive cemeteries throughout
5757 the state;
5758 (ii) enter into cooperative agreements with local governments and other groups and
5759 organizations to collect and maintain the information needed for the inventory;
5760 (iii) encourage the use of volunteers to help collect the information and to maintain the
5761 inventory;
5762 (iv) encourage cemetery owners to create and maintain geographic information systems

5763 to record burial sites and encourage volunteers to do so for inactive and small historic
5764 cemeteries;
5765 (v) publicize the information in the inventory in a variety of forms and media,
5766 especially to encourage Utah citizens to participate in the care and upkeep of historic
5767 cemeteries;
5768 (vi) work with public and private cemeteries, heritage organizations, genealogical
5769 groups, and volunteer groups to help maintain, repair, and landscape cemeteries, grave sites,
5770 and tombstones; and
5771 (vii) make the inventory available upon request to all other public and private history
5772 and heritage organizations, tourism organizations and businesses, and others; and
5773 (c) (i) create and maintain a computerized record of cemeteries and burial locations in a
5774 state-coordinated and publicly accessible information system;
5775 (ii) gather information for the information system created and maintained under
5776 Subsection (3)(c)(i) by providing matching grants, upon approval by the board, to:
5777 (A) municipal cemeteries;
5778 (B) cemetery maintenance districts;
5779 (C) endowment care cemeteries;
5780 (D) private nonprofit cemeteries;
5781 (E) genealogical associations; and
5782 (F) other nonprofit groups with an interest in cemeteries; and
5783 (iii) adopt rules, pursuant to [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
5784 Administrative Rulemaking Act, for granting matching funds under Subsection (3)(c)(ii) to
5785 assure that:
5786 (A) professional standards are met; and
5787 (B) projects are cost effective.
5788 (4) This chapter may not be construed to authorize the division to acquire by purchase
5789 any historical artifacts, documentary materials, or specimens that are restricted from sale by
5790 federal law or the laws of any state, territory, or foreign nation.
5791 Section 82. Section **9-8-305** is amended to read:
5792 **9-8-305. Permit required to survey or excavate on state lands -- Public Lands**
5793 **Policy Coordinating Office to issue permits and make rules -- Ownership of collections**

5794 **and resources -- Revocation or suspension of permits -- Criminal penalties.**
5795 (1) (a) Except as provided by Subsections (1)(d) and (3)(c), each principal investigator
5796 who wishes to survey or excavate on any lands owned or controlled by the state, its political
5797 subdivisions, or by the School and Institutional Trust Lands Administration shall obtain a
5798 survey or excavation permit from the Public Lands Policy Coordinating Office.
5799 (b) A principal investigator who holds a valid permit under this section may allow
5800 other individuals to assist the principal investigator in a survey or excavation if the principal
5801 investigator ensures that all the individuals comply with the law, the rules, the permit, and the
5802 appropriate professional standards.
5803 (c) A person, other than a principal investigator, may not survey or excavate on any
5804 lands owned or controlled by the state, its political subdivisions, or by the School and
5805 Institutional Trust Lands Administration unless the person works under the direction of a
5806 principal investigator who holds a valid permit.
5807 (d) A permit obtained before July 1, 2006 shall continue until the permit terminates on
5808 its own terms.
5809 (2) (a) To obtain a survey permit, a principal investigator shall:
5810 (i) submit a permit application on a form furnished by the Public Lands Policy
5811 Coordinating Office;
5812 (ii) except as provided in Subsection (2)(b), possess a graduate degree in anthropology,
5813 archaeology, or history;
5814 (iii) have one year of full-time professional experience or equivalent specialized
5815 training in archaeological research, administration, or management; and
5816 (iv) have one year of supervised field and analytical experience in Utah prehistoric or
5817 historic archaeology.
5818 (b) In lieu of the graduate degree required by Subsection (2)(a)(ii), a principal
5819 investigator may submit evidence of training and experience equivalent to a graduate degree.
5820 (c) Unless the permit is revoked or suspended, a survey permit is valid for the time
5821 period specified in the permit by the Public Lands Policy Coordinating Office, which may not
5822 exceed three years.
5823 (3) (a) Except as provided by Subsection (3)(c), to obtain an excavation permit, a
5824 principal investigator shall, in addition to complying with Subsection (2)(a), submit:

5825 (i) a research design to the Public Lands Policy Coordinating Office and the Antiquities
5826 Section that:
5827 (A) states the questions to be addressed;
5828 (B) states the reasons for conducting the work;
5829 (C) defines the methods to be used;
5830 (D) describes the analysis to be performed;
5831 (E) outlines the expected results and the plan for reporting;
5832 (F) evaluates expected contributions of the proposed work to archaeological or
5833 anthropological science; and
5834 (G) estimates the cost and the time of the work that the principal investigator believes
5835 is necessary to provide the maximum amount of historic, scientific, archaeological,
5836 anthropological, and educational information; and
5837 (ii) proof of permission from the landowner to enter the property for the purposes of
5838 the permit.
5839 (b) An excavation permit is valid for the amount of time specified in the permit, unless
5840 the permit is revoked according to Subsection (9).
5841 (c) The Public Lands Policy Coordinating Office may delegate to an agency the
5842 authority to issue excavation permits if the agency:
5843 (i) requests the delegation; and
5844 (ii) employs or has a long-term contract with a principal investigator with a valid
5845 survey permit.
5846 (d) The Public Lands Policy Coordinating Office shall conduct an independent review
5847 of the delegation authorized by Subsection (3)(c) every three years and may revoke the
5848 delegation at any time without cause.
5849 (4) The Public Lands Policy Coordinating Office shall:
5850 (a) grant a survey permit to a principal investigator who meets the requirements of this
5851 section;
5852 (b) grant an excavation permit to a principal investigator after approving, in
5853 consultation with the Antiquities Section, the research design for the project; and
5854 (c) assemble a committee of qualified individuals to advise the Public Lands Policy
5855 Coordinating Office in its duties under this section.

5856 (5) By following the procedures and requirements of [~~Title 63, Chapter 46a~~] Title 63G,
5857 Chapter 3, Utah Administrative Rulemaking Act, the Public Lands Policy Coordinating Office
5858 shall, after consulting with the Antiquities Section, make rules to:
5859 (a) establish survey methodology;
5860 (b) standardize report and data preparation and submission;
5861 (c) require other permit application information that the Public Lands Policy
5862 Coordinating Office finds necessary, including proof of consultation with the appropriate
5863 Native American tribe;
5864 (d) establish what training and experience is equivalent to a graduate degree;
5865 (e) establish requirements for a person authorized by Subsection (1)(b) to assist the
5866 principal investigator;
5867 (f) establish requirements for a principal investigator's employer, if applicable; and
5868 (g) establish criteria, that if met, would allow the Public Lands Policy Coordinating
5869 Office to reinstate a suspended permit.
5870 (6) Each principal investigator shall submit a summary report of the work for each
5871 project to the Antiquities Section in a form prescribed by a rule established under Subsection
5872 (5)(b), which shall include copies of all:
5873 (a) site forms;
5874 (b) data;
5875 (c) maps;
5876 (d) drawings;
5877 (e) photographs; and
5878 (f) descriptions of specimens.
5879 (7) (a) Except as provided in Subsection (7)(c), a person may not remove from Utah
5880 any specimen, site, or portion of any site from lands owned or controlled by the state or its
5881 political subdivisions, other than school and institutional trust lands, without permission from
5882 the Antiquities Section, and prior consultation with the landowner and any other agencies
5883 managing other interests in the land.
5884 (b) Except as provided in Subsection (7)(c), a person may not remove from Utah any
5885 specimen, site, or portion of any site from school and institutional trust lands without
5886 permission from the School and Institutional Trust Lands Administration, granted after

5887 consultation with the Antiquities Section.
5888 (c) If a specimen, site, or portion of a site is placed in a repository or curation facility, a
5889 person may remove it by following the procedures established by the repository or curation
5890 facility.
5891 (8) (a) Collections recovered from school and institutional trust lands are owned by the
5892 respective trust.
5893 (b) Collections recovered from lands owned or controlled by the state or its
5894 subdivisions, other than school and institutional trust lands, are owned by the state.
5895 (c) Within a reasonable time after the completion of fieldwork, each permit holder
5896 shall deposit all collections at the museum, a curation facility, or a repository.
5897 (d) The repository or curation facility for collections from lands owned or controlled by
5898 the state or its subdivisions shall be designated according to the rules made under the authority
5899 of Section 53B-17-603.
5900 (9) (a) Upon complaint by an agency, the Public Lands Policy Coordinating Office
5901 shall investigate a principal investigator and the work conducted under a permit.
5902 (b) By following the procedures and requirements of [~~Title 63, Chapter 46b~~] Title 63G,
5903 Chapter 4, Administrative Procedures Act, the Public Lands Policy Coordinating Office may
5904 revoke or suspend a permit if the principal investigator fails to conduct a survey or excavation
5905 according to law, the rules enacted by the Public Lands Policy Coordinating Office, or permit
5906 provisions.
5907 (10) (a) Any person violating this section is guilty of a class B misdemeanor.
5908 (b) A person convicted of violating this section, or found to have violated the rules
5909 authorized by this section, shall, in addition to any other penalties imposed, forfeit all
5910 archaeological resources discovered by or through the person's efforts to the state or the
5911 respective trust.
5912 (11) The division may enter into memoranda of agreement to issue project numbers or
5913 to retain other data for federal lands or Native American lands within the state.
5914 Section 83. Section **9-8-309** is amended to read:
5915 **9-8-309. Ancient human remains on nonfederal lands that are not state lands.**
5916 (1) (a) After April 30, 2007, if a person knows or has reason to know that the person
5917 discovered ancient human remains on nonfederal land that is not state land:

5918 (i) the person shall:
5919 (A) cease activity in the area of the discovery until activity may be resumed in
5920 accordance with Subsection (1)(d);
5921 (B) notify a local law enforcement agency in accordance with Section 76-9-704; and
5922 (C) notify the person who owns or controls the nonfederal land, if that person is
5923 different than the person who discovers the ancient human remains; and
5924 (ii) the person who owns or controls the nonfederal land shall:
5925 (A) require that activity in the area of the discovery cease until activity may be resumed
5926 in accordance with Subsection (1)(d); and
5927 (B) make a reasonable effort to protect the discovered ancient human remains before
5928 activity may be resumed in accordance with Subsection (1)(d).
5929 (b) (i) If the local law enforcement agency believes after being notified under this
5930 Subsection (1) that a person may have discovered ancient human remains, the local law
5931 enforcement agency shall contact the Antiquities Section.
5932 (ii) The Antiquities Section shall:
5933 (A) within two business days of the day on which the Antiquities Section is notified by
5934 local law enforcement, notify the landowner that the Antiquities Section may excavate and
5935 retrieve the human remains with the landowner's permission; and
5936 (B) if the landowner gives the landowner's permission, excavate the human remains by
5937 no later than:
5938 (I) five business days from the day on which the Antiquities Section obtains the
5939 permission of the landowner under this Subsection (1); or
5940 (II) if extraordinary circumstances exist as provided in Subsection (1)(c), within the
5941 time period designated by the director not to exceed 30 days from the day on which the
5942 Antiquities Section obtains the permission of the landowner under this Subsection (1).
5943 (c) (i) The director may grant the Antiquities Section an extension of time for
5944 excavation and retrieval of ancient human remains not to exceed 30 days from the day on
5945 which the Antiquities Section obtains the permission of the landowner under this Subsection
5946 (1), if the director determines that extraordinary circumstances exist on the basis of objective
5947 criteria such as:
5948 (A) the unusual scope of the ancient human remains;

5949 (B) the complexity or difficulty of excavation or retrieval of the ancient human
5950 remains; or
5951 (C) the landowner's concerns related to the excavation or retrieval of the ancient human
5952 remains.
5953 (ii) If the landowner objects to the time period designated by the director, the
5954 landowner may appeal the decision to the executive director of the department in writing.
5955 (iii) If the executive director receives an appeal from the landowner under this
5956 Subsection (1)(c), the executive director shall:
5957 (A) decide on the appeal within two business days; and
5958 (B) (I) uphold the decision of the director; or
5959 (II) designate a shorter time period than the director designated for the excavation and
5960 retrieval of the ancient human remains.
5961 (iv) An appeal under this Subsection (1)(c) may not be the cause for the delay of the
5962 excavation and retrieval of the ancient human remains.
5963 (v) A decision and appeal under this Subsection (1)(c) is exempt from [~~Title 63,~~
5964 ~~Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
5965 (d) A person that owns or controls nonfederal land that is not state land may engage in
5966 or permit others to engage in activities in the area of the discovery without violating this part or
5967 Section 76-9-704 if once notified of the discovery of ancient human remains on the nonfederal
5968 land, the person:
5969 (i) consents to the Antiquities Section excavating and retrieving the ancient human
5970 remains; and
5971 (ii) engages in or permits others to engage in activities in the area of the discovery only
5972 after:
5973 (A) the day on which the Antiquities Section removes the ancient human remains from
5974 the nonfederal land; or
5975 (B) the time period described in Subsection (1)(b)(ii)(B).
5976 (2) A person that owns or controls nonfederal land that is not state land may not be
5977 required to pay any costs incurred by the state associated with the ancient human remains,
5978 including costs associated with the costs of the:
5979 (a) discovery of ancient human remains;

5980 (b) excavation or retrieval of ancient human remains; or
5981 (c) determination of ownership or disposition of ancient human remains.
5982 (3) For nonfederal land that is not state land, nothing in this section limits or prohibits
5983 the Antiquities Section and a person who owns or controls the nonfederal land from entering
5984 into an agreement addressing the ancient human remains that allows for different terms than
5985 those provided in this section.
5986 (4) The ownership and control of ancient human remains that are the ancient human
5987 remains of a Native American shall be determined in accordance with Chapter 9, Part 4, Native
5988 American Grave Protection and Repatriation Act:
5989 (a) if the ancient human remains are in possession of the state;
5990 (b) if the ancient human remains are not known to have been discovered on lands
5991 owned, controlled, or held in trust by the federal government; and
5992 (c) regardless of when the ancient human remains are discovered.
5993 (5) This section:
5994 (a) does not apply to ancient human remains that are subject to the provisions and
5995 procedures of:
5996 (i) federal law; or
5997 (ii) Part 4, Historic Sites; and
5998 (b) does not modify any property rights of a person that owns or controls nonfederal
5999 land except as to the ownership of the ancient human remains.
6000 (6) The division, Antiquities Section, or Division of Indian Affairs may not make rules
6001 that impose any requirement on a person who discovers ancient human remains or who owns or
6002 controls nonfederal land that is not state land on which ancient human remains are discovered
6003 that is not expressly provided for in this section.
6004 Section 84. Section **9-8-405** is amended to read:
6005 **9-8-405. Federal funds -- Agreements on standards and procedures.**
6006 By following the procedures and requirements of [~~Title 63, Chapter 38e~~] Title 63J,
6007 Chapter 5, Federal Funds Procedures, the division may accept and administer federal funds
6008 provided under the provisions of the National Historic Preservation Act of 1966, the Land and
6009 Water Conservation Act as amended, and subsequent legislation directed toward the
6010 encouragement of historic preservation, and to enter into those agreements on professional

6011 standards and procedures required by participation in the National Historic Preservation Act of
6012 1966 and the National Register Office.
6013 Section 85. Section **9-8-704** is amended to read:
6014 **9-8-704. Division duties.**
6015 The division shall, according to policy established by the board:
6016 (1) allocate monies from the state fund to the endowment fund created by a qualifying
6017 organization under Section 9-8-703;
6018 (2) determine the eligibility of each qualifying organization to receive monies from the
6019 state fund into the endowment fund of the qualifying organization;
6020 (3) determine the matching amount each qualifying organization must raise in order to
6021 qualify to receive monies from the state fund;
6022 (4) establish a date by which each qualifying organization must provide its matching
6023 funds;
6024 (5) verify that matching funds have been provided by each qualifying organization by
6025 the date determined in Subsection (4); and
6026 (6) in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
6027 Administrative Rulemaking Act, establish criteria by rule not otherwise prescribed in this
6028 chapter for determining the eligibility of qualifying organizations to receive monies from the
6029 state fund.
6030 Section 86. Section **9-9-104** is amended to read:
6031 **9-9-104. Duties and powers.**
6032 (1) The division shall:
6033 (a) have all of the functions, powers, duties, rights, and responsibilities granted to it by
6034 this chapter;
6035 (b) staff those committees or boards as specified in this chapter; and
6036 (c) in accordance with policies set by state government, coordinate relations between:
6037 (i) the state;
6038 (ii) tribal governments;
6039 (iii) other Indian groups; and
6040 (iv) federal agencies.
6041 (2) The division may:

6042 (a) contract with public and private entities to provide services or facilities;
6043 (b) acquire and hold funds or other property for the administration of the programs
6044 outlined in this chapter;
6045 (c) make rules in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
6046 Administrative Rulemaking Act, that are necessary to carry out the duties of the division;
6047 (d) accept gifts, grants, devises, and property, in cash or in kind, for the benefit of
6048 Indians; and
6049 (e) apply or dispose of those gifts, grants, devises, and property received under
6050 Subsection (2)(d) for the use and benefit of Indians within the state.
6051 Section 87. Section **9-10-105** is amended to read:
6052 **9-10-105. Powers.**
6053 (1) The board may:
6054 (a) appoint a hearing examiner or administrative law judge with authority to conduct
6055 any hearings, make determinations, and enter appropriate findings of facts, conclusions of law,
6056 and orders under authority of the Interlocal Cooperation Act; and
6057 (b) make rules under [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
6058 Rulemaking Act, if necessary to perform its responsibilities.
6059 (2) The board shall:
6060 (a) be subject to the procedures and requirements under Title 52, Chapter 4, Open and
6061 Public Meetings Act; and
6062 (b) be subject to the procedures and requirements under Title 51, Chapter 7, State
6063 Money Management Act.
6064 Section 88. Section **9-11-102** is amended to read:
6065 **9-11-102. Definitions.**
6066 As used in this chapter:
6067 (1) "Board" means the Navajo Revitalization Fund Board.
6068 (2) "Capital projects" means expenditures for land, improvements on the land, and
6069 equipment intended to have long-term beneficial use.
6070 (3) "Division" means the Division of Housing and Community Development.
6071 (4) "Eligible entities" means:
6072 (a) the Navajo Nation;

6073 (b) a department or division of the Navajo Nation;
6074 (c) a Utah Navajo Chapter, as defined in Section [~~63-88-101~~] 51-9-501;
6075 (d) the Navajo Utah Commission;
6076 (e) an agency of the state or a political subdivision of the state;
6077 (f) the Navajo Trust Fund established under [~~Title 63, Chapter 88~~] Title 51, Chapter 9,
6078 Part 5, Navajo Trust Fund; or
6079 (g) a nonprofit corporation.
6080 (5) "Navajo Utah Commission" means the commission created by Resolution
6081 IGRJN-134-92 of the Intergovernmental Relations Committee of the Navajo Nation Council.
6082 (6) "Revitalization fund" or "fund" means the Navajo Revitalization Fund.
6083 Section 89. Section **9-11-105** is amended to read:
6084 **9-11-105. Navajo Revitalization Fund Board created -- Members -- Terms --**
6085 **Chair -- Expenses.**
6086 (1) There is created within the division the Navajo Revitalization Board composed of
6087 five members as follows:
6088 (a) the governor or the governor's designee;
6089 (b) the two members of the San Juan County commission whose districts include
6090 portions of the Navajo Reservation;
6091 (c) the chair of the Navajo Utah Commission or a member of the commission
6092 designated by the chair; and
6093 (d) the chair of the Utah Dineh Committee, as created in Section [~~63-88-107~~]
6094 51-9-507, or a member of the committee designated by the chair.
6095 (2) The terms of office for the members of the board shall run concurrently with the
6096 terms of office for the governor, county commissioners, member of the Navajo Utah
6097 Commission, and member of the Utah Dineh Committee.
6098 (3) The governor, or the governor's designee, shall be the chair of the board and the
6099 chair is responsible to call necessary meetings.
6100 (4) (a) (i) Members who are not government employees of the state or local government
6101 shall receive no compensation or benefits for their services, but may receive per diem and
6102 expenses incurred in the performance of the member's official duties at the rates established by
6103 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

6104 (ii) Members may decline to receive per diem and expenses for their service.
6105 (b) (i) State government officer and employee members who do not receive salary, per
6106 diem, or expenses from their agency for their service may receive per diem and expenses
6107 incurred in the performance of their official duties from the board at the rates established by the
6108 Division of Finance under Sections 63A-3-106 and 63A-3-107.
6109 (ii) State government officer and employee members may decline to receive per diem
6110 and expenses for their service.
6111 (c) (i) Local government members who do not receive salary, per diem, or expenses
6112 from the entity that they represent for their service may receive per diem and expenses incurred
6113 in the performance of their official duties at the rates established by the Division of Finance
6114 under Sections 63A-3-106 and 63A-3-107.
6115 (ii) Local government members may decline to receive per diem and expenses for their
6116 service.
6117 (d) The per diem and expenses permitted under this Subsection (4) may be included as
6118 costs of administration of the fund.
6119 (5) Four board members are a quorum.
6120 (6) Any board decisions related to monies in or disbursed from the fund requires the
6121 affirmative vote of each member of the board present at a meeting when a quorum is present.
6122 Section 90. Section **9-11-106** is amended to read:
6123 **9-11-106. Powers -- Duties.**
6124 (1) The board shall:
6125 (a) direct the division regarding grants and loans from the revitalization fund to eligible
6126 entities to serve persons that are or may be socially or economically impacted, directly or
6127 indirectly, by mineral resource development;
6128 (b) establish procedures for application for an award of grants and loans including
6129 eligibility criteria;
6130 (c) coordinate projects and programs with other projects and programs funded by
6131 federal, state, and local government entities;
6132 (d) determine the order in which projects will be funded; and
6133 (e) be subject to the procedures and requirements under Title 52, Chapter 4, Open and
6134 Public Meetings Act.

6135 (2) The board may:
6136 (a) qualify for, accept, and administer grants, gifts, loans, or other funds from the
6137 federal government and from other sources, public or private; and
6138 (b) make rules under [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
6139 Rulemaking Act, if necessary to perform its responsibilities.
6140 Section 91. Section **9-11-107** is amended to read:
6141 **9-11-107. Revitalization fund administered by board -- Eligibility for assistance --**
6142 **Review by board -- Restrictions on loans and grants -- Division to distribute monies.**
6143 (1) (a) If an eligible entity wishes to receive a loan or grant from the board, the eligible
6144 entity shall apply to the board. The application shall contain the information required by the
6145 board.
6146 (b) The board shall review each application for a loan or grant before approving the
6147 loan or grant.
6148 (c) The board may approve loan or grant applications subject to the applicant's
6149 compliance with certain conditions established by the board.
6150 (2) In determining whether an eligible entity may receive a loan or grant, the board
6151 shall give priority to:
6152 (a) capital projects and infrastructure, including electrical power, water, and other one
6153 time need projects;
6154 (b) housing projects that consist of:
6155 (i) the purchase of new housing;
6156 (ii) the construction of new housing; or
6157 (iii) a significant remodeling of existing housing; or
6158 (c) matching educational endowments that:
6159 (i) promote economic development within the Utah portion of the Navajo Reservation;
6160 (ii) promote the preservation of Navajo culture, history, and language; or
6161 (iii) support postsecondary educational opportunities for Navajo students enrolled in
6162 courses or programs taught within the Utah portion of the Navajo Reservation.
6163 (3) A loan or grant issued under this chapter may not fund:
6164 (a) start-up or operational costs of private business ventures;
6165 (b) general operating budgets of the eligible entities; or

6166 (c) a project or program that will operate or be located outside of the Navajo
6167 Reservation in San Juan County, Utah, except for educational endowments approved by the
6168 board under Subsection (2)(c).
6169 (4) (a) The board may not approve a loan unless the loan:
6170 (i) specifies the terms for repayment; and
6171 (ii) is secured by proceeds from a general obligation, special assessment, or revenue
6172 bond, note, or other obligation.
6173 (b) Any loan repayment or interest on a loan issued under this chapter shall be
6174 deposited into the fund.
6175 (5) The board may not approve a loan or grant unless the loan or grant provides for
6176 matching monies or in-kind services from:
6177 (a) the Navajo Nation;
6178 (b) the Navajo Trust Fund;
6179 (c) San Juan County;
6180 (d) the state;
6181 (e) the federal government;
6182 (f) a Utah Navajo Chapter, as defined in Section [~~63-88-101~~] 51-9-501; or
6183 (g) other private or public organization.
6184 (6) The division shall distribute loan and grant monies:
6185 (a) if the loan or grant is approved by the board;
6186 (b) in accordance with the instructions of the board, except that the board may not
6187 instruct that monies be distributed in a manner:
6188 (i) inconsistent with this chapter; or
6189 (ii) in violation of rules and procedures of the department; and
6190 (c) in the case of a loan, in accordance with Section 63A-3-205.
6191 Section 92. Section **9-12-103** is amended to read:
6192 **9-12-103. Eligibility criteria.**
6193 In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
6194 Rulemaking Act, the department may make rules establishing eligibility criteria for recipients
6195 of assistance under this chapter. A recipient of assistance under this chapter must demonstrate:
6196 (1) that the recipient's family, household, or individual income is 150% of the federal

6197 poverty level or less;
6198 (2) that the recipient is responsible for paying the recipient's home energy costs; and
6199 (3) compliance with any rules established by the department under this section.
6200 Section 93. Section **9-12-105** is amended to read:
6201 **9-12-105. Payment method.**
6202 Direct payments for home energy costs shall be made jointly to the responsible
6203 householder and to the vendor of energy services to whom the family or individual served owes
6204 a payment except in certain cases, as established by rule by the department in accordance with
6205 [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, where
6206 payments may be made directly to the responsible householder.
6207 Section 94. Section **10-1-306** is amended to read:
6208 **10-1-306. Rules for delivered value and point of sale.**
6209 (1) The delivered value of taxable energy under this part shall be established pursuant
6210 to rules made by the commission in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter
6211 3, Utah Administrative Rulemaking Act.
6212 (2) The rules made by the commission under Subsection (1):
6213 (a) shall provide that an arm's length sales price for taxable energy sold or used by a
6214 taxpayer in the municipality is the delivered value, unless the sales price does not include some
6215 portion of the taxable energy or component of delivered value;
6216 (b) shall establish one or more default methods for determining the delivered value for
6217 each customer class one time per calendar year on or before January 31 for taxable energy
6218 when the commission determines that the sales price does not accurately reflect delivered
6219 value; and
6220 (c) shall provide that for purposes of determining the point of sale or use of taxable
6221 energy the location of the meter is normally the point of sale or use unless the taxpayer
6222 demonstrates that the use is not in a municipality imposing the municipal energy sales and use
6223 tax.
6224 (3) In establishing a default method under Subsection (2)(b), the commission:
6225 (a) shall take into account quantity discounts and other reductions or increases in value
6226 that are generally available in the marketplace for various grades or types of property and
6227 classes of services; and

6228 (b) may consider:
6229 (i) generally applicable tariffs for various classes of utility services approved by the
6230 Public Service Commission or other governmental entity;
6231 (ii) posted prices;
6232 (iii) spot-market prices;
6233 (iv) trade publications;
6234 (v) market data; and
6235 (vi) other information and data prescribed by the commission.
6236 Section 95. Section **10-1-308** is amended to read:
6237 **10-1-308. Report of tax collections -- Allocation when location of taxpayer cannot**
6238 **be accurately determined.**
6239 (1) All municipal energy sales and use taxes collected under this part shall be reported
6240 to the commission on forms that accurately identify the municipality where the taxpayer is
6241 located.
6242 (2) The commission shall make rules, in accordance with [~~Title 63, Chapter 46a~~] Title
6243 63G, Chapter 3, Utah Administrative Rulemaking Act, to proportionally distribute all taxes
6244 collected if the municipality where the taxpayer is located cannot be accurately determined.
6245 Section 96. Section **10-1-405** is amended to read:
6246 **10-1-405. Collection of taxes by commission -- Uniform interlocal agreement --**
6247 **Rulemaking authority -- Charge for services.**
6248 (1) Subject to the other provisions of this section, the commission shall collect,
6249 enforce, and administer any municipal telecommunications license tax imposed under this part
6250 pursuant to:
6251 (a) the same procedures used in the administration, collection, and enforcement of the
6252 state sales and use tax under:
6253 (i) Title 59, Chapter 1, General Taxation Policies; and
6254 (ii) Title 59, Chapter 12, Part 1, Tax Collection:
6255 (A) except for:
6256 (I) Subsection 59-12-103(2)(h);
6257 (II) Section 59-12-104;
6258 (III) Section 59-12-104.1;

6259 (IV) Section 59-12-104.2; and
6260 (V) Section 59-12-107.1; and
6261 (B) except that for purposes of Section 59-12-110, the term "taxpayer" may include a
6262 customer from whom a municipal telecommunications license tax is recovered in accordance
6263 with Subsection 10-1-403(2); and
6264 (b) a uniform interlocal agreement:
6265 (i) between:
6266 (A) the municipality that imposes the municipal telecommunications license tax; and
6267 (B) the commission;
6268 (ii) that is executed under Title 11, Chapter 13, Interlocal Cooperation Act;
6269 (iii) that complies with Subsection (2)(a); and
6270 (iv) that is developed by rule in accordance with Subsection (2)(b).
6271 (2) (a) The uniform interlocal agreement described in Subsection (1) shall provide that
6272 the commission shall:
6273 (i) transmit monies collected under this part:
6274 (A) monthly; and
6275 (B) by electronic funds transfer by the commission to the municipality;
6276 (ii) conduct audits of the municipal telecommunications license tax;
6277 (iii) charge the municipality for the commission's services under this section in an
6278 amount:
6279 (A) sufficient to reimburse the commission for the cost to the commission in rendering
6280 the services; and
6281 (B) that may not exceed an amount equal to 1.5% of the municipal telecommunications
6282 license tax imposed by the ordinance of the municipality; and
6283 (iv) collect, enforce, and administer the municipal telecommunications license tax
6284 authorized under this part pursuant to the same procedures used in the administration,
6285 collection, and enforcement of the state sales and use tax as provided in Subsection (1)(a).
6286 (b) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
6287 Administrative Rulemaking Act, the commission shall develop a uniform interlocal agreement
6288 that meets the requirements of this section.
6289 (3) The administrative fee charged under Subsection (2)(a) shall be:

6290 (a) deposited in the Sales and Use Tax Administrative Fees Account; and
6291 (b) used for administration of municipal telecommunications license taxes under this
6292 part.
6293 (4) If, on July 1, 2007, a municipality has in effect an ordinance that levies a municipal
6294 telecommunications license tax under this part at a rate that exceeds 3.5%:
6295 (a) except as provided in Subsection (4)(b), beginning on July 1, 2007, the commission
6296 shall collect the municipal telecommunications license tax:
6297 (i) within the municipality;
6298 (ii) at a rate of 3.5%; and
6299 (iii) from a telecommunications provider required to pay the municipal
6300 telecommunications license tax on or after July 1, 2007; and
6301 (b) the commission shall collect a municipal telecommunications license tax within the
6302 municipality at the rate imposed by the municipality if:
6303 (i) after July 1, 2007, the municipality has in effect an ordinance that levies a municipal
6304 telecommunications license tax under this part at a rate of up to 3.5%;
6305 (ii) the municipality meets the requirements of Subsection 10-1-403(3)(b) in changing
6306 the rate of the municipal telecommunications license tax; and
6307 (iii) a telecommunications provider is required to pay the municipal
6308 telecommunications license tax on or after the day on which the ordinance described in
6309 Subsection (4)(b)(ii) takes effect.
6310 Section 97. Section **10-3-208** is amended to read:
6311 **10-3-208. Campaign finance statement in municipal election.**
6312 (1) As used in this section:
6313 (a) "Reporting date" means:
6314 (i) ten days before a municipal general election, for a campaign finance statement
6315 required to be filed no later than seven days before a municipal general election; and
6316 (ii) the day of filing, for a campaign finance statement required to be filed no later than
6317 30 days after a municipal primary or general election.
6318 (b) "Reporting limit" means:
6319 (i) $50; or
6320 (ii) an amount lower than $50 that is specified in an ordinance of the municipality.

6321 (2) (a) (i) Each candidate for municipal office who is not eliminated at a municipal
6322 primary election shall file with the municipal clerk or recorder a campaign finance statement:
6323 (A) no later than seven days before the date of the municipal general election; and
6324 (B) no later than 30 days after the date of the municipal general election.
6325 (ii) Each candidate for municipal office who is eliminated at a municipal primary
6326 election shall file with the municipal clerk or recorder a campaign finance statement no later
6327 than 30 days after the date of the municipal primary election.
6328 (b) Each campaign finance statement under Subsection (2)(a) shall:
6329 (i) except as provided in Subsection (2)(b)(ii):
6330 (A) report all of the candidate's itemized and total:
6331 (I) campaign contributions, including in-kind and other nonmonetary contributions,
6332 received before the close of the reporting date; and
6333 (II) campaign expenditures made through the close of the reporting date; and
6334 (B) identify:
6335 (I) for each contribution that exceeds the reporting limit, the amount of the contribution
6336 and the name of the donor;
6337 (II) the aggregate total of all contributions that individually do not exceed the reporting
6338 limit; and
6339 (III) for each campaign expenditure, the amount of the expenditure and the name of the
6340 recipient of the expenditure; or
6341 (ii) report the total amount of all campaign contributions and expenditures if the
6342 candidate receives $500 or less in campaign contributions and spends $500 or less on the
6343 candidate's campaign.
6344 (3) (a) A municipality may, by ordinance:
6345 (i) provide a reporting limit lower than $50;
6346 (ii) require greater disclosure of campaign contributions and expenditures than is
6347 required in this section; and
6348 (iii) impose additional penalties on candidates who fail to comply with the applicable
6349 requirements beyond those imposed by this section.
6350 (b) A candidate for municipal office is subject to the provisions of this section and not
6351 the provisions of an ordinance adopted by the municipality under Subsection (3)(a) if:

6352 (i) the municipal ordinance establishes requirements or penalties that differ from those
6353 established in this section; and
6354 (ii) the municipal clerk or recorder fails to notify the candidate of the provisions of the
6355 ordinance as required in Subsection (4).
6356 (4) Each municipal clerk or recorder shall, at the time the candidate for municipal
6357 office files a declaration of candidacy, and again 14 days before each municipal general
6358 election, notify the candidate in writing of:
6359 (a) the provisions of statute or municipal ordinance governing the disclosure of
6360 campaign contributions and expenditures;
6361 (b) the dates when the candidate's campaign finance statement is required to be filed;
6362 and
6363 (c) the penalties that apply for failure to file a timely campaign finance statement,
6364 including the statutory provision that requires removal of the candidate's name from the ballot
6365 for failure to file the required campaign finance statement when required.
6366 (5) Notwithstanding any provision of [~~Title 63, Chapter 2~~] Title 63G, Chapter 2,
6367 Government Records Access and Management Act, the municipal clerk or recorder shall make
6368 each campaign finance statement filed by a candidate available for public inspection and
6369 copying no later than one business day after the statement is filed.
6370 (6) (a) If a candidate fails to file a campaign finance statement before the municipal
6371 general election by the deadline specified in Subsection (2)(a)(i)(A), the municipal clerk or
6372 recorder shall inform the appropriate election official who:
6373 (i) shall:
6374 (A) if practicable, remove the candidate's name from the ballot by blacking out the
6375 candidate's name before the ballots are delivered to voters; or
6376 (B) if removing the candidate's name from the ballot is not practicable, inform the
6377 voters by any practicable method that the candidate has been disqualified and that votes cast for
6378 the candidate will not be counted; and
6379 (ii) may not count any votes for that candidate.
6380 (b) Notwithstanding Subsection (6)(a), a candidate who files a campaign finance
6381 statement seven days before a municipal general election is not disqualified if:
6382 (i) the statement details accurately and completely the information required under

6383 Subsection (2)(b), except for inadvertent omissions or insignificant errors or inaccuracies; and
6384 (ii) the omissions, errors, or inaccuracies are corrected in an amended report or in the
6385 next scheduled report.
6386 (7) A campaign finance statement required under this section is considered filed if it is
6387 received in the municipal clerk or recorder's office by 5 p.m. on the date that is it due.
6388 (8) (a) A private party in interest may bring a civil action in district court to enforce the
6389 provisions of this section or an ordinance adopted under this section.
6390 (b) In a civil action under Subsection (8)(a), the court may award costs and attorney's
6391 fees to the prevailing party.
6392 Section 98. Section **10-3-1303** is amended to read:
6393 **10-3-1303. Definitions.**
6394 As used in this part:
6395 (1) "Appointed officer" means any person appointed to any statutory office or position
6396 or any other person appointed to any position of employment with a city or with a community
6397 development and renewal agency under Title 17C, Limited Purpose Local Government Entities
6398 - Community Development and Renewal Agencies. Appointed officers include, but are not
6399 limited to, persons serving on special, regular, or full-time committees, agencies, or boards
6400 whether or not such persons are compensated for their services. The use of the word "officer"
6401 in this part is not intended to make appointed persons or employees "officers" of the
6402 municipality.
6403 (2) "Assist" means to act, or offer or agree to act, in such a way as to help, represent,
6404 aid, advise, furnish information to, or otherwise provide assistance to a person or business
6405 entity, believing that such action is of help, aid, advice, or assistance to such person or business
6406 entity and with the intent to assist such person or business entity.
6407 (3) "Business entity" means a sole proprietorship, partnership, association, joint
6408 venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on
6409 a business.
6410 (4) "Compensation" means anything of economic value, however designated, which is
6411 paid, loaned, granted, given, donated, or transferred to any person or business entity by anyone
6412 other than the governmental employer for or in consideration of personal services, materials,
6413 property, or any other thing whatsoever.

6414 (5) "Elected officer" means any person elected or appointed to the office of mayor,
6415 commissioner, or council member.
6416 (6) "Improper disclosure" means disclosure of private, controlled, or protected
6417 information to any person who does not have both the right and the need to receive the
6418 information.
6419 (7) "Municipal employee" means a person who is not an elected or appointed officer
6420 who is employed on a full or part-time basis by a municipality or by a community development
6421 and renewal agency under Title 17C, Limited Purpose Local Government Entities - Community
6422 Development and Renewal Agencies.
6423 (8) "Private, controlled, or protected information" means information classified as
6424 private, controlled, or protected under [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government
6425 Records Access and Management Act or other applicable provision of law.
6426 (9) "Substantial interest" means the ownership, either legally or equitably, by an
6427 individual, [~~his~~] the individual's spouse, or [~~his~~] the individual's minor children, of at least 10%
6428 of the outstanding shares of a corporation or 10% interest in any other business entity.
6429 Section 99. Section **10-3-1304** is amended to read:
6430 **10-3-1304. Use of office for personal benefit prohibited.**
6431 (1) As used in this section, "economic benefit tantamount to a gift" includes:
6432 (a) a loan at an interest rate that is substantially lower than the commercial rate then
6433 currently prevalent for similar loans; and
6434 (b) compensation received for private services rendered at a rate substantially
6435 exceeding the fair market value of the services.
6436 (2) It is an offense for an elected or appointed officer or municipal employee, under
6437 circumstances not amounting to a violation of Section [~~63-56-1001~~] 63G-6-1001 or 76-8-105,
6438 to:
6439 (a) disclose or improperly use private, controlled, or protected information acquired by
6440 reason of [~~his~~] the officer's or employee's official position or in the course of official duties in
6441 order to further substantially the officer's or employee's personal economic interest or to secure
6442 special privileges or exemptions for [~~himself~~] the officer or employee or for others;
6443 (b) use or attempt to use [~~his~~] the officer's or employee's official position to:
6444 (i) further substantially the officer's or employee's personal economic interest; or

6445 (ii) secure special privileges for [~~himself~~] the officer or employee or for others; or
6446 (c) knowingly receive, accept, take, seek, or solicit, directly or indirectly, for [~~himself~~]
6447 the officer or employee or for another, a gift of substantial value or a substantial economic
6448 benefit tantamount to a gift that:
6449 (i) would tend improperly to influence a reasonable person in the person's position to
6450 depart from the faithful and impartial discharge of the person's public duties; or
6451 (ii) the person knows or that a reasonable person in that position should know under
6452 the circumstances is primarily for the purpose of rewarding the person for official action taken.
6453 (3) Subsection (2)(c) does not apply to:
6454 (a) an occasional nonpecuniary gift having a value of less than $50;
6455 (b) an award publicly presented in recognition of public services;
6456 (c) any bona fide loan made in the ordinary course of business; or
6457 (d) a political campaign contribution.
6458 Section 100. Section **10-3-1305** is amended to read:
6459 **10-3-1305. Compensation for assistance in transaction involving municipality --**
6460 **Public disclosure and filing required.**
6461 (1) As used in this section, "municipal body" means any public board, commission,
6462 committee, or other public group organized to make public policy decisions or to advise
6463 persons who make public policy decisions.
6464 (2) It is an offense for an elected officer, or appointed officer, who is a member of a
6465 public body, under circumstances not amounting to a violation of Section [~~63-56-1001~~]
6466 63G-6-1001 or 76-8-105, to receive or agree to receive compensation for assisting any person
6467 or business entity in any transaction involving the municipality in which [~~he~~] the member is an
6468 officer unless [~~he~~] the member:
6469 (a) files with the mayor a sworn statement giving the information required by this
6470 section; and
6471 (b) discloses the information required by Subsection (5) in an open meeting to the
6472 members of the body of which [~~he~~] the officer is a member immediately before the discussion.
6473 (3) It is an offense for an appointed officer who is not a member of a public body or a
6474 municipal employee to receive or agree to receive compensation for assisting any person or
6475 business entity in any transaction involving the municipality by which [~~he~~] the person is

6476 employed unless the officer or employee:
6477 (a) files with the mayor a sworn statement giving the information required by this
6478 section; and
6479 (b) discloses the information required by Subsection (5) to:
6480 (i) [~~his~~] the officer or employee's immediate supervisor; and
6481 (ii) any other municipal officer or employee who may rely upon the employee's
6482 representations in evaluating or approving the transaction.
6483 (4) (a) The officer or employee shall file the statement required to be filed by this
6484 section ten days before the date of any agreement between the elected or appointed officer or
6485 municipal employee and the person or business entity being assisted or ten days before the
6486 receipt of compensation by the officer or employee, whichever is earlier.
6487 (b) The statement is public information and shall be available for examination by the
6488 public.
6489 (5) The statement and disclosure shall contain:
6490 (a) the name and address of the officer or municipal employee;
6491 (b) the name and address of the person or business entity being or to be assisted or in
6492 which the appointed or elected official or municipal employee has a substantial interest; and
6493 (c) a brief description of the transaction as to which service is rendered or is to be
6494 rendered and of the nature of the service performed or to be performed.
6495 Section 101. Section **10-7-86** is amended to read:
6496 **10-7-86. Municipality may adopt Utah Procurement Code -- Hiring of**
6497 **professional architect, engineer, or surveyor.**
6498 (1) The governing body of any municipality may adopt any or all of the provisions of
6499 [~~Title 63, Chapter 56~~] Title 63G, Chapter 6, Utah Procurement Code, or the rules promulgated
6500 pursuant to that code.
6501 (2) Notwithstanding Subsection (1), the governing body of each municipality that
6502 engages the services of a professional architect, engineer, or surveyor and considers more than
6503 one such professional for the engagement:
6504 (a) shall consider, as a minimum, in the selection process:
6505 (i) the qualifications, experience, and background of each firm submitting a proposal;
6506 (ii) the specific individuals assigned to the project and the time commitments of each

6507 to the project; and
6508 (iii) the project schedule and the approach to the project that the firm will take; and
6509 (b) may engage the services of a professional architect, engineer, or surveyor based on
6510 the criteria under Subsection (2)(a) rather than solely on lowest cost.
6511 Section 102. Section **10-7-87** is amended to read:
6512 **10-7-87. Procurement -- Use of recycled goods.**
6513 The procurement officer or other person responsible for purchasing supplies for each
6514 municipality shall:
6515 (1) maintain for reference a copy of the current listing of recycled items available on
6516 state contracts as issued by the chief procurement officer under Section [~~63-56-204~~]
6517 63G-6-204; and
6518 (2) give recycled items consideration when inviting bids and purchasing supplies, in
6519 compliance with Section 11-37-101.
6520 Section 103. Section **10-8-2** is amended to read:
6521 **10-8-2. Appropriations -- Acquisition and disposal of property -- Municipal**
6522 **authority -- Corporate purpose -- Procedure -- Notice of intent to acquire real property.**
6523 (1) (a) A municipal legislative body may:
6524 (i) appropriate money for corporate purposes only;
6525 (ii) provide for payment of debts and expenses of the corporation;
6526 (iii) subject to Subsections (4) and (5), purchase, receive, hold, sell, lease, convey, and
6527 dispose of real and personal property for the benefit of the municipality, whether the property is
6528 within or without the municipality's corporate boundaries, if the action is in the public interest
6529 and complies with other law;
6530 (iv) improve, protect, and do any other thing in relation to this property that an
6531 individual could do; and
6532 (v) subject to Subsection (2) and after first holding a public hearing, authorize
6533 municipal services or other nonmonetary assistance to be provided to or waive fees required to
6534 be paid by a nonprofit entity, whether or not the municipality receives consideration in return.
6535 (b) A municipality may:
6536 (i) furnish all necessary local public services within the municipality;
6537 (ii) purchase, hire, construct, own, maintain and operate, or lease public utilities

6538 located and operating within and operated by the municipality; and
6539 (iii) subject to Subsection (1)(c), acquire by eminent domain, or otherwise, property
6540 located inside or outside the corporate limits of the municipality and necessary for any of the
6541 purposes stated in Subsections (1)(b)(i) and (ii), subject to restrictions imposed by Title 78,
6542 Chapter 34, Eminent Domain, and general law for the protection of other communities.
6543 (c) Each municipality that intends to acquire property by eminent domain under
6544 Subsection (1)(b) shall, upon the first contact with the owner of the property sought to be
6545 acquired, deliver to the owner a copy of a booklet or other materials provided by the Office of
6546 the Property Rights Ombudsman, created under Section 13-43-201, dealing with the property
6547 owner's rights in an eminent domain proceeding.
6548 (d) Subsection (1)(b) may not be construed to diminish any other authority a
6549 municipality may claim to have under the law to acquire by eminent domain property located
6550 inside or outside the municipality.
6551 (2) (a) Services or assistance provided pursuant to Subsection (1)(a)(v) is not subject to
6552 the provisions of Subsection (3).
6553 (b) The total amount of services or other nonmonetary assistance provided or fees
6554 waived under Subsection (1)(a)(v) in any given fiscal year may not exceed 1% of the
6555 municipality's budget for that fiscal year.
6556 (3) It is considered a corporate purpose to appropriate money for any purpose that, in
6557 the judgment of the municipal legislative body, provides for the safety, health, prosperity,
6558 moral well-being, peace, order, comfort, or convenience of the inhabitants of the municipality
6559 subject to the following:
6560 (a) The net value received for any money appropriated shall be measured on a
6561 project-by-project basis over the life of the project.
6562 (b) The criteria for a determination under this Subsection (3) shall be established by the
6563 municipality's legislative body. A determination of value received, made by the municipality's
6564 legislative body, shall be presumed valid unless it can be shown that the determination was
6565 arbitrary, capricious, or illegal.
6566 (c) The municipality may consider intangible benefits received by the municipality in
6567 determining net value received.
6568 (d) Prior to the municipal legislative body making any decision to appropriate any

6569 funds for a corporate purpose under this section, a public hearing shall be held. Notice of the
6570 hearing shall be published in a newspaper of general circulation at least 14 days prior to the
6571 date of the hearing, or, if there is no newspaper of general circulation, by posting notice in at
6572 least three conspicuous places within the municipality for the same time period.
6573 (e) A study shall be performed before notice of the public hearing is given and shall be
6574 made available at the municipality for review by interested parties at least 14 days immediately
6575 prior to the public hearing, setting forth an analysis and demonstrating the purpose for the
6576 appropriation. In making the study, the following factors shall be considered:
6577 (i) what identified benefit the municipality will receive in return for any money or
6578 resources appropriated;
6579 (ii) the municipality's purpose for the appropriation, including an analysis of the way
6580 the appropriation will be used to enhance the safety, health, prosperity, moral well-being,
6581 peace, order, comfort, or convenience of the inhabitants of the municipality; and
6582 (iii) whether the appropriation is necessary and appropriate to accomplish the
6583 reasonable goals and objectives of the municipality in the area of economic development, job
6584 creation, affordable housing, blight elimination, job preservation, the preservation of historic
6585 structures and property, and any other public purpose.
6586 (f) (i) An appeal may be taken from a final decision of the municipal legislative body,
6587 to make an appropriation.
6588 (ii) The appeal shall be filed within 30 days after the date of that decision, to the
6589 district court.
6590 (iii) Any appeal shall be based on the record of the proceedings before the legislative
6591 body.
6592 (iv) A decision of the municipal legislative body shall be presumed to be valid unless
6593 the appealing party shows that the decision was arbitrary, capricious, or illegal.
6594 (g) The provisions of this Subsection (3) apply only to those appropriations made after
6595 May 6, 2002.
6596 (h) This section applies only to appropriations not otherwise approved pursuant to Title
6597 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, or Title 10, Chapter 6, Uniform
6598 Fiscal Procedures Act for Utah Cities.
6599 (4) (a) Before a municipality may dispose of a significant parcel of real property, the

6600 municipality shall:
6601 (i) provide reasonable notice of the proposed disposition at least 14 days before the
6602 opportunity for public comment under Subsection (4)(a)(ii); and
6603 (ii) allow an opportunity for public comment on the proposed disposition.
6604 (b) Each municipality shall, by ordinance, define what constitutes:
6605 (i) a significant parcel of real property for purposes of Subsection (4)(a); and
6606 (ii) reasonable notice for purposes of Subsection (4)(a)(i).
6607 (5) (a) Except as provided in Subsection (5)(d), each municipality intending to acquire
6608 real property for the purpose of expanding the municipality's infrastructure or other facilities
6609 used for providing services that the municipality offers or intends to offer shall provide written
6610 notice, as provided in this Subsection (5), of its intent to acquire the property if:
6611 (i) the property is located:
6612 (A) outside the boundaries of the municipality; and
6613 (B) in a county of the first or second class; and
6614 (ii) the intended use of the property is contrary to:
6615 (A) the anticipated use of the property under the general plan of the county in whose
6616 unincorporated area or the municipality in whose boundaries the property is located; or
6617 (B) the property's current zoning designation.
6618 (b) Each notice under Subsection (5)(a) shall:
6619 (i) indicate that the municipality intends to acquire real property;
6620 (ii) identify the real property; and
6621 (iii) be sent to:
6622 (A) each county in whose unincorporated area and each municipality in whose
6623 boundaries the property is located; and
6624 (B) each affected entity.
6625 (c) A notice under this Subsection (5) is a protected record as provided in Subsection
6626 [~~63-2-304~~] 63G-2-305(7).
6627 (d) (i) The notice requirement of Subsection (5)(a) does not apply if the municipality
6628 previously provided notice under Section 10-9a-203 identifying the general location within the
6629 municipality or unincorporated part of the county where the property to be acquired is located.
6630 (ii) If a municipality is not required to comply with the notice requirement of

6631 Subsection (5)(a) because of application of Subsection (5)(d)(i), the municipality shall provide
6632 the notice specified in Subsection (5)(a) as soon as practicable after its acquisition of the real
6633 property.
6634 Section 104. Section **10-8-58.5** is amended to read:
6635 **10-8-58.5. Contracting for management, maintenance, operation, or construction**
6636 **of jails.**
6637 (1) (a) The governing body of a city or town may contract with private contractors for
6638 management, maintenance, operation, and construction of city jails.
6639 (b) The governing body may include a provision in the contract that requires that any
6640 jail facility meet any federal, state, or local standards for the construction of jails.
6641 (2) If the governing body contracts only for the management, maintenance, or
6642 operation of a jail, the governing body shall include provisions in the contract that:
6643 (a) require the private contractor to post a performance bond in the amount set by the
6644 governing body;
6645 (b) establish training standards that must be met by jail personnel;
6646 (c) require the private contractor to provide and fund training for jail personnel so that
6647 the personnel meet the standards established in the contract and any other federal, state, or local
6648 standards for the operation of jails and the treatment of jail prisoners;
6649 (d) require the private contractor to indemnify the city or town for errors, omissions,
6650 defalcations, and other activities committed by the private contractor that result in liability to
6651 the city or town;
6652 (e) require the private contractor to show evidence of liability insurance protecting the
6653 city or town and its officers, employees, and agents from liability arising from the construction,
6654 operation, or maintenance of the jail, in an amount not less than those specified in [~~Title 63,~~
6655 ~~Chapter 30d~~] Title 63G, Chapter 7, Governmental Immunity Act of Utah;
6656 (f) require the private contractor to:
6657 (i) receive all prisoners committed to the jail by competent authority; and
6658 (ii) provide them with necessary food, clothing, and bedding in the manner prescribed
6659 by the governing body; and
6660 (g) prohibit the use of inmates by the private contractor for private business purposes
6661 of any kind.

6662 (3) A contractual provision requiring the private contractor to maintain liability
6663 insurance in an amount not less than the liability limits established by [~~Title 63, Chapter 30d~~]
6664 Title 63G, Chapter 7, Governmental Immunity Act of Utah, may not be construed as waiving
6665 the limitation on damages recoverable from a governmental entity or its employees established
6666 by that chapter.
6667 Section 105. Section **10-9a-203** is amended to read:
6668 **10-9a-203. Notice of intent to prepare a general plan or comprehensive general**
6669 **plan amendments in certain municipalities.**
6670 (1) Before preparing a proposed general plan or a comprehensive general plan
6671 amendment, each municipality within a county of the first or second class shall provide ten
6672 calendar days notice of its intent to prepare a proposed general plan or a comprehensive general
6673 plan amendment to:
6674 (a) each affected entity;
6675 (b) the Automated Geographic Reference Center created in Section 63F-1-506;
6676 (c) the association of governments, established pursuant to an interlocal agreement
6677 under Title 11, Chapter 13, Interlocal Cooperation Act, of which the municipality is a member;
6678 and
6679 (d) the state planning coordinator appointed under Section [~~63-38d-202~~] 63J-4-202.
6680 (2) Each notice under Subsection (1) shall:
6681 (a) indicate that the municipality intends to prepare a general plan or a comprehensive
6682 general plan amendment, as the case may be;
6683 (b) describe or provide a map of the geographic area that will be affected by the general
6684 plan or amendment;
6685 (c) be sent by mail, e-mail, or other effective means;
6686 (d) invite the affected entities to provide information for the municipality to consider in
6687 the process of preparing, adopting, and implementing a general plan or amendment concerning:
6688 (i) impacts that the use of land proposed in the proposed general plan or amendment
6689 may have; and
6690 (ii) uses of land within the municipality that the affected entity is considering that may
6691 conflict with the proposed general plan or amendment; and
6692 (e) include the address of an Internet website, if the municipality has one, and the name

6693 and telephone number of a person where more information can be obtained concerning the
6694 municipality's proposed general plan or amendment.
6695 Section 106. Section **10-9a-402** is amended to read:
6696 **10-9a-402. Information and technical assistance from the state.**
6697 Each state official, department, and agency shall:
6698 (1) promptly deliver any data and information requested by a municipality unless the
6699 disclosure is prohibited by [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records
6700 Access and Management Act; and
6701 (2) furnish any other technical assistance and advice that they have available to the
6702 municipality without additional cost to the municipality.
6703 Section 107. Section **10-18-302** is amended to read:
6704 **10-18-302. Bonding authority.**
6705 (1) In accordance with Title 11, Chapter 14, Local Government Bonding Act, the
6706 legislative body of a municipality may by resolution determine to issue one or more revenue
6707 bonds or general obligation bonds to finance the capital costs for facilities necessary to provide
6708 to subscribers:
6709 (a) a cable television service; or
6710 (b) a public telecommunications service.
6711 (2) The resolution described in Subsection (1) shall:
6712 (a) describe the purpose for which the indebtedness is to be created; and
6713 (b) specify the dollar amount of the one or more bonds proposed to be issued.
6714 (3) (a) A revenue bond issued under this section shall be secured and paid for:
6715 (i) from the revenues generated by the municipality from providing:
6716 (A) cable television services with respect to revenue bonds issued to finance facilities
6717 for the municipality's cable television services; and
6718 (B) public telecommunications services with respect to revenue bonds issued to finance
6719 facilities for the municipality's public telecommunications services; and
6720 (ii) notwithstanding Subsection (3)(b) and Subsection 10-18-303(3)(a), from revenues
6721 generated under Title 59, Chapter 12, Sales and Use Tax Act, if:
6722 (A) notwithstanding Subsection 11-14-201(3) and except as provided in Subsections
6723 (4) and (5), the revenue bond is approved by the registered voters in an election held:

6724 (I) except as provided in Subsection (3)(a)(ii)(A)(II), pursuant to the provisions of Title
6725 11, Chapter 14, Local Government Bonding Act, that govern bond elections; and
6726 (II) notwithstanding Subsection 11-14-203(2), at a regular general election;
6727 (B) the revenues described in this Subsection (3)(a)(ii) are pledged as security for the
6728 revenue bond; and
6729 (C) the municipality or municipalities annually appropriate the revenues described in
6730 this Subsection (3)(a)(ii) to secure and pay the revenue bond issued under this section.
6731 (b) Except as provided in Subsection (3)(a)(ii), a municipality may not pay the
6732 origination, financing, or other carrying costs associated with the one or more revenue bonds
6733 issued under this section from the general funds or other enterprise funds of the municipality.
6734 (4) (a) As used in this Subsection (4), "municipal entity" means an entity created
6735 pursuant to an agreement:
6736 (i) under Title 11, Chapter 13, Interlocal Cooperation Act; and
6737 (ii) to which a municipality is a party.
6738 (b) The requirements of Subsection (3)(a)(ii)(A) do not apply to a municipality or
6739 municipal entity that issues revenue bonds, or to a municipality that is a member of a municipal
6740 entity that issues revenue bonds, if:
6741 (i) on or before March 2, 2004, the municipality that is issuing revenue bonds or that is
6742 a member of a municipal entity that is issuing revenue bonds has published the first notice
6743 described in Subsection (4)(b)(iii);
6744 (ii) on or before April 15, 2004, the municipality that is issuing revenue bonds or that
6745 is a member of a municipal entity that is issuing revenue bonds makes the decision to pledge
6746 the revenues described in Subsection (3)(a)(ii) as security for the revenue bonds described in
6747 this Subsection (4)(b)(ii);
6748 (iii) the municipality that is issuing the revenue bonds or the municipality that is a
6749 member of the municipal entity that is issuing the revenue bonds has:
6750 (A) held a public hearing for which public notice was given by publication of the
6751 notice in a newspaper published in the municipality or in a newspaper of general circulation
6752 within the municipality for two consecutive weeks, with the first publication being not less
6753 than 14 days before the public hearing; and
6754 (B) the notice identifies:

6755 (I) that the notice is given pursuant to Title 11, Chapter 14, Local Government Bonding
6756 Act;
6757 (II) the purpose for the bonds to be issued;
6758 (III) the maximum amount of the revenues described in Subsection (3)(a)(ii) that will
6759 be pledged in any fiscal year;
6760 (IV) the maximum number of years that the pledge will be in effect; and
6761 (V) the time, place, and location for the public hearing;
6762 (iv) the municipal entity that issues revenue bonds:
6763 (A) adopts a final financing plan; and
6764 (B) in accordance with [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government
6765 Records Access and Management Act, makes available to the public at the time the municipal
6766 entity adopts the final financing plan:
6767 (I) the final financing plan; and
6768 (II) all contracts entered into by the municipal entity, except as protected by [~~Title 63,~~
6769 ~~Chapter 2~~] Title 63G, Chapter 2, Government Records Access and Management Act;
6770 (v) any municipality that is a member of a municipal entity described in Subsection
6771 (4)(b)(iv):
6772 (A) not less than 30 calendar days after the municipal entity complies with Subsection
6773 (4)(b)(iv)(B), holds a final public hearing;
6774 (B) provides notice, at the time the municipality schedules the final public hearing, to
6775 any person who has provided to the municipality a written request for notice; and
6776 (C) makes all reasonable efforts to provide fair opportunity for oral testimony by all
6777 interested parties; and
6778 (vi) except with respect to a municipality that issued bonds prior to March 1, 2004, not
6779 more than 50% of the average annual debt service of all revenue bonds described in this section
6780 to provide service throughout the municipality or municipal entity may be paid from the
6781 revenues described in Subsection (3)(a)(ii).
6782 (5) On or after July 1, 2007, the requirements of Subsection (3)(a)(ii)(A) do not apply
6783 to a municipality that issues revenue bonds if:
6784 (a) the municipality that is issuing the revenue bonds has:
6785 (i) held a public hearing for which public notice was given by publication of the notice

6786 in a newspaper published in the municipality or in a newspaper of general circulation within
6787 the municipality for two consecutive weeks, with the first publication being not less than 14
6788 days before the public hearing; and
6789 (ii) the notice identifies:
6790 (A) that the notice is given pursuant to Title 11, Chapter 14, Local Government
6791 Bonding Act;
6792 (B) the purpose for the bonds to be issued;
6793 (C) the maximum amount of the revenues described in Subsection (3)(a)(ii) that will be
6794 pledged in any fiscal year;
6795 (D) the maximum number of years that the pledge will be in effect; and
6796 (E) the time, place, and location for the public hearing; and
6797 (b) except with respect to a municipality that issued bonds prior to March 1, 2004, not
6798 more than 50% of the average annual debt service of all revenue bonds described in this section
6799 to provide service throughout the municipality or municipal entity may be paid from the
6800 revenues described in Subsection (3)(a)(ii).
6801 (6) A municipality that issues bonds pursuant to this section may not make or grant any
6802 undue or unreasonable preference or advantage to itself or to any private provider of:
6803 (a) cable television services; or
6804 (b) public telecommunications services.
6805 Section 108. Section **11-13-222** is amended to read:
6806 **11-13-222. Officers and employees performing services under agreements.**
6807 (1) Each officer and employee performing services for two or more public agencies
6808 under an agreement under this chapter shall be considered to be:
6809 (a) an officer or employee of the public agency employing the officer or employee's
6810 services even though the officer or employee performs those functions outside of the territorial
6811 limits of any one of the contracting public agencies; and
6812 (b) an officer or employee of the public agencies under the provisions of [~~Title 63,~~
6813 ~~Chapter 30d~~] Title 63G, Chapter 7, Governmental Immunity Act of Utah.
6814 (2) Unless otherwise provided in an agreement that creates an interlocal entity, each
6815 employee of a public agency that is a party to the agreement shall:
6816 (a) remain an employee of that public agency, even though assigned to perform

6817 services for another public agency under the agreement; and
6818 (b) continue to be governed by the rules, rights, entitlements, and status that apply to an
6819 employee of that public agency.
6820 (3) All of the privileges, immunities from liability, exemptions from laws, ordinances,
6821 and rules, pensions and relief, disability, workers compensation, and other benefits that apply
6822 to an officer, agent, or employee of a public agency while performing functions within the
6823 territorial limits of the public agency apply to the same degree and extent when the officer,
6824 agent, or employee performs functions or duties under the agreement outside the territorial
6825 limits of that public agency.
6826 Section 109. Section **11-13-302** is amended to read:
6827 **11-13-302. Payment of fee in lieu of ad valorem property tax by certain energy**
6828 **suppliers -- Method of calculating -- Collection -- Extent of tax lien.**
6829 (1) (a) Each project entity created under this chapter that owns a project and that sells
6830 any capacity, service, or other benefit from it to an energy supplier or suppliers whose tangible
6831 property is not exempted by Utah Constitution Article XIII, Section 3, from the payment of ad
6832 valorem property tax, shall pay an annual fee in lieu of ad valorem property tax as provided in
6833 this section to each taxing jurisdiction within which the project or any part of it is located.
6834 (b) For purposes of this section, "annual fee" means the annual fee described in
6835 Subsection (1)(a) that is in lieu of ad valorem property tax.
6836 (c) The requirement to pay an annual fee shall commence:
6837 (i) with respect to each taxing jurisdiction that is a candidate receiving the benefit of
6838 impact alleviation payments under contracts or determination orders provided for in Sections
6839 11-13-305 and 11-13-306, with the fiscal year of the candidate following the fiscal year of the
6840 candidate in which the date of commercial operation of the last generating unit, other than any
6841 generating unit providing additional project capacity, of the project occurs, or, in the case of
6842 any facilities providing additional project capacity, with the fiscal year of the candidate
6843 following the fiscal year of the candidate in which the date of commercial operation of the
6844 generating unit providing the additional project capacity occurs; and
6845 (ii) with respect to any taxing jurisdiction other than a taxing jurisdiction described in
6846 Subsection (1)(c)(i), with the fiscal year of the taxing jurisdiction in which construction of the
6847 project commences, or, in the case of facilities providing additional project capacity, with the

6848 fiscal year of the taxing jurisdiction in which construction of those facilities commences.
6849 (d) The requirement to pay an annual fee shall continue for the period of the useful life
6850 of the project or facilities.
6851 (2) (a) The annual fees due a school district shall be as provided in Subsection (2)(b)
6852 because the ad valorem property tax imposed by a school district and authorized by the
6853 Legislature under Section 53A-17a-135 represents both:
6854 (i) a levy mandated by the state for the state minimum school program under Section
6855 53A-17a-135; and
6856 (ii) local levies for capital outlay, maintenance, transportation, and other purposes
6857 under Sections 11-2-7, 53A-16-107, 53A-16-110, 53A-17a-126, 53A-17a-127, 53A-17a-133,
6858 53A-17a-134, 53A-17a-143, 53A-17a-145, and 53A-21-103.
6859 (b) The annual fees due a school district shall be as follows:
6860 (i) the project entity shall pay to the school district an annual fee for the state minimum
6861 school program at the rate imposed by the school district and authorized by the Legislature
6862 under Subsection 53A-17a-135(1); and
6863 (ii) for all other local property tax levies authorized to be imposed by a school district,
6864 the project entity shall pay to the school district either:
6865 (A) an annual fee; or
6866 (B) impact alleviation payments under contracts or determination orders provided for
6867 in Sections 11-13-305 and 11-13-306.
6868 (3) (a) An annual fee due a taxing jurisdiction for a particular year shall be calculated
6869 by multiplying the tax rate or rates of the jurisdiction for that year by the product obtained by
6870 multiplying the fee base or value determined in accordance with Subsection (4) for that year of
6871 the portion of the project located within the jurisdiction by the percentage of the project which
6872 is used to produce the capacity, service, or other benefit sold to the energy supplier or suppliers.
6873 (b) As used in this section, "tax rate," when applied in respect to a school district,
6874 includes any assessment to be made by the school district under Subsection (2) or Section
6875 [~~63-51-6~~] 63M-5-302.
6876 (c) There is to be credited against the annual fee due a taxing jurisdiction for each year,
6877 an amount equal to the debt service, if any, payable in that year by the project entity on bonds,
6878 the proceeds of which were used to provide public facilities and services for impact alleviation

6879 in the taxing jurisdiction in accordance with Sections 11-13-305 and 11-13-306.
6880 (d) The tax rate for the taxing jurisdiction for that year shall be computed so as to:
6881 (i) take into account the fee base or value of the percentage of the project located
6882 within the taxing jurisdiction determined in accordance with Subsection (4) used to produce the
6883 capacity, service, or other benefit sold to the supplier or suppliers; and
6884 (ii) reflect any credit to be given in that year.
6885 (4) (a) Except as otherwise provided in this section, the annual fees required by this
6886 section shall be paid, collected, and distributed to the taxing jurisdiction as if:
6887 (i) the annual fees were ad valorem property taxes; and
6888 (ii) the project were assessed at the same rate and upon the same measure of value as
6889 taxable property in the state.
6890 (b) (i) Notwithstanding Subsection (4)(a), for purposes of an annual fee required by
6891 this section, the fee base of a project may be determined in accordance with an agreement
6892 among:
6893 (A) the project entity; and
6894 (B) any county that:
6895 (I) is due an annual fee from the project entity; and
6896 (II) agrees to have the fee base of the project determined in accordance with the
6897 agreement described in this Subsection (4).
6898 (ii) The agreement described in Subsection (4)(b)(i):
6899 (A) shall specify each year for which the fee base determined by the agreement shall be
6900 used for purposes of an annual fee; and
6901 (B) may not modify any provision of this chapter except the method by which the fee
6902 base of a project is determined for purposes of an annual fee.
6903 (iii) For purposes of an annual fee imposed by a taxing jurisdiction within a county
6904 described in Subsection (4)(b)(i)(B), the fee base determined by the agreement described in
6905 Subsection (4)(b)(i) shall be used for purposes of an annual fee imposed by that taxing
6906 jurisdiction.
6907 (iv) (A) If there is not agreement as to the fee base of a portion of a project for any
6908 year, for purposes of an annual fee, the State Tax Commission shall determine the value of that
6909 portion of the project for which there is not an agreement:

6910 (I) for that year; and
6911 (II) using the same measure of value as is used for taxable property in the state.
6912 (B) The valuation required by Subsection (4)(b)(iv)(A) shall be made by the State Tax
6913 Commission in accordance with rules made by the State Tax Commission.
6914 (c) Payments of the annual fees shall be made from:
6915 (i) the proceeds of bonds issued for the project; and
6916 (ii) revenues derived by the project entity from the project.
6917 (d) (i) The contracts of the project entity with the purchasers of the capacity, service, or
6918 other benefits of the project whose tangible property is not exempted by Utah Constitution
6919 Article XIII, Section 3, from the payment of ad valorem property tax shall require each
6920 purchaser, whether or not located in the state, to pay, to the extent not otherwise provided for,
6921 its share, determined in accordance with the terms of the contract, of these fees.
6922 (ii) It is the responsibility of the project entity to enforce the obligations of the
6923 purchasers.
6924 (5) (a) The responsibility of the project entity to make payment of the annual fees is
6925 limited to the extent that there is legally available to the project entity, from bond proceeds or
6926 revenues, monies to make these payments, and the obligation to make payments of the annual
6927 fees is not otherwise a general obligation or liability of the project entity.
6928 (b) No tax lien may attach upon any property or money of the project entity by virtue of
6929 any failure to pay all or any part of an annual fee.
6930 (c) The project entity or any purchaser may contest the validity of an annual fee to the
6931 same extent as if the payment was a payment of the ad valorem property tax itself.
6932 (d) The payments of an annual fee shall be reduced to the extent that any contest is
6933 successful.
6934 (6) (a) The annual fee described in Subsection (1):
6935 (i) shall be paid by a public agency that:
6936 (A) is not a project entity; and
6937 (B) owns an interest in a facility providing additional project capacity if the interest is
6938 otherwise exempt from taxation pursuant to Utah Constitution, Article XIII, Section 3; and
6939 (ii) for a public agency described in Subsection (6)(a)(i), shall be calculated in
6940 accordance with Subsection (6)(b).

6941 (b) The annual fee required under Subsection (6)(a) shall be an amount equal to the tax
6942 rate or rates of the applicable taxing jurisdiction multiplied by the product of the following:
6943 (i) the fee base or value of the facility providing additional project capacity located
6944 within the jurisdiction;
6945 (ii) the percentage of the ownership interest of the public agency in the facility; and
6946 (iii) the portion, expressed as a percentage, of the public agency's ownership interest
6947 that is attributable to the capacity, service, or other benefit from the facility that is sold by the
6948 public agency to an energy supplier or suppliers whose tangible property is not exempted by
6949 Utah Constitution, Article XIII, Section 3, from the payment of ad valorem property tax.
6950 (c) A public agency paying the annual fee pursuant to Subsection (6)(a) shall have the
6951 obligations, credits, rights, and protections set forth in Subsections (1) through (5) with respect
6952 to its ownership interest as though it were a project entity.
6953 Section 110. Section **11-13-303** is amended to read:
6954 **11-13-303. Source of project entity's payment of sales and use tax -- Gross**
6955 **receipts taxes for facilities providing additional project capacity.**
6956 (1) A project entity is not exempt from sales and use taxes under Title 59, Chapter 12,
6957 Sales and Use Tax Act, to the extent provided in Subsection 59-12-104(2).
6958 (2) A project entity may make payments or prepayments of sales and use taxes, as
6959 provided in [~~Title 63, Chapter 51~~] Title 63M, Chapter 5, Resource Development, from the
6960 proceeds of revenue bonds issued under Section 11-13-218 or other revenues of the project
6961 entity.
6962 (3) (a) This Subsection (3) applies with respect to facilities providing additional project
6963 capacity.
6964 (b) (i) The in lieu excise tax imposed under Title 59, Chapter 8, Gross Receipts Tax on
6965 Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, shall be
6966 imposed collectively on all gross receipts derived with respect to the ownership interests of all
6967 project entities and other public agencies in facilities providing additional project capacity as
6968 though all such ownership interests were held by a single project entity.
6969 (ii) The in lieu excise tax shall be calculated as though the gross receipts derived with
6970 respect to all such ownership interests were received by a single taxpayer that has no other
6971 gross receipts.

6972 (iii) The gross receipts attributable to such ownership interests shall consist solely of
6973 gross receipts that are expended by each project entity and other public agency holding an
6974 ownership interest in the facilities for the operation or maintenance of or ordinary repairs or
6975 replacements to the facilities.
6976 (iv) For purposes of calculating the in lieu excise tax, the determination of whether
6977 there is a tax rate and, if so, what the tax rate is shall be governed by Section 59-8-104, except
6978 that the $10,000,000 figures in Section 59-8-104 indicating the amount of gross receipts that
6979 determine the applicable tax rate shall be replaced with $5,000,000.
6980 (c) Each project entity and public agency owning an interest in the facilities providing
6981 additional project capacity shall be liable only for the portion of the gross receipts tax referred
6982 to in Subsection (3)(b) that is proportionate to its percentage ownership interest in the facilities
6983 and may not be liable for any other gross receipts taxes with respect to its percentage
6984 ownership interest in the facilities.
6985 (d) No project entity or other public agency that holds an ownership interest in the
6986 facilities may be subject to the taxes imposed under Title 59, Chapter 7, Corporate Franchise
6987 and Income Taxes, with respect to those facilities.
6988 (4) For purposes of calculating the gross receipts tax imposed on a project entity or
6989 other public agency under Title 59, Chapter 8, Gross Receipts Tax on Certain Corporations Not
6990 Required to Pay Corporate Franchise or Income Tax Act, or Subsection (3), gross receipts
6991 include only gross receipts from the first sale of capacity, services, or other benefits and do not
6992 include gross receipts from any subsequent sale, resale, or layoff of the capacity, services, or
6993 other benefits.
6994 Section 111. Section **11-17-20** is amended to read:
6995 **11-17-20. Power of the State Charter School Finance Authority.**
6996 (1) The State Charter School Finance Authority may exercise the powers granted to
6997 municipalities and counties by this chapter, subject to the same limitations as that imposed on a
6998 municipality or county under the chapter, except as provided by Title 53A, Chapter 20b, State
6999 Charter School Finance Authority Act.
7000 (2) As used in this chapter, "governing body" when applied to the State Charter School
7001 Finance Authority means the authority's governing board as described in Section 53A-20b-103.
7002 (3) Notwithstanding Section 11-17-15, a charter school that receives financing under

7003 this chapter is subject to [~~Title 63, Chapter 56~~] Title 63G, Chapter 6, Utah Procurement Code.
7004 Section 112. Section **11-36-201** is amended to read:
7005 **11-36-201. Impact fees -- Analysis -- Capital facilities plan -- Notice of plan --**
7006 **Summary -- Exemptions.**
7007 (1) (a) Each local political subdivision and private entity shall comply with the
7008 requirements of this chapter before establishing or modifying any impact fee.
7009 (b) A local political subdivision may not:
7010 (i) establish any new impact fees that are not authorized by this chapter; or
7011 (ii) impose or charge any other fees as a condition of development approval unless
7012 those fees are a reasonable charge for the service provided.
7013 (c) Notwithstanding any other requirements of this chapter, each local political
7014 subdivision shall ensure that each existing impact fee that is charged for any public facility not
7015 authorized by Subsection 11-36-102(12) is repealed by July 1, 1995.
7016 (d) (i) Existing impact fees for public facilities authorized in Subsection 11-36-102(12)
7017 that are charged by local political subdivisions need not comply with the requirements of this
7018 chapter until July 1, 1997.
7019 (ii) By July 1, 1997, each local political subdivision shall:
7020 (A) review any impact fees in existence as of the effective date of this act, and prepare
7021 and approve the analysis required by this section for each of those impact fees; and
7022 (B) ensure that the impact fees comply with the requirements of this chapter.
7023 (2) (a) Before imposing impact fees, each local political subdivision shall prepare a
7024 capital facilities plan.
7025 (b) (i) As used in this Subsection (2)(b):
7026 (A) (I) "Affected entity" means each county, municipality, local district under Title
7027 17B, Limited Purpose Local Government Entities - Local Districts, special service district
7028 under Title 17A, Chapter 2, Part 13, Utah Special Service District Act, school district,
7029 interlocal cooperation entity established under Chapter 13, Interlocal Cooperation Act, and
7030 specified public utility:
7031 (Aa) whose services or facilities are likely to require expansion or significant
7032 modification because of the facilities proposed in the proposed capital facilities plan; or
7033 (Bb) that has filed with the local political subdivision or private entity a copy of the

7034 general or long-range plan of the county, municipality, local district, special service district,
7035 school district, interlocal cooperation entity, or specified public utility.
7036 (II) "Affected entity" does not include the local political subdivision or private entity
7037 that is required under this Subsection (2) to provide notice.
7038 (B) "Specified public utility" means an electrical corporation, gas corporation, or
7039 telephone corporation, as those terms are defined in Section 54-2-1.
7040 (ii) Before preparing a capital facilities plan for facilities proposed on land located
7041 within a county of the first or second class, each local political subdivision and each private
7042 entity shall provide written notice, as provided in this Subsection (2)(b), of its intent to prepare
7043 a capital facilities plan.
7044 (iii) Each notice under Subsection (2)(b)(ii) shall:
7045 (A) indicate that the local political subdivision or private entity intends to prepare a
7046 capital facilities plan;
7047 (B) describe or provide a map of the geographic area where the proposed capital
7048 facilities will be located;
7049 (C) be sent to:
7050 (I) each county in whose unincorporated area and each municipality in whose
7051 boundaries is located the land on which the proposed facilities will be located;
7052 (II) each affected entity;
7053 (III) the Automated Geographic Reference Center created in Section 63F-1-506;
7054 (IV) the association of governments, established pursuant to an interlocal agreement
7055 under Title 11, Chapter 13, Interlocal Cooperation Act, in which the facilities are proposed to
7056 be located; and
7057 (V) the state planning coordinator appointed under Section [~~63-38d-202~~] 63J-4-202;
7058 and
7059 (D) with respect to the notice to affected entities, invite the affected entities to provide
7060 information for the local political subdivision or private entity to consider in the process of
7061 preparing, adopting, and implementing a capital facilities plan concerning:
7062 (I) impacts that the facilities proposed in the capital facilities plan may have on the
7063 affected entity; and
7064 (II) facilities or uses of land that the affected entity is planning or considering that may

7065 conflict with the facilities proposed in the capital facilities plan.
7066 (c) The plan shall identify:
7067 (i) demands placed upon existing public facilities by new development activity; and
7068 (ii) the proposed means by which the local political subdivision will meet those
7069 demands.
7070 (d) Municipalities and counties need not prepare a separate capital facilities plan if the
7071 general plan required by Sections 10-9a-401 and 17-27a-401 contains the elements required by
7072 Subsection (2)(c).
7073 (e) (i) If a local political subdivision prepares an independent capital facilities plan
7074 rather than including a capital facilities element in the general plan, the local political
7075 subdivision shall, before adopting the capital facilities plan:
7076 (A) give public notice of the plan according to this Subsection (2)(e);
7077 (B) at least 14 days before the date of the public hearing:
7078 (I) make a copy of the plan, together with a summary designed to be understood by a
7079 lay person, available to the public; and
7080 (II) place a copy of the plan and summary in each public library within the local
7081 political subdivision; and
7082 (C) hold a public hearing to hear public comment on the plan.
7083 (ii) Municipalities shall comply with the notice and hearing requirements of, and,
7084 except as provided in Subsection 11-36-401(4)(f), receive the protections of Sections
7085 10-9a-205 and 10-9a-801 and Subsection 10-9a-502(2).
7086 (iii) Counties shall comply with the notice and hearing requirements of, and, except as
7087 provided in Subsection 11-36-401(4)(f), receive the protections of Sections 17-27a-205 and
7088 17-27a-801 and Subsection 17-27a-502(2).
7089 (iv) Local districts, special service districts, and private entities shall comply with the
7090 notice and hearing requirements of, and receive the protections of, Section 17B-1-111.
7091 (v) Nothing contained in this Subsection (2)(e) or in the subsections referenced in
7092 Subsections (2)(e)(ii) and (iii) may be construed to require involvement by a planning
7093 commission in the capital facilities planning process.
7094 (f) (i) Local political subdivisions with a population or serving a population of less
7095 than 5,000 as of the last federal census need not comply with the capital facilities plan

7096 requirements of this part, but shall ensure that the impact fees imposed by them are based upon
7097 a reasonable plan.
7098 (ii) Subsection (2)(f)(i) does not apply to private entities.
7099 (3) In preparing the plan, each local political subdivision shall generally consider all
7100 revenue sources, including impact fees, to finance the impacts on system improvements.
7101 (4) A local political subdivision may only impose impact fees on development
7102 activities when its plan for financing system improvements establishes that impact fees are
7103 necessary to achieve an equitable allocation to the costs borne in the past and to be borne in the
7104 future, in comparison to the benefits already received and yet to be received.
7105 (5) (a) Each local political subdivision imposing impact fees shall prepare a written
7106 analysis of each impact fee that:
7107 (i) identifies the impact on system improvements required by the development activity;
7108 (ii) demonstrates how those impacts on system improvements are reasonably related to
7109 the development activity;
7110 (iii) estimates the proportionate share of the costs of impacts on system improvements
7111 that are reasonably related to the new development activity; and
7112 (iv) based upon those factors and the requirements of this chapter, identifies how the
7113 impact fee was calculated.
7114 (b) In analyzing whether or not the proportionate share of the costs of public facilities
7115 are reasonably related to the new development activity, the local political subdivision shall
7116 identify, if applicable:
7117 (i) the cost of existing public facilities;
7118 (ii) the manner of financing existing public facilities, such as user charges, special
7119 assessments, bonded indebtedness, general taxes, or federal grants;
7120 (iii) the relative extent to which the newly developed properties and the other
7121 properties in the municipality have already contributed to the cost of existing public facilities,
7122 by such means as user charges, special assessments, or payment from the proceeds of general
7123 taxes;
7124 (iv) the relative extent to which the newly developed properties and the other
7125 properties in the municipality will contribute to the cost of existing public facilities in the
7126 future;

7127 (v) the extent to which the newly developed properties are entitled to a credit because
7128 the municipality is requiring their developers or owners, by contractual arrangement or
7129 otherwise, to provide common facilities, inside or outside the proposed development, that have
7130 been provided by the municipality and financed through general taxation or other means, apart
7131 from user charges, in other parts of the municipality;
7132 (vi) extraordinary costs, if any, in servicing the newly developed properties; and
7133 (vii) the time-price differential inherent in fair comparisons of amounts paid at
7134 different times.
7135 (c) Each local political subdivision that prepares a written analysis under this
7136 Subsection (5) on or after July 1, 2000 shall also prepare a summary of the written analysis,
7137 designed to be understood by a lay person.
7138 (6) Each local political subdivision that adopts an impact fee enactment under Section
7139 11-36-202 on or after July 1, 2000 shall, at least 14 days before adopting the enactment, submit
7140 to each public library within the local political subdivision:
7141 (a) a copy of the written analysis required by Subsection (5)(a); and
7142 (b) a copy of the summary required by Subsection (5)(c).
7143 (7) Nothing in this chapter may be construed to repeal or otherwise eliminate any
7144 impact fee in effect on the effective date of this chapter that is pledged as a source of revenues
7145 to pay bonded indebtedness that was incurred before the effective date of this chapter.
7146 Section 113. Section **11-36-402** is amended to read:
7147 **11-36-402. Challenging an impact fee by arbitration -- Procedure -- Appeal --**
7148 **Costs.**
7149 (1) Each person or entity intending to challenge an impact fee under Subsection
7150 11-36-401(4)(c)(ii) shall file a written request for arbitration with the local political subdivision
7151 within the time limitation provided in Subsection 11-36-401(4)(b) for the applicable type of
7152 challenge.
7153 (2) If a person or entity files a written request for arbitration under Subsection (1), an
7154 arbitrator or arbitration panel shall be selected as follows:
7155 (a) the local political subdivision and the person or entity filing the request may agree
7156 on a single arbitrator within ten days after the day the request for arbitration is filed; or
7157 (b) if a single arbitrator is not agreed to in accordance with Subsection (2)(a), an

7158 arbitration panel shall be created with the following members:
7159 (i) each party shall select an arbitrator within 20 days after the date the request is filed;
7160 and
7161 (ii) the arbitrators selected under Subsection (2)(b)(i) shall select a third arbitrator.
7162 (3) The arbitration panel shall hold a hearing on the challenge within 30 days after the
7163 date:
7164 (a) the single arbitrator is agreed on under Subsection (2)(a); or
7165 (b) the two arbitrators are selected under Subsection (2)(b)(i).
7166 (4) The arbitrator or arbitration panel shall issue a decision in writing within ten days
7167 from the date the hearing under Subsection (3) is completed.
7168 (5) Except as provided in this section, each arbitration shall be governed by Title 78,
7169 Chapter 31a, Utah Uniform Arbitration Act.
7170 (6) The parties may agree to:
7171 (a) binding arbitration;
7172 (b) formal, nonbinding arbitration; or
7173 (c) informal, nonbinding arbitration.
7174 (7) If the parties agree in writing to binding arbitration:
7175 (a) the arbitration shall be binding;
7176 (b) the decision of the arbitration panel shall be final;
7177 (c) neither party may appeal the decision of the arbitration panel; and
7178 (d) notwithstanding Subsection (10), the person or entity challenging the impact fee
7179 may not also challenge the impact fee under Subsection 11-36-401(1), (4)(c)(i), or (4)(c)(iii).
7180 (8) (a) Except as provided in Subsection (8)(b), if the parties agree to formal,
7181 nonbinding arbitration, the arbitration shall be governed by the provisions of [~~Title 63, Chapter~~
7182 ~~46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
7183 (b) For purposes of applying [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
7184 Administrative Procedures Act, to a formal, nonbinding arbitration under this section,
7185 notwithstanding Section [~~63-46b-20~~] 63G-4-502, "agency" means a local political subdivision.
7186 (9) (a) An appeal from a decision in an informal, nonbinding arbitration may be filed
7187 with the district court in which the local political subdivision is located.
7188 (b) Each appeal under Subsection (9)(a) shall be filed within 30 days after the date the

7189 arbitration panel issues a decision under Subsection (4).
7190 (c) The district court shall consider de novo each appeal filed under this Subsection (9).
7191 (d) Notwithstanding Subsection (10), a person or entity that files an appeal under this
7192 Subsection (9) may not also challenge the impact fee under Subsection 11-36-401(1), (4)(c)(i),
7193 or (4)(c)(iii).
7194 (10) (a) Except as provided in Subsections (7)(d) and (9)(d), this section may not be
7195 construed to prohibit a person or entity from challenging an impact fee as provided in
7196 Subsection 11-36-401(1), (4)(c)(i), or (4)(c)(iii).
7197 (b) The filing of a written request for arbitration within the required time in accordance
7198 with Subsection (1) tolls all time limitations under Section 11-36-401 until the date the
7199 arbitration panel issues a decision.
7200 (11) The person or entity filing a request for arbitration and the local political
7201 subdivision shall equally share all costs of an arbitration proceeding under this section.
7202 Section 114. Section **11-37-101** is amended to read:
7203 **11-37-101. Definition -- Procurement -- Use of recycled goods.**
7204 (1) "Local government entity" means:
7205 (a) municipalities, cities, and counties;
7206 (b) entities created under Title 26A, Chapter 1, Local Health Departments; and
7207 (c) political subdivisions created by cities or counties, including entities created under:
7208 (i) Title 9, Chapter 4, Part 9, Utah Housing Corporation Act; and
7209 (ii) Title 11, Chapter 13, Interlocal Cooperation Act.
7210 (2) The procurement officer or other person responsible for purchasing supplies for
7211 each local government entity shall:
7212 (a) maintain for reference a copy of the current listing of recycled items available on
7213 state contract as issued by the chief procurement officer under Section [~~63-56-204~~] 63G-6-204;
7214 and
7215 (b) give recycled items consideration when inviting bids and purchasing supplies.
7216 Section 115. Section **11-38-102** is amended to read:
7217 **11-38-102. Definitions.**
7218 As used in this chapter:
7219 (1) "Affordable housing" means housing occupied or reserved for occupancy by

7220 households with a gross household income equal to or less than 80% of the median gross
7221 income of the applicable municipal or county statistical area for households of the same size.
7222 (2) "Agricultural land" has the same meaning as "land in agricultural use" under
7223 Section 59-2-502.
7224 (3) "Brownfield sites" means abandoned, idled, or underused commercial or industrial
7225 land where expansion or redevelopment is complicated by real or perceived environmental
7226 contamination.
7227 (4) "Commission" means the Quality Growth Commission established in Section
7228 11-38-201.
7229 (5) "Fund" means the LeRay McAllister Critical Land Conservation Fund established
7230 in Section 11-38-301.
7231 (6) "Infill development" means residential, commercial, or industrial development on
7232 unused or underused land, excluding open land and agricultural land, within existing, otherwise
7233 developed urban areas.
7234 (7) "Local entity" means a county, city, or town.
7235 (8) "OPB" means the Governor's Office of Planning and Budget established under
7236 Section [~~63-38d-201~~] 63J-4-201.
7237 (9) (a) "Open land" means land that is:
7238 (i) preserved in or restored to a predominantly natural, open, and undeveloped
7239 condition; and
7240 (ii) used for:
7241 (A) wildlife habitat;
7242 (B) cultural or recreational use;
7243 (C) watershed protection; or
7244 (D) another use consistent with the preservation of the land in or restoration of the land
7245 to a predominantly natural, open, and undeveloped condition.
7246 (b) (i) "Open land" does not include land whose predominant use is as a developed
7247 facility for active recreational activities, including baseball, tennis, soccer, golf, or other
7248 sporting or similar activity.
7249 (ii) The condition of land does not change from a natural, open, and undeveloped
7250 condition because of the development or presence on the land of facilities, including trails,

7251 waterways, and grassy areas, that:
7252 (A) enhance the natural, scenic, or aesthetic qualities of the land; or
7253 (B) facilitate the public's access to or use of the land for the enjoyment of its natural,
7254 scenic, or aesthetic qualities and for compatible recreational activities.
7255 (10) "Surplus land" means real property owned by the Department of Administrative
7256 Services, the Department of Agriculture and Food, the Department of Natural Resources, or the
7257 Department of Transportation that the individual department determines not to be necessary for
7258 carrying out the mission of the department.
7259 Section 116. Section **11-38-303** is amended to read:
7260 **11-38-303. Commission expenses -- Division of Finance responsibilities --**
7261 **Investment of monies into the fund -- Interest to accrue to the fund.**
7262 (1) Commission expenses and the costs of administering loans from the fund, as
7263 provided in Subsection (2), shall be paid from the fund.
7264 (2) (a) The Division of Finance shall be responsible for the care, custody, safekeeping,
7265 collection, and accounting for loans issued by the commission as provided in Section [~~63-65-4~~]
7266 63B-1b-202.
7267 (b) The Division of Finance may charge to the fund the administrative costs incurred in
7268 discharging the responsibilities imposed by Subsection (2)(a).
7269 (3) The state treasurer shall invest all monies deposited into the fund, and all interest
7270 from investing the monies shall accrue to the fund.
7271 Section 117. Section **11-39-101** is amended to read:
7272 **11-39-101. Definitions.**
7273 As used in this chapter:
7274 (1) "Bid limit" means:
7275 (a) for a building improvement:
7276 (i) for the year 2003, $40,000; and
7277 (ii) for each year after 2003, the amount of the bid limit for the previous year, plus an
7278 amount calculated by multiplying the amount of the bid limit for the previous year by the lesser
7279 of 3% or the actual percent change in the Consumer Price Index during the previous calendar
7280 year; and
7281 (b) for a public works project:

7282 (i) for the year 2003, $125,000; and
7283 (ii) for each year after 2003, the amount of the bid limit for the previous year, plus an
7284 amount calculated by multiplying the amount of the bid limit for the previous year by the lesser
7285 of 3% or the actual percent change in the Consumer Price Index during the previous calendar
7286 year.
7287 (2) "Building improvement":
7288 (a) means the construction or repair of a public building or structure; and
7289 (b) does not include construction or repair at an international airport.
7290 (3) "Consumer Price Index" means the Consumer Price Index for All Urban
7291 Consumers as published by the Bureau of Labor Statistics of the United States Department of
7292 Labor.
7293 (4) "Design-build project":
7294 (a) means a building improvement or public works project costing over $250,000 with
7295 respect to which both the design and construction are provided for in a single contract with a
7296 contractor or combination of contractors capable of providing design-build services; and
7297 (b) does not include a building improvement or public works project:
7298 (i) that is undertaken by a local entity under contract with a construction manager that
7299 guarantees the contract price and is at risk for any amount over the contract price; and
7300 (ii) each component of which is competitively bid.
7301 (5) "Design-build services" means the engineering, architectural, and other services
7302 necessary to formulate and implement a design-build project, including its actual construction.
7303 (6) "Emergency repairs" means a building improvement or public works project
7304 undertaken on an expedited basis to:
7305 (a) eliminate an imminent risk of damage to or loss of public or private property;
7306 (b) remedy a condition that poses an immediate physical danger; or
7307 (c) reduce a substantial, imminent risk of interruption of an essential public service.
7308 (7) "Governing body" means:
7309 (a) for a county, city, or town, the legislative body of the county, city, or town;
7310 (b) for a local district, the board of trustees of the local district; and
7311 (c) for a special service district:
7312 (i) the legislative body of the county, city, or town that established the special service

7313 district, if no administrative control board has been appointed under Section 17A-2-1326; or
7314 (ii) the administrative control board of the special service district, if an administrative
7315 control board has been appointed under Section 17A-2-1326.
7316 (8) "Local district" has the same meaning as defined in Section 17B-1-102.
7317 (9) "Local entity" means a county, city, town, local district, or special service district.
7318 (10) "Lowest responsive responsible bidder" means a prime contractor who:
7319 (a) has submitted a bid in compliance with the invitation to bid and within the
7320 requirements of the plans and specifications for the building improvement or public works
7321 project;
7322 (b) is the lowest bidder that satisfies the local entity's criteria relating to financial
7323 strength, past performance, integrity, reliability, and other factors that the local entity uses to
7324 assess the ability of a bidder to perform fully and in good faith the contract requirements;
7325 (c) has furnished a bid bond or equivalent in money as a condition to the award of a
7326 prime contract; and
7327 (d) furnishes a payment and performance bond as required by law.
7328 (11) "Procurement code" means the provisions of [~~Title 63, Chapter 56~~] Title 63G,
7329 Chapter 6, Utah Procurement Code.
7330 (12) "Public works project":
7331 (a) means the construction of:
7332 (i) a park or recreational facility; or
7333 (ii) a pipeline, culvert, dam, canal, or other system for water, sewage, storm water, or
7334 flood control; and
7335 (b) does not include:
7336 (i) the replacement or repair of existing infrastructure on private property;
7337 (ii) construction commenced before June 1, 2003; and
7338 (iii) construction or repair at an international airport.
7339 (13) "Special service district" means a special service district under Title 17A, Chapter
7340 2, Part 13, Utah Special Service District Act.
7341 Section 118. Section **11-39-107** is amended to read:
7342 **11-39-107. Procurement code.**
7343 (1) This chapter may not be construed to:

7344 (a) prohibit a county legislative body from adopting the procedures of the procurement
7345 code; or
7346 (b) limit the application of the procurement code to a local district or special service
7347 district.
7348 (2) (a) In seeking bids and awarding a contract for a building improvement or public
7349 works project, a county legislative body may elect to follow the provisions of the procurement
7350 code, as the county legislative body considers appropriate under the circumstances, for
7351 specification preparation, source selection, or contract formation.
7352 (b) A county legislative body's election to adopt the procedures of the procurement
7353 code may not excuse the county from complying with the requirements to award a contract for
7354 work in excess of the bid limit and to publish notice of the intent to award.
7355 (c) An election under Subsection (2)(a) may be made on a case-by-case basis, unless
7356 the county has previously adopted the procurement code as permitted by Subsection
7357 [~~63-56-102~~] 63G-6-104(3)(e).
7358 (d) The county legislative body shall:
7359 (i) make each election under Subsection (2)(a) in an open meeting; and
7360 (ii) specify in its action the portions of the procurement code to be followed.
7361 (3) If the estimated cost of the building improvement or public works project proposed
7362 by a local district or special service district exceeds the bid limit, the governing body of the
7363 local district or special service district may, if it determines to proceed with the building
7364 improvement or public works project, use the competitive procurement procedures of the
7365 procurement code in place of the comparable provisions of this chapter.
7366 Section 119. Section **11-42-205** is amended to read:
7367 **11-42-205. Unimproved property.**
7368 (1) A local entity may not designate an assessment area in which more than 75% of the
7369 property proposed to be assessed consists of unimproved property unless the local entity:
7370 (a) has obtained an appraisal of the unimproved property from an appraiser who is a
7371 member of the Appraisal Institute, verifying that the market value of the property, after
7372 completion of the proposed improvements, is at least three times the amount of the assessment
7373 proposed to be levied against the unimproved property;
7374 (b) has obtained from each owner of unimproved property:

7375 (i) financial information acceptable to the governing body demonstrating the owner's
7376 ability to pay the proposed assessment; or
7377 (ii) a financial institution's commitment securing, to the governing body's satisfaction,
7378 the owner's obligation to pay the proposed assessment; and
7379 (c) has prepared a development plan, approved by a qualified, independent third party,
7380 describing the plan of development and the financial feasibility of the plan, taking into account
7381 growth trends, absorption studies, and other demographic information applicable to the
7382 unimproved property.
7383 (2) Information that an owner provides to a local entity under Subsection (1)(b)(i) is
7384 not a record for purposes of [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records
7385 Access and Management Act.
7386 Section 120. Section **12-1-10** is amended to read:
7387 **12-1-10. Applications -- Fees.**
7388 (1) Each application for registration under this chapter shall be made on a form
7389 provided by the Division of Corporations and Commercial Code.
7390 (2) Each applicant shall pay to the Division of Corporations and Commercial Code an
7391 application fee determined under Section [~~63-38-3.2~~] 63J-1-303.
7392 Section 121. Section **13-1-2** is amended to read:
7393 **13-1-2. Creation and functions of department -- Divisions created -- Fees.**
7394 (1) (a) There is created the Department of Commerce.
7395 (b) The department shall execute and administer state laws regulating business
7396 activities and occupations affecting the public interest.
7397 (2) Within the department the following divisions are created:
7398 (a) the Division of Occupational and Professional Licensing;
7399 (b) the Division of Real Estate;
7400 (c) the Division of Securities;
7401 (d) the Division of Public Utilities;
7402 (e) the Division of Consumer Protection; and
7403 (f) the Division of Corporations and Commercial Code.
7404 (3) (a) Unless otherwise provided by statute, the department may adopt a schedule of
7405 fees assessed for services provided by the department by following the procedures and

7406 requirements of Section [~~63-38-3.2~~] 63J-1-303.
7407 (b) The department shall submit each fee established in this manner to the Legislature
7408 for its approval as part of the department's annual appropriations request.
7409 (c) (i) All fees collected by each division and by the department shall be deposited in a
7410 restricted account within the General Fund known as the Commerce Service Fund.
7411 (ii) At the end of each fiscal year, the director of the Division of Finance shall transfer
7412 into the General Fund any fee collections that are greater than the legislative appropriations
7413 from the Commerce Service Fund for that year.
7414 (d) The department may not charge or collect any fee nor expend monies from this
7415 fund without approval by the Legislature.
7416 Section 122. Section **13-1-8.5** is amended to read:
7417 **13-1-8.5. Procedures -- Adjudicative proceedings.**
7418 (1) The Department of Commerce and its divisions shall comply with the procedures
7419 and requirements of [~~Title 63, Chapter 46b,~~] Title 63G, Chapter 4, Administrative Procedures
7420 Act, in their adjudicative proceedings.
7421 (2) The department may contract with other state agencies or departments to conduct
7422 hearings in its name or in the name of its divisions or agencies.
7423 Section 123. Section **13-1a-5** is amended to read:
7424 **13-1a-5. Authority of director.**
7425 The director has authority:
7426 (1) to make rules in accordance with [~~Title 63, Chapter 46a, the~~] Title 63G, Chapter 3,
7427 Utah Administrative Rulemaking Act, to administer the responsibilities of the division;
7428 (2) to investigate, upon complaint, the corporation and commercial code filings and
7429 compliance governed by the laws administered and enforced by the division; and
7430 (3) under the provisions of [~~Title 63, Chapter 46b, the~~] Title 63G, Chapter 4, Utah
7431 Administrative Procedures Act, to take administrative action against persons in violation of the
7432 division rules and the laws administered by it, including the issuance of cease and desist orders.
7433 Section 124. Section **13-1a-6** is amended to read:
7434 **13-1a-6. Powers of Division of Corporations and Commercial Code -- Document**
7435 **retention.**
7436 (1) The Division of Corporations and Commercial Code shall have the power and

7437 authority reasonably necessary to enable it to efficiently administer the laws and rules for
7438 which it is responsible and to perform the duties imposed upon it by law.
7439 (2) The division has authority under [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
7440 Administrative Rulemaking Act, to make rules and procedures for the processing, retention,
7441 and disposal of filed documents to efficiently utilize electronic and computerized document
7442 image storage and retrieval.
7443 (3) Notwithstanding the provisions of Section [~~63-2-905~~] 63A-12-105, original
7444 documents filed in the division offices shall not be considered property of the state if electronic
7445 image reproductions thereof which comply with the provisions of [~~Title 63, Chapter 2,~~] Title
7446 63G, Chapter 2, Government Records Access and Management Act, are retained by the
7447 division.
7448 Section 125. Section **13-1a-7** is amended to read:
7449 **13-1a-7. Hearing powers.**
7450 (1) The director, in accordance with [~~Title 63, Chapter 46b, the~~] Title 63G, Chapter 4,
7451 Administrative Procedures Act, may hold or cause to be held administrative hearings regarding
7452 any matter affecting the division or the incorporation or registration activities of any business
7453 governed by the laws administered by the division.
7454 (2) The director or [~~his~~] the director's designee, for the purposes outlined in this chapter
7455 or any chapter administered by the division, may administer oaths, issue subpoenas, compel the
7456 attendance of witnesses, and compel the production of papers, books, accounts, documents, and
7457 evidence.
7458 Section 126. Section **13-1a-9** is amended to read:
7459 **13-1a-9. Fees of Division of Corporations and Commercial Code.**
7460 In addition to the fees prescribed by Title 16, Chapter 6a, Utah Revised Nonprofit
7461 Corporation Act, and Title 16, Chapter 10a, Utah Revised Business Corporation Act, the
7462 Division of Corporations and Commercial Code shall receive and determine fees pursuant to
7463 Section [~~63-38-3.2~~] 63J-1-303 for filing articles of incorporation or amendments of insurance
7464 corporations, of canal or irrigation corporations organized for furnishing water to lands owned
7465 by the members thereof exclusively, or of water users' associations organized in conformity
7466 with the requirements of the United States under the Reclamation Act of June 17, 1902, and
7467 which are authorized to furnish water only to their stockholders. No license fee may be

7468 imposed on insurance corporations, canal or irrigation corporations organized for furnishing
7469 water to lands owned by the members thereof exclusively, or water users' associations
7470 organized in conformity with the requirements of the United States under the Reclamation Act
7471 of June 17, 1902, and which are authorized to furnish water only to the stockholders at the time
7472 any such corporation files its articles of incorporation, articles of amendment increasing the
7473 number of authorized shares, or articles of merger or consolidation, any provision of Title 16,
7474 Chapter 10a, Utah Revised Business Corporation Act, to the contrary notwithstanding.
7475 Section 127. Section **13-2-5** is amended to read:
7476 **13-2-5. Powers of director.**
7477 The director has authority to:
7478 (1) in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
7479 Administrative Rulemaking Act, issue rules to administer and enforce the chapters listed in
7480 Section 13-2-1;
7481 (2) investigate the activities of any business governed by the laws administered and
7482 enforced by the division;
7483 (3) take administrative and judicial action against persons in violation of the division
7484 rules and the laws administered and enforced by it, including the issuance of cease and desist
7485 orders;
7486 (4) coordinate, cooperate, and assist with business and industry desiring or attempting
7487 to correct unfair business practices between competitors;
7488 (5) provide consumer information and education to the public and assist any
7489 organization providing such services; and
7490 (6) coordinate with, assist, and utilize the assistance of federal, state, and local agencies
7491 in the performance of [~~his~~] the director's duties and the protection of the public.
7492 Section 128. Section **13-2-6** is amended to read:
7493 **13-2-6. Enforcement powers.**
7494 (1) In accordance with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
7495 Procedures Act, the division shall have authority to convene administrative hearings, issue
7496 cease and desist orders, and impose fines under all the chapters identified in Section 13-2-1.
7497 (2) Any person who intentionally violates a final cease and desist order entered by the
7498 division of which [~~he~~] the person has notice is guilty of a third degree felony.

7499 (3) If the division has reasonable cause to believe that any person is engaged in
7500 violating any chapter listed in Section 13-2-1, the division may promptly issue the alleged
7501 violator a citation signed by the division's director or [~~his~~] the director's designee.
7502 (a) Each citation shall be in writing and shall:
7503 (i) set forth with particularity the nature of the violation, including a reference to the
7504 statutory or administrative rule provision being violated;
7505 (ii) state that any request for review of the citation must be made in writing and be
7506 received by the division no more than ten days following issuance;
7507 (iii) state the consequences of failing to make a timely request for review; and
7508 (iv) state all other information required by Subsection [~~63-46b-3~~] 63G-4-201(2).
7509 (b) In computing any time period prescribed by this section, the following days may
7510 not be included:
7511 (i) the day a citation is issued by the division;
7512 (ii) the day the division received a request for review of a citation;
7513 (iii) Saturdays and Sundays; and
7514 (iv) a legal holiday set forth in Subsection [~~63-13-2~~] 63G-1-301(1)(a).
7515 (c) If the recipient of a citation makes a timely request for review, within ten days of
7516 receiving the request, the division shall convene an adjudicative proceeding in accordance with
7517 [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
7518 (d) (i) If the presiding officer finds that there is not substantial evidence that the
7519 recipient violated a chapter listed in Section 13-2-1 at the time the citation was issued, the
7520 citation may not become final, and the division shall immediately vacate the citation and
7521 promptly notify the recipient in writing.
7522 (ii) If the presiding officer finds there is substantial evidence that the recipient violated
7523 a chapter listed in Section 13-2-1 at the time the citation was issued, the citation shall become
7524 final and the division may enter a cease and desist order against the recipient.
7525 (e) A citation issued under this chapter may be personally served upon any person upon
7526 whom a summons may be served in accordance with the Utah Rules of Civil Procedure. A
7527 citation also may be served by first-class mail, postage prepaid.
7528 (f) If the recipient fails to make a timely request for review, the citation shall become
7529 the final order of the division. The period to contest the citation may be extended by the

7530 director for good cause shown.
7531 (g) If the chapter violated allows for an administrative fine, after a citation becomes
7532 final, the director may impose the administrative fine.
7533 (4) (a) A person violating a chapter identified in Section 13-2-1 is subject to the
7534 division's jurisdiction if:
7535 (i) the violation or attempted violation is committed either wholly or partly within the
7536 state;
7537 (ii) conduct committed outside the state constitutes an attempt to commit a violation
7538 within the state; or
7539 (iii) transactional resources located within the state are used by the offender to directly
7540 or indirectly facilitate a violation or attempted violation.
7541 (b) As used in this section, "transactional resources" means:
7542 (i) any mail drop or mail box, whether or not located on the premises of a United States
7543 Post Office;
7544 (ii) any telephone or facsimile transmission device;
7545 (iii) any internet connection by a resident or inhabitant of this state with either a
7546 resident or nonresident maintained internet site;
7547 (iv) any business office or private residence used for a business-related purpose;
7548 (v) any account with or services of a financial institution;
7549 (vi) the services of a common or private carrier; or
7550 (vii) the use of any city, county, or state asset or facility, including any road or
7551 highway.
7552 (5) The director or [~~his~~] the director's designee, for the purposes outlined in any chapter
7553 administered by the division, may administer oaths, issue subpoenas, compel the attendance of
7554 witnesses, and compel the production of papers, books, accounts, documents, and evidence.
7555 Section 129. Section **13-2-8** is amended to read:
7556 **13-2-8. Consumer Protection Education and Training Fund.**
7557 (1) There is created a restricted special revenue fund known as the "Consumer
7558 Protection Education and Training Fund."
7559 (2) (a) Unless otherwise provided by a chapter listed in Section 13-2-1, all money not
7560 distributed as consumer restitution that is received by the division from administrative fines

7561 and settlements, from criminal restitution, or from civil damages, forfeitures, penalties, and
7562 settlements when the division receives the monies on its own behalf and not in a representative
7563 capacity, shall be deposited into the fund.
7564 (b) Any portion of the fund may be maintained in an interest-bearing account.
7565 (c) All interest earned on fund monies shall be deposited into the fund.
7566 (3) Notwithstanding [~~Title 63, Chapter 38~~] Title 63J, Chapter 1, Budgetary Procedures
7567 Act, the division may use the fund with the approval of the executive director of the
7568 Department of Commerce in a manner consistent with the duties of the division under this
7569 chapter for:
7570 (a) consumer protection education for members of the public;
7571 (b) equipment for and training of division personnel;
7572 (c) publication of consumer protection brochures, laws, policy statements, or other
7573 material relevant to the division's enforcement efforts; and
7574 (d) investigation and litigation undertaken by the division.
7575 (4) If the balance in the fund exceeds $100,000 at the close of any fiscal year, the
7576 excess shall be transferred to the General Fund.
7577 Section 130. Section **13-2-9** is amended to read:
7578 **13-2-9. Internet -- Consumer education.**
7579 (1) The Division of Consumer Protection shall, subject to appropriation, contract with
7580 a person to make public service announcements advising consumers about the dangers of using
7581 the Internet, especially:
7582 (a) material harmful to minors;
7583 (b) steps a consumer may take to learn more about the dangers of using the Internet;
7584 (c) information about how a service provider can help a consumer learn more about the
7585 dangers of using the Internet, including the service provider's duties created by this bill; and
7586 (d) how a consumer can monitor the Internet usage of family members.
7587 (2) Monies appropriated under Subsection (1) shall be paid by the Division of
7588 Consumer Protection to a person only if:
7589 (a) the person is a nonprofit organization; and
7590 (b) the person agrees to spend private monies amounting to two times the amount of
7591 monies provided by the Division of Consumer Protection during each fiscal year in accordance

7592 with Subsection (1).
7593 (3) In administering any monies appropriated for use under this section, the Division of
7594 Consumer Protection shall comply with [~~Title 63, Chapter 56~~] Title 63G, Chapter 6, Utah
7595 Procurement Code.
7596 Section 131. Section **13-14-104** is amended to read:
7597 **13-14-104. Powers and duties of the advisory board and the executive director.**
7598 (1) (a) Except as provided in Subsection 13-14-106(3), the advisory board shall make
7599 recommendations to the executive director on the administration and enforcement of this
7600 chapter, including adjudicative and rulemaking proceedings.
7601 (b) The executive director shall:
7602 (i) consider the advisory board's recommendations; and
7603 (ii) issue any final decision by the department.
7604 (2) The executive director, in consultation with the advisory board, shall make rules for
7605 the administration of this chapter in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter
7606 3, Utah Administrative Rulemaking Act.
7607 (3) (a) An adjudicative proceeding under this chapter shall be conducted in accordance
7608 with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
7609 (b) In an adjudicative proceeding under this chapter, any order issued by the executive
7610 director:
7611 (i) shall comply with Section [~~63-46b-10~~] 63G-4-208, whether the proceeding is a
7612 formal or an informal adjudicative proceeding under [~~Title 63, Chapter 46b~~] Title 63G, Chapter
7613 4, Administrative Procedures Act; and
7614 (ii) if the order modifies or rejects a finding of fact in a recommendation from the
7615 advisory board, shall be made on the basis of information learned from the executive director's:
7616 (A) personal attendance at the hearing; or
7617 (B) review of the record developed at the hearing.
7618 Section 132. Section **13-14-105** is amended to read:
7619 **13-14-105. Registration -- Fees.**
7620 (1) A franchisee or franchisor doing business in this state shall:
7621 (a) annually register or renew its registration with the department in a manner
7622 established by the department; and

7623 (b) pay an annual registration fee in an amount determined by the department in
7624 accordance with Sections 13-1-2 and [~~63-38-3.2~~] 63J-1-303.
7625 (2) The department shall register or renew the registration of a franchisee or franchisor
7626 if the franchisee or franchisor complies with this chapter and rules made by the department
7627 under this chapter.
7628 (3) A franchisee or franchisor registered under this section shall comply with this
7629 chapter and any rules made by the department under this chapter including any amendments to
7630 this chapter or the rules made after a franchisee or franchisor enter into a franchise agreement.
7631 (4) The fee imposed under Subsection (1)(b) shall be collected by the department and
7632 deposited into the Commerce Service Fund.
7633 (5) Notwithstanding Subsection (1), an agent, officer, or field or area representative of
7634 a franchisor does not need to be registered under this section if the franchisor is registered
7635 under this section.
7636 Section 133. Section **13-14-106** is amended to read:
7637 **13-14-106. Administrative proceedings commenced by the agency.**
7638 (1) Except as provided in Subsection (3), after a hearing and after receipt of the
7639 advisory board's recommendation, if the executive director finds that a person has violated this
7640 chapter or any rule made under this chapter, the executive director may:
7641 (a) issue a cease and desist order; and
7642 (b) assess an administrative fine.
7643 (2) (a) In determining the amount and appropriateness of an administrative fine under
7644 Subsection (1), the executive director shall consider:
7645 (i) the gravity of the violation;
7646 (ii) any history of previous violations; and
7647 (iii) any attempt made by the person to retaliate against another person for seeking
7648 relief under this chapter or other federal or state law relating to the motor vehicle industry.
7649 (b) In addition to any other action permitted under Subsection (1), the department may
7650 file an action with a court seeking to enforce the executive director's order and pursue the
7651 executive director's assessment of a fine in an amount not to exceed $5,000 for each day a
7652 person violates an order of the executive director.
7653 (3) (a) In addition to the grounds for issuing an order on an emergency basis listed in

7654 Subsection [~~63-46b-20~~] 63G-4-502(1), the executive director may issue an order on an
7655 emergency basis if the executive director determines that irreparable damage is likely to occur
7656 if immediate action is not taken.
7657 (b) In issuing an emergency order under Subsection (3)(a) the executive director shall
7658 comply with the requirements of Subsections [~~63-46b-20~~] 63G-4-502(2) and (3).
7659 Section 134. Section **13-14-107** is amended to read:
7660 **13-14-107. Administrative proceedings -- Request for agency action.**
7661 (1) (a) A person may commence an adjudicative proceeding in accordance with this
7662 chapter and [~~with Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act
7663 to:
7664 (i) remedy a violation of this chapter;
7665 (ii) obtain approval of an act regulated by this chapter; or
7666 (iii) obtain any determination that this chapter specifically authorizes that person to
7667 request.
7668 (b) A person shall commence an adjudicative proceeding by filing a request for agency
7669 action in accordance with Section [~~63-46b-3~~] 63G-4-201.
7670 (2) After receipt of the advisory board's recommendation, the executive director shall
7671 apportion in a fair and equitable manner between the parties any costs of the adjudicative
7672 proceeding, including reasonable [~~attorney's~~] attorney fees.
7673 Section 135. Section **13-15-4** is amended to read:
7674 **13-15-4. Information to be filed by seller -- Representations.**
7675 (1) Any seller of an assisted marketing plan shall file the following information with
7676 the division:
7677 (a) the name, address, and principal place of business of the seller, and the name,
7678 address, and principal place of business of the parent or holding company of the seller, if any,
7679 who is responsible for statements made by the seller;
7680 (b) all trademarks, trade names, service marks, or advertising or other commercial
7681 symbols that identify the products, equipment, supplies, or services to be offered, sold, or
7682 distributed by the prospective purchaser;
7683 (c) an individual detailed statement covering the past five years of the business
7684 experience of each of the seller's current directors and executive officers and an individual

7685 statement covering the same period for the seller and the seller's parent company, if any,
7686 including the length of time each:
7687 (i) has conducted a business of the type advertised or solicited for operation by a
7688 prospective purchaser;
7689 (ii) has offered or sold the assisted marketing plan; and
7690 (iii) has offered for sale or sold assisted marketing plans in other lines of business,
7691 together with a description of the other lines of business;
7692 (d) a statement of the total amount that must be paid by the purchaser to obtain or
7693 commence the business opportunity such as initial fees, deposits, down payments, prepaid rent,
7694 and equipment and inventory purchases; provided, that if all or part of these fees or deposits are
7695 returnable, the conditions under which they are returnable shall also be disclosed;
7696 (e) a complete statement of the actual services the seller will perform for the purchaser;
7697 (f) a complete statement of all oral, written, or visual representations that will be made
7698 to prospective purchasers about specific levels of potential sales, income, gross and net profits,
7699 or any other representations that suggest a specific level;
7700 (g) a complete description of the type and length of any training promised to
7701 prospective purchasers;
7702 (h) a complete description of any services promised to be performed by the seller in
7703 connection with the placement of the equipment, products, or supplies at any location from
7704 which they will be sold or used; and a complete description of those services together with any
7705 agreements that will be made by the seller with the owner or manager of the location where the
7706 purchaser's equipment, products, or supplies will be placed;
7707 (i) a statement that discloses any person identified in Subsection (1)(a) who:
7708 (i) has been convicted of a felony or misdemeanor or pleaded nolo contendere to a
7709 felony or misdemeanor charge if the felony or misdemeanor involved fraud, embezzlement,
7710 fraudulent conversion, or misappropriation of property;
7711 (ii) has been held liable or consented to the entry of a stipulated judgment in any civil
7712 action based upon fraud, embezzlement, fraudulent conversion, misappropriation of property,
7713 or the use of untrue or misleading representations in the sale or attempted sale of any real or
7714 personal property, or upon the use of any unfair, unlawful or deceptive business practice; or
7715 (iii) is subject to an injunction or restrictive order relating to business activity as the

7716 result of an action brought by a public agency;
7717 (j) a financial statement of the seller signed by one of the seller's officers, directors,
7718 trustees, or general or limited partners, under a declaration that certifies that to the signatory's
7719 knowledge and belief the information in the financial statement is true and accurate; a financial
7720 statement that is more than 13 months old is unacceptable;
7721 (k) a copy of the entire marketing plan contract;
7722 (l) the number of marketing plans sold to date, and the number of plans under
7723 negotiation;
7724 (m) geographical information including all states in which the seller's assisted
7725 marketing plans have been sold, and the number of plans in each such state;
7726 (n) the total number of marketing plans that were cancelled by the seller in the past 12
7727 months; and
7728 (o) the number of marketing plans that were voluntarily terminated by purchasers
7729 within the past 12 months and the total number of such voluntary terminations to date.
7730 (2) The seller of an assisted marketing plan filing information under Subsection (1)
7731 shall pay a fee as determined by the department in accordance with Section [~~63-38-3.2~~]
7732 63J-1-303.
7733 (3) Before commencing business in this state, the seller of an assisted marketing plan
7734 shall file the information required under Subsection (1) and receive from the division proof of
7735 receipt of the filing.
7736 (4) A seller of an assisted marketing plan claiming an exemption from filing under this
7737 chapter shall file a notice of claim of exemption from filing with the division. A seller
7738 claiming an exemption from filing bears the burden of proving the exemption. The division
7739 shall collect a fee for filing a notice of claim of exemption, as determined by the department in
7740 accordance with Section [~~63-38-3.2~~] 63J-1-303.
7741 (5) A representation described in Subsection (1)(f) shall be relevant to the geographic
7742 market in which the business opportunity is to be located. When the statements or
7743 representations are made, a warning after the representation in not less than 12 point upper and
7744 lower case boldface type shall appear as follows:
7745 CAUTION
7746 No guarantee of earnings or ranges of earnings can be made. The number of purchasers

7747 who have earned through this business an amount in excess of the amount of their initial
7748 payment is at least _____ which represents _____% of the total number of purchasers of this
7749 business opportunity.
7750 Section 136. Section **13-15-4.5** is amended to read:
7751 **13-15-4.5. Notice of exemption filing.**
7752 (1) (a) Any franchise exempt from this chapter pursuant to Subsection
7753 13-15-2(1)(b)(iii) shall, prior to offering for sale or selling a franchise to be located in this state
7754 or to a resident of this state, file with the division a notice that the franchisor is in substantial
7755 compliance with the requirements of the Federal Trade Commission rule found at Title 16,
7756 Chapter I, Subchapter d, Trade Regulation Rules, Part 436, Disclosure Requirements and
7757 Prohibitions Concerning Franchising and Business Opportunity Ventures, together with a filing
7758 fee determined by the department pursuant to Section [~~63-38-3.2~~] 63J-1-303, not to exceed
7759 $100.
7760 (b) The notice shall state:
7761 (i) the name of the applicant;
7762 (ii) the name of the franchise;
7763 (iii) the name under which the applicant intends to or does transact business, if
7764 different than the name of the franchise;
7765 (iv) the applicant's principal business address; and
7766 (v) the applicant's federal employer identification number.
7767 (2) (a) The initial exemption granted under this section is for a period of one year from
7768 the date of filing the notice.
7769 (b) The exemption may be renewed each year for an additional one-year period upon
7770 filing a notice for renewal and paying a renewal fee determined pursuant to Section [~~63-38-3.2~~]
7771 63J-1-303, not to exceed $100.
7772 (3) The division may make rules to implement this section.
7773 Section 137. Section **13-21-3** is amended to read:
7774 **13-21-3. Credit services organizations -- Prohibitions.**
7775 (1) A credit services organization, its salespersons, agents, and representatives, and
7776 independent contractors who sell or attempt to sell the services of a credit services organization
7777 may not do any of the following:

7778 (a) conduct any business regulated by this chapter without first:
7779 (i) securing a certificate of registration from the division; and
7780 (ii) unless exempted under Section 13-21-4, posting a bond, letter of credit, or
7781 certificate of deposit with the division in the amount of $100,000;
7782 (b) make a false statement, or fail to state a material fact, in connection with an
7783 application for registration with the division;
7784 (c) charge or receive any money or other valuable consideration prior to full and
7785 complete performance of the services the credit services organization has agreed to perform for
7786 the buyer;
7787 (d) dispute or challenge, or assist a person in disputing or challenging an entry in a
7788 credit report prepared by a consumer reporting agency without a factual basis for believing and
7789 obtaining a written statement for each entry from the person stating that that person believes
7790 that the entry contains a material error or omission, outdated information, inaccurate
7791 information, or unverifiable information;
7792 (e) charge or receive any money or other valuable consideration solely for referral of
7793 the buyer to a retail seller who will or may extend credit to the buyer, if the credit that is or will
7794 be extended to the buyer is upon substantially the same terms as those available to the general
7795 public;
7796 (f) make, or counsel or advise any buyer to make, any statement that is untrue or
7797 misleading and that is known, or that by the exercise of reasonable care should be known, to be
7798 untrue or misleading, to a credit reporting agency or to any person who has extended credit to a
7799 buyer or to whom a buyer is applying for an extension of credit, with respect to a buyer's
7800 creditworthiness, credit standing, or credit capacity;
7801 (g) make or use any untrue or misleading representations in the offer or sale of the
7802 services of a credit services organization or engage, directly or indirectly, in any act, practice,
7803 or course of business that operates or would operate as fraud or deception upon any person in
7804 connection with the offer or sale of the services of a credit services organization; and
7805 (h) transact any business as a credit services organization, as defined in Section
7806 13-21-2, without first having registered with the division by paying an annual fee set pursuant
7807 to Section [~~63-38-3.2~~] 63J-1-303 and filing proof that it has obtained a bond or letter of credit
7808 as required by Subsection (1).

7809 (2) (a) A bond, letter of credit from a Utah depository, or certificate of deposit posted
7810 with the division shall be used to cover the losses of any person arising from a violation of this
7811 chapter by the posting credit services organization. A bond, letter of credit, or certificate of
7812 deposit may also be used to satisfy administrative fines and civil damages arising from any
7813 enforcement action against the posting credit service organization.
7814 (b) A bond, letter of credit, or certificate of deposit shall remain in force:
7815 (i) until replaced by a bond, letter of credit, or certificate of deposit of identical or
7816 superior coverage; or
7817 (ii) for one year after the credit servicing organization notifies the division in writing
7818 that it has ceased all activities regulated by this chapter.
7819 Section 138. Section **13-22-3** is amended to read:
7820 **13-22-3. Investigative and enforcement powers -- Education.**
7821 (1) The division may make any investigation it considers necessary to determine
7822 whether any person is violating, has violated, or is about to violate any provision of this chapter
7823 or any rule made or order issued under this chapter. As part of the investigation, the division
7824 may:
7825 (a) require a person to file a statement in writing;
7826 (b) administer oaths, subpoena witnesses and compel their attendance, take evidence,
7827 and examine under oath any person in connection with an investigation; and
7828 (c) require the production of any books, papers, documents, merchandise, or other
7829 material relevant to the investigation.
7830 (2) Whenever it appears to the director that substantial evidence exists that any person
7831 has engaged in, is engaging in, or is about to engage in any act or practice prohibited in this
7832 chapter or constituting a violation of this chapter or any rule made or order issued under this
7833 chapter, the director may do any of the following in addition to other specific duties under this
7834 chapter:
7835 (a) in accordance with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
7836 Procedures Act, the director may issue an order to cease and desist from engaging in the act or
7837 practice or from doing any act in furtherance of the activity; or
7838 (b) the director may bring an action in the appropriate district court of this state to
7839 enjoin the acts or practices constituting the violation or to enforce compliance with this chapter

7840 or any rule made or order issued under this chapter.
7841 (3) Whenever it appears to the director by a preponderance of the evidence that a
7842 person has engaged in or is engaging in any act or practice prohibited in this chapter or
7843 constituting a violation of this chapter or any rule made or order issued under this chapter, the
7844 director may assess an administrative fine of up to $500 per violation up to $10,000 for any
7845 series of violations arising out of the same operative facts.
7846 (4) Upon a proper showing, the court hearing an action brought under Subsection
7847 (2)(b) may:
7848 (a) issue an injunction;
7849 (b) enter a declaratory judgment;
7850 (c) appoint a receiver for the defendant or the defendant's assets;
7851 (d) order disgorgement of any money received in violation of this chapter;
7852 (e) order rescission of agreements violating this chapter;
7853 (f) impose a fine of not more than $2,000 for each violation of this chapter; and
7854 (g) impose a civil penalty, or any other relief the court considers just.
7855 (5) (a) In assessing the amount of a fine or penalty under Subsection (3), (4)(f), or
7856 (4)(g), the director or court imposing the fine or penalty shall consider the gravity of the
7857 violation and the intent of the violator.
7858 (b) If it does not appear by a preponderance of the evidence that the violator acted in
7859 bad faith or with intent to harm the public, the director or court shall excuse payment of the
7860 fine or penalty.
7861 (6) The division may provide or contract to provide public education and voluntary
7862 education for applicants and registrants under this chapter. The education may be in the form
7863 of publications, advertisements, seminars, courses, or other appropriate means. The scope of
7864 the education may include:
7865 (a) the requirements, prohibitions, and regulated practices under this chapter;
7866 (b) suggestions for effective financial and organizational practices for charitable
7867 organizations;
7868 (c) charitable giving and solicitation;
7869 (d) potential problems with solicitations and fraudulent or deceptive practices; and
7870 (e) any other matter relevant to the subject of this chapter.

7871 Section 139. Section **13-22-6** is amended to read:
7872 **13-22-6. Application for registration.**
7873 (1) An applicant for registration or renewal of registration as a charitable organization
7874 shall:
7875 (a) pay an application fee as determined under Section [~~63-38-3.2~~] 63J-1-303; and
7876 (b) submit an application on a form approved by the division which shall include:
7877 (i) the organization's name, address, telephone number, facsimile number, if any, and
7878 the names and addresses of any organizations or persons controlled by, controlling, or affiliated
7879 with the applicant;
7880 (ii) the specific legal nature of the organization, that is, whether it is an individual, joint
7881 venture, partnership, limited liability company, corporation, association, or other entity;
7882 (iii) the names and residence addresses of the officers and directors of the organization;
7883 (iv) the name and address of the registered agent for service of process and a consent to
7884 service of process;
7885 (v) the purpose of the solicitation and use of the contributions to be solicited;
7886 (vi) the method by which the solicitation will be conducted and the projected length of
7887 time it is to be conducted;
7888 (vii) the anticipated expenses of the solicitation, including all commissions, costs of
7889 collection, salaries, and any other items;
7890 (viii) a statement of what percentage of the contributions collected as a result of the
7891 solicitation are projected to remain available for application to the charitable purposes declared
7892 in the application, including a satisfactory statement of the factual basis for the projected
7893 percentage;
7894 (ix) a statement of total contributions collected or received by the organization within
7895 the calendar year immediately preceding the date of the application, including a description of
7896 the expenditures made from or the use made of the contributions;
7897 (x) a copy of any written agreements with any professional fund raiser involved with
7898 the solicitation;
7899 (xi) disclosure of any injunction, judgment, or administrative order or conviction of
7900 any crime involving moral turpitude with respect to any officer, director, manager, operator, or
7901 principal of the organization;

7902 (xii) a copy of all agreements to which the applicant is, or proposes to be, a party
7903 regarding the use of proceeds for the solicitation or fundraising;
7904 (xiii) a statement of whether or not the charity, or its parent foundation, will be using
7905 the services of a professional fund raiser or of a professional fund raising counsel or consultant;
7906 (xiv) if either the charity or its parent foundation will be using the services of a
7907 professional fund raiser or a professional fund raising counsel or consultant:
7908 (A) a copy of all agreements related to the services; and
7909 (B) an acknowledgment that fund raising in the state will not commence until both the
7910 charitable organization, its parent foundation, if any, and the professional fund raiser or
7911 professional fund raising counsel or consultant are registered and in compliance with this
7912 chapter; and
7913 (xv) any additional information the division may require by rule.
7914 (2) If any information contained in the application for registration becomes incorrect or
7915 incomplete, the applicant or registrant shall, within 30 days after the information becomes
7916 incorrect or incomplete, correct the application or file the complete information required by the
7917 division.
7918 (3) In addition to the registration fee, an organization failing to file a registration
7919 application or renewal by the due date or filing an incomplete registration application or
7920 renewal shall pay an additional fee of $25 for each month or part of a month after the date on
7921 which the registration application or renewal were due to be filed.
7922 Section 140. Section **13-22-8** is amended to read:
7923 **13-22-8. Exemptions.**
7924 (1) Section 13-22-5 does not apply to:
7925 (a) a solicitation that an organization conducts among its own established and bona fide
7926 membership exclusively through the voluntarily donated efforts of other members or officers of
7927 the organization;
7928 (b) a bona fide religious, ecclesiastical, or denominational organization if:
7929 (i) the solicitation is made for a church, missionary, religious, or humanitarian purpose;
7930 and
7931 (ii) the organization is either:
7932 (A) a lawfully organized corporation, institution, society, church, or established

7933 physical place of worship, at which nonprofit religious services and activities are regularly
7934 conducted and carried on;
7935 (B) a bona fide religious group:
7936 (I) that does not maintain specific places of worship;
7937 (II) that is not subject to federal income tax; and
7938 (III) not required to file an IRS Form 990 under any circumstance; or
7939 (C) a separate group or corporation that is an integral part of an institution that is an
7940 income tax exempt organization under 26 U.S.C. Sec. 501(c)(3) and is not primarily supported
7941 by funds solicited outside its own membership or congregation;
7942 (c) a solicitation by a broadcast media owned or operated by an educational institution
7943 or governmental entity, or any entity organized solely for the support of that broadcast media;
7944 (d) except as provided in Subsection 13-22-21(1), a solicitation for the relief of any
7945 person sustaining a life-threatening illness or injury specified by name at the time of
7946 solicitation if the entire amount collected without any deduction is turned over to the named
7947 person;
7948 (e) a political party authorized to transact its affairs within this state and any candidate
7949 and campaign worker of the party if the content and manner of any solicitation make clear that
7950 the solicitation is for the benefit of the political party or candidate;
7951 (f) a political action committee or group soliciting funds relating to issues or candidates
7952 on the ballot if the committee or group is required to file financial information with a federal or
7953 state election commission;
7954 (g) any school accredited by the state, any accredited institution of higher learning, or
7955 club or parent, teacher, or student organization within and authorized by the school in support
7956 of the operations or extracurricular activities of the school;
7957 (h) a public or higher education foundation established under Title 53A or 53B;
7958 (i) a television station, radio station, or newspaper of general circulation that donates
7959 air time or print space for no consideration as part of a cooperative solicitation effort on behalf
7960 of a charitable organization, whether or not that organization is required to register under this
7961 chapter;
7962 (j) a volunteer fire department, rescue squad, or local civil defense organization whose
7963 financial oversight is under the control of a local governmental entity;

7964 (k) any governmental unit of any state or the United States; and
7965 (l) any corporation:
7966 (i) established by an act of the United States Congress; and
7967 (ii) that is required by federal law to submit an annual report:
7968 (A) on the activities of the corporation, including an itemized report of all receipts and
7969 expenditures of the corporation; and
7970 (B) to the United States Secretary of Defense to be:
7971 (I) audited; and
7972 (II) submitted to the United States Congress.
7973 (2) Any organization claiming an exemption under this section bears the burden of
7974 proving its eligibility for, or the applicability of, the exemption claimed.
7975 (3) Each organization exempt from registration pursuant to this section that makes a
7976 material change in its legal status, officers, address, or similar changes shall file a report
7977 informing the division of its current legal status, business address, business phone, officers, and
7978 primary contact person within 30 days of the change.
7979 (4) The division may by rule:
7980 (a) require organizations exempt from registration pursuant to this section to file a
7981 notice of claim of exemption;
7982 (b) prescribe the contents of the notice of claim; and
7983 (c) require a filing fee for the notice, as determined under Section [~~63-38-3.2~~]
7984 63J-1-303.
7985 Section 141. Section **13-22-9** is amended to read:
7986 **13-22-9. Professional fund raiser's or fund raising counsel's or consultant's**
7987 **permit.**
7988 (1) It is unlawful for any person or entity to act as a professional fund raiser or
7989 professional fund raising counsel or consultant, whether or not representing an organization
7990 exempt from registration under Section 13-22-8, without first obtaining a permit from the
7991 division by complying with all of the following application requirements:
7992 (a) pay an application fee as determined under Section [~~63-38-3.2~~] 63J-1-303; and
7993 (b) submit a written application, verified under oath, on a form approved by the
7994 division that includes:

7995 (i) the applicant's name, address, telephone number, facsimile number, if any;
7996 (ii) the name and address of any organization or person controlled by, controlling, or
7997 affiliated with the applicant;
7998 (iii) the applicant's business, occupation, or employment for the three-year period
7999 immediately preceding the date of the application;
8000 (iv) whether it is an individual, joint venture, partnership, limited liability company,
8001 corporation, association, or other entity;
8002 (v) the names and residence addresses of any officer or director of the applicant;
8003 (vi) the name and address of the registered agent for service of process and a consent to
8004 service of process;
8005 (vii) if a professional fund raiser:
8006 (A) the purpose of the solicitation and use of the contributions to be solicited;
8007 (B) the method by which the solicitation will be conducted and the projected length of
8008 time it is to be conducted;
8009 (C) the anticipated expenses of the solicitation, including all commissions, costs of
8010 collection, salaries, and any other items;
8011 (D) a statement of what percentage of the contributions collected as a result of the
8012 solicitation are projected to remain available to the charitable organization declared in the
8013 application, including a satisfactory statement of the factual basis for the projected percentage
8014 and projected anticipated revenues provided to the charitable organization, and if a flat fee is
8015 charged, documentation to support the reasonableness of the flat fee; and
8016 (E) a statement of total contributions collected or received by the professional fund
8017 raiser within the calendar year immediately preceding the date of the application, including a
8018 description of the expenditures made from or the use made of the contributions;
8019 (viii) if a professional fund raising counsel or consultant:
8020 (A) the purpose of the plan, management, advise, counsel or preparation of materials
8021 for, or respect to the solicitation and use of the contributions solicited;
8022 (B) the method by which the plan, management, advise, counsel, or preparation of
8023 materials for, or respect to the solicitation will be organized or coordinated and the projected
8024 length of time of the solicitation;
8025 (C) the anticipated expenses of the plan, management, advise, counsel, or preparation

8026 of materials for, or respect to the solicitation, including all commissions, costs of collection,
8027 salaries, and any other items;
8028 (D) a statement of total fees to be earned or received from the charitable organization
8029 declared in the application, and what percentage of the contributions collected as a result of the
8030 plan, management, advise, counsel, or preparation of materials for, or respect to the solicitation
8031 are projected after deducting the total fees to be earned or received remain available to the
8032 charitable organization declared in the application, including a satisfactory statement of the
8033 factual basis for the projected percentage and projected anticipated revenues provided to the
8034 charitable organization, and if a flat fee is charged, documentation to support the
8035 reasonableness of such flat fee; and
8036 (E) a statement of total net fees earned or received within the calendar year
8037 immediately preceding the date of the application, including a description of the expenditures
8038 made from or the use of the net earned or received fees in the planning, management, advising,
8039 counseling, or preparation of materials for, or respect to the solicitation and use of the
8040 contributions solicited for the charitable organization;
8041 (ix) disclosure of any injunction, judgment, or administrative order against the
8042 applicant or the applicant's conviction of any crime involving moral turpitude;
8043 (x) a copy of any written agreements with any charitable organization;
8044 (xi) the disclosure of any injunction, judgment, or administrative order or conviction of
8045 any crime involving moral turpitude with respect to any officer, director, manager, operator, or
8046 principal of the applicant;
8047 (xii) a copy of all agreements to which the applicant is, or proposes to be, a party
8048 regarding the use of proceeds;
8049 (xiii) an acknowledgment that fund raising in the state will not commence until both
8050 the professional fund raiser or professional fund raising counsel or consultant and the charity,
8051 its parent foundation, if any, are registered and in compliance with this chapter; and
8052 (xiv) any additional information the division may require by rule.
8053 (2) If any information contained in the application for a permit becomes incorrect or
8054 incomplete, the applicant or registrant shall, within 30 days after the information becomes
8055 incorrect or incomplete, correct the application or file the complete information required by the
8056 division.

8057 (3) In addition to the permit fee, an applicant failing to file a permit application or
8058 renewal by the due date or filing an incomplete permit application or renewal shall pay an
8059 additional fee of $25 for each month or part of a month after the date on which the permit
8060 application or renewal were due to be filed.
8061 Section 142. Section **13-22-12** is amended to read:
8062 **13-22-12. Grounds for denial, suspension, or revocation.**
8063 (1) The director may, in accordance with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
8064 Administrative Procedures Act, issue an order to deny, suspend, or revoke an application,
8065 registration, permit, or information card, upon a finding that the order is in the public interest
8066 and that:
8067 (a) the application for registration or renewal is incomplete or misleading in any
8068 material respect;
8069 (b) the applicant or registrant or any officer, director, agent, or employee of the
8070 applicant or registrant has:
8071 (i) violated this chapter or committed any of the prohibited acts and practices described
8072 in this chapter;
8073 (ii) been enjoined by any court, or is the subject of an administrative order issued in
8074 this or another state, if the injunction or order includes a finding or admission of fraud, breach
8075 of fiduciary duty, material misrepresentation, or if the injunction or order was based on a
8076 finding of lack of integrity, truthfulness, or mental competence of the applicant;
8077 (iii) been convicted of a crime involving moral turpitude;
8078 (iv) obtained or attempted to obtain a registration or a permit by misrepresentation;
8079 (v) materially misrepresented or caused to be misrepresented the purpose and manner
8080 in which contributed funds and property will be used in connection with any solicitation;
8081 (vi) caused or allowed any paid solicitor to violate any rule made or order issued under
8082 this chapter by the division;
8083 (vii) failed to take corrective action with its solicitors who have violated this chapter or
8084 committed any of the prohibited acts and practices of this chapter;
8085 (viii) used, or attempted to use a name that either is deceptively similar to a name used
8086 by an existing registered or exempt charitable organization, or appears reasonably likely to
8087 cause confusion of names;

8088 (ix) failed to timely file with the division any report required in this chapter or by rules
8089 made under this chapter; or
8090 (x) failed to pay a fine imposed by the division in accordance with Section 13-22-3; or
8091 (c) the applicant for registration or renewal has no charitable purpose.
8092 (2) The director may, in accordance with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
8093 Administrative Procedures Act, issue an order to revoke or suspend a claim of exemption filed
8094 under Subsection 13-22-8(4), upon a finding that the order is in the public interest and that:
8095 (a) the notice of claim of exemption is incomplete or false or misleading in any
8096 material respect; or
8097 (b) any provision of this chapter, or any rule made or order issued by the division under
8098 this chapter has been violated in connection with a charitable solicitation by any exempt
8099 organization.
8100 Section 143. Section **13-23-5** is amended to read:
8101 **13-23-5. Registration -- Bond, letter of credit, or certificate of deposit required --**
8102 **Penalties.**
8103 (1) (a) (i) It is unlawful for any health spa facility to operate in this state unless the
8104 facility is registered with the division.
8105 (ii) Registration is effective for one year. If the health spa facility renews its
8106 registration, the registration shall be renewed at least 30 days prior to its expiration.
8107 (iii) The division shall provide by rule for the form, content, application process, and
8108 renewal process of the registration.
8109 (b) Each health spa registering in this state shall designate a registered agent for
8110 receiving service of process. The registered agent shall be reasonably available from 8 a.m.
8111 until 5 p.m. during normal working days.
8112 (c) The division shall charge and collect a fee for registration under guidelines
8113 provided in Section [~~63-38-3.2~~] 63J-1-303.
8114 (d) If an applicant fails to file a registration application or renewal by the due date, or
8115 files an incomplete registration application or renewal, the applicant shall pay a fee of $25 for
8116 each month or part of a month after the date on which the registration application or renewal
8117 were due to be filed, in addition to the registration fee described in Subsection (1)(c).
8118 (2) (a) Each health spa shall obtain and maintain:

8119 (i) a performance bond issued by a surety authorized to transact surety business in this
8120 state;
8121 (ii) an irrevocable letter of credit issued by a financial institution authorized to do
8122 business in this state; or
8123 (iii) a certificate of deposit.
8124 (b) The bond, letter of credit, or certificate of deposit shall be payable to the division
8125 for the benefit of any consumer who incurs damages as the result of:
8126 (i) the health spa's violation of this chapter; or
8127 (ii) the health spa's going out of business or relocating and failing to offer an alternate
8128 location within five miles.
8129 (c) (i) The division may recover from the bond, letter of credit, or certificate of deposit
8130 the costs of collecting and distributing funds under this section, up to 10% of the face value of
8131 the bond, letter of credit, or certificate of deposit but only if the consumers have fully recovered
8132 their damages first.
8133 (ii) The total liability of the issuer of the bond, letter of credit, or certificate of deposit
8134 may not exceed the amount of the bond, letter of credit, or certificate of deposit.
8135 (iii) The health spa shall maintain a bond, letter of credit, or certificate of deposit in
8136 force for one year after it notifies the division in writing that it has ceased all activities
8137 regulated by this chapter.
8138 (d) A health spa providing services at more than one location shall comply with the
8139 requirements of Subsection (2)(a) for each separate location.
8140 (e) The division may impose a fine against a health spa that fails to comply with the
8141 requirements of Subsection (2)(a) of up to $100 per day that the health spa remains out of
8142 compliance. All penalties received shall be deposited into the Consumer Protection Education
8143 and Training Fund created in Section 13-2-8.
8144 (3) (a) The minimum principal amount of the bond, letter of credit, or certificate of
8145 credit required under Subsection (2) shall be based on the number of unexpired contracts for
8146 health spa services to which the health spa is a party, in accordance with the following
8147 schedule:
8148 Principal Amount of Number of Contracts
8149 Bond, Letter of Credit,

8150 or Certificate of Deposit

8151 $15,000	500 or fewer
8152 35,000	501 to 1,500
8153 50,000	1,500 to 3,000
8154 75,000	3,001 or more

8155 (b) A health spa that is not exempt under Section 13-23-6 shall comply with
8156 Subsection (3)(a) with respect to all of the health spa's unexpired contracts for health spa
8157 services, regardless of whether a portion of those contracts satisfy the criteria in Section
8158 13-23-6.
8159 (4) Each health spa shall obtain the bond, letter of credit, or certificate of deposit and
8160 furnish a certified copy of the bond, letter of credit, or certificate of deposit to the division prior
8161 to selling, offering or attempting to sell, soliciting the sale of, or becoming a party to any
8162 contract to provide health spa services. A health spa is considered to be in compliance with
8163 this section only if the proof provided to the division shows that the bond, letter of credit, or
8164 certificate of credit is current.
8165 (5) Each health spa shall:
8166 (a) maintain accurate records of the bond, letter of credit, or certificate of credit and of
8167 any payments made, due, or to become due to the issuer; and
8168 (b) open the records to inspection by the division at any time during normal business
8169 hours.
8170 (6) If a health spa changes ownership, ceases operation, discontinues facilities, or
8171 relocates and fails to offer an alternate location within five miles within 30 days after its
8172 closing, the health spa is subject to the requirements of this section as if it were a new health
8173 spa coming into being at the time the health spa changed ownership. The former owner may
8174 not release, cancel, or terminate the owner's liability under any bond, letter of credit, or
8175 certificate of deposit previously filed with the division, unless:
8176 (a) the new owner has filed a new bond, letter of credit, or certificate of deposit for the
8177 benefit of consumers covered under the previous owner's bond, letter of credit, or certificate of
8178 deposit; or
8179 (b) the former owner has refunded all unearned payments to consumers.
8180 (7) If a health spa ceases operation or relocates and fails to offer an alternative location

8181 within five miles, the health spa shall provide the division with 45 days prior notice.
8182 Section 144. Section **13-25a-109** is amended to read:
8183 **13-25a-109. No-call database.**
8184 (1) (a) In accordance with Subsection (1)(b), the division shall establish and provide for
8185 the operation of a no-call database to compile a list of telephone numbers of persons who have
8186 provided notice of the person's objection to receiving an unsolicited telephone call.
8187 (b) The no-call database described in Subsection (1)(a) shall consist of the Utah
8188 telephone numbers contained in the national "do-not-call" registry established and maintained
8189 by the Federal Trade Commission pursuant to 16 C.F.R. 310.4(b)(1)(iii)(B).
8190 (2) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
8191 Administrative Rulemaking Act, the division may adopt rules to:
8192 (a) define the improper use of the no-call database;
8193 (b) define administrative fines for the improper use of the no-call database, which may
8194 not be greater than those imposed for a violation of the national "do-not-call" registry described
8195 in Subsection (1)(b); and
8196 (c) define administrative fines against a person that registers another person to the
8197 no-call database without that person's consent.
8198 (3) Information contained in the no-call database maintained under this section shall be
8199 classified as private under [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records
8200 Access and Management Act, and shall be used only for purposes of:
8201 (a) compliance with this chapter; or
8202 (b) a proceeding or action to enforce this chapter.
8203 Section 145. Section **13-26-3** is amended to read:
8204 **13-26-3. Registration and bond required.**
8205 (1) (a) Unless exempt under Section 13-26-4, each telephone soliciting business shall
8206 register annually with the division before engaging in telephone solicitations if:
8207 (i) the telephone soliciting business engages in telephone solicitations that:
8208 (A) originate in Utah; or
8209 (B) are received in Utah; or
8210 (ii) the telephone soliciting business conducts any business operations in Utah.
8211 (b) The registration form shall designate an agent residing in this state who is

8212 authorized by the telephone soliciting business to receive service of process in any action
8213 brought by this state or a resident of this state.
8214 (c) If a telephone soliciting business fails to designate an agent to receive service or
8215 fails to appoint a successor to the agent:
8216 (i) the business' application for an initial or renewal registration shall be denied; and
8217 (ii) any current registration shall be suspended until an agent is designated.
8218 (2) The division may impose an annual registration fee set pursuant to Section
8219 [~~63-38-3.2~~] 63J-1-303.
8220 (3) (a) Each telephone soliciting business engaging in telephone solicitation or sales in
8221 this state shall obtain and maintain the following security:
8222 (i) a performance bond issued by a surety authorized to transact surety business in this
8223 state;
8224 (ii) an irrevocable letter of credit issued by a financial institution authorized to do
8225 business in this state; or
8226 (iii) a certificate of deposit held in this state in a depository institution regulated by the
8227 Department of Financial Institutions.
8228 (b) The bond, letter of credit, or certificate of deposit shall be payable to the division
8229 for the benefit of any consumer who incurs damages as the result of any telephone solicitation
8230 or sales violation of this chapter.
8231 (c) The division may recover from the bond, letter of credit, or certificate of deposit
8232 investigative costs, attorneys' fees, and other costs of collecting and distributing funds under
8233 this section and the costs of promoting consumer education, but only if the consumer has first
8234 recovered full damages.
8235 (d) A telephone soliciting business shall keep a bond, certificate of deposit, or letter of
8236 credit in force for one year after it notifies the division in writing that it has ceased all activities
8237 regulated by this chapter.
8238 (e) The amount to be posted in the form of a bond, irrevocable letter of credit, or
8239 certificate of deposit shall be:
8240 (i) $25,000 if:
8241 (A) neither the telephone soliciting business nor any affiliated person has violated this
8242 chapter within three years preceding the date of the application; and

8243 (B) the telephone soliciting business has fewer than ten employees;
8244 (ii) $50,000 if:
8245 (A) neither the telephone soliciting business nor any affiliated person has violated this
8246 chapter within three years preceding the date of the application; and
8247 (B) the telephone soliciting business has ten or more employees; or
8248 (iii) $75,000 if the telephone soliciting business or any affiliated person has violated
8249 this chapter within three years preceding the date of the application.
8250 (f) For purposes of Subsection (3)(e) an "affiliated person" means a contractor,
8251 director, employee, officer, owner, or partner of the telephone soliciting business.
8252 (4) The division may establish by rule the registration requirements for telephone
8253 soliciting businesses under the terms of [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
8254 Administrative Rulemaking Act. An administrative proceeding conducted by the division
8255 under this chapter shall comply with the requirements of [~~Title 63, Chapter 46b~~] Title 63G,
8256 Chapter 4, Administrative Procedures Act.
8257 (5) The division director may revoke a registration under this section for any violation
8258 of this chapter.
8259 Section 146. Section **13-32a-106.5** is amended to read:
8260 **13-32a-106.5. Confidentiality of pawn and purchase transactions.**
8261 (1) All pawn and purchase transaction records delivered to a local law enforcement
8262 official or transmitted to the central database pursuant to Section 13-32a-106 are protected
8263 records under Section [~~63-2-304~~] 63G-2-305. These records may be used only by law
8264 enforcement officials and the division and only for the law enforcement and administrative
8265 enforcement purposes of:
8266 (a) investigating possible criminal conduct involving the property delivered to the
8267 pawnbroker in a pawn or purchase transaction;
8268 (b) investigating a pawnbroker's possible violation of the record keeping or reporting
8269 requirements of this chapter when the local law enforcement official, based on a review of the
8270 records and information received, has reason to believe that a violation has occurred;
8271 (c) responding to an inquiry from a person claiming ownership of described property
8272 by searching the database to determine if property matching the description has been delivered
8273 to a pawnbroker by another person in a pawn or purchase transaction and if so, obtaining from

8274 the database:
8275 (i) a description of the property;
8276 (ii) the name and address of the pawnbroker who received the property; and
8277 (iii) the name, address, and date of birth of the conveying person; and
8278 (d) take enforcement action under Section 13-2-5 against a pawnbroker.
8279 (2) (a) A person may not knowingly and intentionally use, release, publish, or
8280 otherwise make available to any person or entity any information obtained from the database
8281 for any purpose other than those specified in Subsection (1).
8282 (b) Each separate violation of this Subsection (2) is subject to a civil penalty not to
8283 exceed $250.
8284 Section 147. Section **13-32a-111** is amended to read:
8285 **13-32a-111. Fees to fund training and central database.**
8286 (1) On and after January 1, 2005, each pawnshop or secondhand merchandise dealer in
8287 operation shall annually pay $250 to the division, to be deposited in the account.
8288 (2) On and after January 1, 2005, each law enforcement agency that participates in the
8289 use of the database shall annually pay to the division a fee of $2 per sworn law enforcement
8290 officer who is employed by the agency as of January 1 of that year. The fee shall be deposited
8291 in the account.
8292 (3) The fees under Subsections (1) and (2) shall be paid to the account annually on or
8293 before January 30.
8294 (4) (a) If a law enforcement agency outside Utah requests access to the central
8295 database, the requesting agency shall pay a yearly fee of $750 for the fiscal year beginning July
8296 1, 2006, which shall be deposited in the account.
8297 (b) The board may establish the fee amount for fiscal years beginning on and after July
8298 1, 2007 under Section [~~63-38-3.2~~] 63J-1-303.
8299 Section 148. Section **13-34-104** is amended to read:
8300 **13-34-104. Prohibited acts -- Exceptions -- Responsibilities of proprietary schools.**
8301 (1) Except as provided in this chapter, a proprietary school may not offer, sell, or
8302 award a degree or any other type of educational credential unless the student has enrolled in
8303 and successfully completed a prescribed program of study as outlined in the proprietary
8304 school's catalogue.

8305 (2) The prohibition described in Subsection (1) does not apply to:
8306 (a) honorary credentials clearly designated as such on the front side of a diploma; or
8307 (b) certificates and awards by a proprietary school that offers other educational
8308 credentials requiring enrollment in and successful completion of a prescribed program of study
8309 in compliance with the requirements of this chapter.
8310 (3) A proprietary school must provide bona fide instruction through student-faculty
8311 interaction.
8312 (4) A proprietary school may not enroll a student in a program unless the proprietary
8313 school has made a good-faith determination that the student has the ability to benefit from the
8314 program.
8315 (5) A proprietary school may not make or cause to be made any oral, written, or visual
8316 statement or representation that an institution described in Subsection 13-34-107(2)(a)(ii)
8317 knows or should know to be:
8318 (a) false;
8319 (b) deceptive;
8320 (c) substantially inaccurate; or
8321 (d) misleading.
8322 (6) The division shall establish standards and criteria by rule made in accordance with
8323 [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the
8324 following:
8325 (a) the awarding of educational credentials;
8326 (b) bona fide instruction through student-faculty interaction; and
8327 (c) determination of the ability of a student to benefit from a program.
8328 Section 149. Section **13-34-107** is amended to read:
8329 **13-34-107. Advertising, recruiting, or operating a proprietary school -- Required**
8330 **registration statement or exemption -- Certificate of registration -- Registration does not**
8331 **constitute endorsement.**
8332 (1) (a) Unless an institution complies with Subsection (1)(b), the institution may not do
8333 any of the following in this state:
8334 (i) advertise a proprietary school;
8335 (ii) recruit students for a proprietary school; or

8336 (iii) operate a proprietary school.
8337 (b) An institution may not engage in an activity described in Subsection (1)(a) unless
8338 the institution:
8339 (i) (A) files with the division a registration statement relating to the proprietary school
8340 that is in compliance with:
8341 (I) applicable rules made by the division; and
8342 (II) the requirements set forth in this chapter; and
8343 (B) obtains a certificate of registration; or
8344 (ii) establishes an exemption with the division.
8345 (2) (a) The registration statement or exemption described in Subsection (1) shall be:
8346 (i) verified by the oath or affirmation of the owner or a responsible officer of the
8347 proprietary school filing the registration statement or exemption; and
8348 (ii) include a certification as to whether any of the following has violated laws, federal
8349 regulations, or state rules as determined in a criminal, civil, or administrative proceeding:
8350 (A) the proprietary school; or
8351 (B) any of the following with respect to the proprietary school:
8352 (I) an owner;
8353 (II) an officer;
8354 (III) a director;
8355 (IV) an administrator;
8356 (V) a faculty member;
8357 (VI) a staff member; or
8358 (VII) an agent.
8359 (b) The proprietary school shall:
8360 (i) make available, upon request, a copy of the registration statement, showing the date
8361 upon which it was filed; and
8362 (ii) display the certificate of registration obtained from the division in a conspicuous
8363 place on the proprietary school's premises.
8364 (3) (a) A registration statement and the accompanying certificate of registration are not
8365 transferable.
8366 (b) In the event of a change in ownership or in the governing body of the proprietary

8367 school, the new owner or governing body, within 30 days after the change, shall file a new
8368 registration statement.
8369 (4) Except as provided in Subsection (3)(b), a registration statement or a renewal
8370 statement and the accompanying certificate of registration are effective for a period of two
8371 years after the date of filing and issuance.
8372 (5) (a) The division shall establish a graduated fee structure for the filing of registration
8373 statements by various classifications of institutions pursuant to Section [~~63-38-3.2~~] 63J-1-303.
8374 (b) Fees are not refundable.
8375 (c) Fees shall be deposited in the Commerce Service Fund pursuant to Section 13-1-2.
8376 (6) (a) Each proprietary school shall:
8377 (i) demonstrate fiscal responsibility at the time the proprietary school files its
8378 registration statement as prescribed by rules of the division; and
8379 (ii) provide evidence to the division that the proprietary school:
8380 (A) is financially sound; and
8381 (B) can reasonably fulfill commitments to and obligations the proprietary school has
8382 incurred with students and creditors.
8383 (b) A proprietary school applying for an initial certificate of registration to operate
8384 shall prepare and submit financial statements and supporting documentation as requested by
8385 the division.
8386 (c) A proprietary school applying for renewal of a certificate of registration to operate
8387 or renewal under new ownership must provide audited financial statements.
8388 (d) The division may require evidence of financial status at other times when it is in the
8389 best interest of students to require such information.
8390 (7) (a) A proprietary school applying for an initial certificate of registration or seeking
8391 renewal shall provide in a form approved by the division:
8392 (i) a surety bond;
8393 (ii) a certificate of deposit; or
8394 (iii) an irrevocable letter of credit.
8395 (b) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
8396 Administrative Rulemaking Act, the division may make rules providing for:
8397 (i) the amount of the bond, certificate, or letter of credit required under Subsection

8398 (7)(a), not to exceed in amount the anticipated tuition and fees to be received by the proprietary
8399 school during a school year;
8400 (ii) the execution of the bond, certificate, or letter of credit;
8401 (iii) cancellation of the bond, certificate, or letter of credit during or at the end of the
8402 registration term; and
8403 (iv) any other matters related to providing the bond, certificate, or letter of credit
8404 required under Subsection (7)(a).
8405 (c) The bond, certificate, or letter of credit shall be used as a protection against loss of
8406 advanced tuition, book fees, supply fees, or equipment fees:
8407 (i) collected by the proprietary school from a student or a student's parent, guardian, or
8408 sponsor prior to the completion of the program or courses for which it was collected; or
8409 (ii) for which the student is liable.
8410 (8) (a) Except as provided in Section 13-34-113, the division may not refuse
8411 acceptance of a registration statement that is:
8412 (i) tendered for filing and, based on a preliminary review, appears to be in compliance
8413 with Subsections (1), (2), and (6); and
8414 (ii) accompanied by:
8415 (A) the required fee; and
8416 (B) one of the following required by Subsection (7):
8417 (I) surety bond;
8418 (II) certificate of deposit; or
8419 (III) irrevocable letter of credit.
8420 (b) A certificate of registration is effective upon the date of issuance.
8421 (c) The responsibility of compliance is upon the proprietary school and not upon the
8422 division.
8423 (d) (i) If it appears to the division that a registration statement on file may not be in
8424 compliance with this chapter, the division may advise the proprietary school as to the apparent
8425 deficiencies.
8426 (ii) After a proprietary school has been notified of a deficiency under Subsection
8427 (8)(d)(i), a new or amended statement may be presented for filing by the proprietary school,
8428 accompanied by:

8429 (A) the required fee; and
8430 (B) one of the following required by Subsection (7):
8431 (I) surety bond;
8432 (II) certificate of deposit; or
8433 (III) irrevocable letter of credit.
8434 (9) The following does not constitute and may not be represented by any person to
8435 constitute, an endorsement or approval of the proprietary school by either the division or the
8436 state:
8437 (a) an acceptance of:
8438 (i) a registration statement;
8439 (ii) a renewal statement; or
8440 (iii) an amended registration statement; and
8441 (b) issuance of a certificate of registration.
8442 Section 150. Section **13-34-113** is amended to read:
8443 **13-34-113. Denial, suspension, or revocation of a certificate of registration --**
8444 **Limitations.**
8445 (1) In accordance with Chapter 2, Division of Consumer Protection, and [~~Title 63,~~
8446 ~~Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, the division may initiate
8447 proceedings to deny, suspend, or revoke a certificate of registration to operate a proprietary
8448 school under this chapter if:
8449 (a) the division finds that the order is in the public interest; and
8450 (b) (i) the registration statement or renewal statement is incomplete, false, or
8451 misleading in any respect;
8452 (ii) the division determines that the educational credential associated with the
8453 proprietary school represents the undertaking or completion of educational achievement that
8454 has not been undertaken and earned; or
8455 (iii) the proprietary school or an individual described in Subsection
8456 13-34-107(2)(a)(ii)(B) has:
8457 (A) violated any provision of:
8458 (I) this chapter;
8459 (II) the rules made by the division pursuant to this chapter; or

8460 (III) a commitment made in a registration statement for a certificate of registration to
8461 operate the proprietary school;
8462 (B) caused or allowed to occur a violation of any provision of:
8463 (I) this chapter;
8464 (II) the rules made by the division pursuant to this chapter; or
8465 (III) a commitment made in a registration statement for a certificate of registration to
8466 operate the proprietary school;
8467 (C) been enjoined by any court, or is the subject of an administrative or judicial order
8468 issued in this or another state, if the injunction or order:
8469 (I) includes a finding or admission of fraud, breach of fiduciary duty, or material
8470 misrepresentation; or
8471 (II) was based on a finding of lack of integrity, truthfulness, or mental competence;
8472 (D) been convicted of a crime involving moral turpitude;
8473 (E) obtained or attempted to obtain a certificate of registration under this chapter by
8474 misrepresentation;
8475 (F) failed to timely file with the division any report required by:
8476 (I) this chapter; or
8477 (II) rules made by the division pursuant to this chapter;
8478 (G) failed to furnish information requested by the division; or
8479 (H) failed to pay an administrative fine imposed by the division in accordance with this
8480 chapter.
8481 (2) Division staff may place reasonable limits upon a proprietary school's continued
8482 certificate of registration to operate if:
8483 (a) there are serious concerns about the proprietary school's ability to provide the
8484 training in the manner approved by the division; and
8485 (b) limitation is warranted to protect the students' interests.
8486 (3) The division may:
8487 (a) conduct a criminal background check on an individual described in Subsection
8488 13-34-107(2)(a)(ii)(B); and
8489 (b) require a proprietary school to provide to the division any information necessary to
8490 conduct a criminal background check on an individual described in Subsection

8491 13-34-107(2)(a)(ii)(B).
8492 Section 151. Section **13-35-104** is amended to read:
8493 **13-35-104. Powers and duties of the advisory board and the executive director.**
8494 (1) (a) Except as provided in Subsection 13-35-106(3), the advisory board shall make
8495 recommendations to the executive director on the administration and enforcement of this
8496 chapter, including adjudicative and rulemaking proceedings.
8497 (b) The executive director shall:
8498 (i) consider the advisory board's recommendations; and
8499 (ii) issue any final decision by the department.
8500 (2) The executive director, in consultation with the advisory board, shall make rules for
8501 the administration of this chapter in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter
8502 3, Utah Administrative Rulemaking Act.
8503 (3) (a) An adjudicative proceeding under this chapter shall be conducted in accordance
8504 with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
8505 (b) In an adjudicative proceeding under this chapter, any order issued by the executive
8506 director:
8507 (i) shall comply with Section [~~63-46b-10~~] 63G-4-208, whether the proceeding is a
8508 formal or an informal adjudicative proceeding under [~~Title 63, Chapter 46b~~] Title 63G, Chapter
8509 4, Administrative Procedures Act; and
8510 (ii) if the order modifies or rejects a finding of fact in a recommendation from the
8511 advisory board, shall be made on the basis of information learned from the executive director's:
8512 (A) personal attendance at the hearing; or
8513 (B) review of the record developed at the hearing.
8514 Section 152. Section **13-35-105** is amended to read:
8515 **13-35-105. Registration -- Fees.**
8516 (1) A franchisee or franchisor doing business in this state shall:
8517 (a) annually register or renew its registration with the department in a manner
8518 established by the department; and
8519 (b) pay an annual registration fee in an amount determined by the department in
8520 accordance with Sections 13-1-2 and [~~63-38-3.2~~] 63J-1-303.
8521 (2) The department shall register or renew the registration of a franchisee or franchisor

8522 if the franchisee or franchisor complies with this chapter and rules made by the department
8523 under this chapter.
8524 (3) A franchisee or franchisor registered under this section shall comply with this
8525 chapter and any rules made by the department under this chapter including any amendments to
8526 this chapter or the rules made after a franchisee or franchisor enter into a franchise agreement.
8527 (4) The fee imposed under Subsection (1)(b) shall be collected by the department and
8528 deposited into the Commerce Service Fund.
8529 (5) Notwithstanding Subsection (1), an agent, officer, or field or area representative of
8530 a franchisor does not need to be registered under this section if the franchisor is registered
8531 under this section.
8532 Section 153. Section **13-35-106** is amended to read:
8533 **13-35-106. Administrative proceedings commenced by the agency.**
8534 (1) Except as provided in Subsection (3), after a hearing and after receipt of the
8535 advisory board's recommendation, if the executive director finds that a person has violated this
8536 chapter or any rule made under this chapter, the executive director may:
8537 (a) issue a cease and desist order; and
8538 (b) assess an administrative fine.
8539 (2) (a) In determining the amount and appropriateness of an administrative fine under
8540 Subsection (1), the executive director shall consider:
8541 (i) the gravity of the violation;
8542 (ii) any history of previous violations; and
8543 (iii) any attempt made by the person to retaliate against another person for seeking
8544 relief under this chapter or other federal or state law relating to the motor vehicle industry.
8545 (b) In addition to any other action permitted under Subsection (1), the department may
8546 file an action with a court seeking to enforce the executive director's order and pursue the
8547 executive director's assessment of a fine in an amount not to exceed $5,000 for each day a
8548 person violates an order of the executive director.
8549 (3) (a) In addition to the grounds for issuing an order on an emergency basis listed in
8550 Subsection [~~63-46b-20~~] 63G-4-502(1), the executive director may issue an order on an
8551 emergency basis if the executive director determines that irreparable damage is likely to occur
8552 if immediate action is not taken.

8553 (b) In issuing an emergency order under Subsection (3)(a), the executive director shall
8554 comply with the requirements of Subsections [~~63-46b-20~~] 63G-4-502(2) and (3).
8555 Section 154. Section **13-35-107** is amended to read:
8556 **13-35-107. Administrative proceedings -- Request for agency action.**
8557 (1) (a) A person may commence an adjudicative proceeding in accordance with this
8558 chapter and with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act,
8559 to:
8560 (i) remedy a violation of this chapter;
8561 (ii) obtain approval of an act regulated by this chapter; or
8562 (iii) obtain any determination that this chapter specifically authorizes that person to
8563 request.
8564 (b) A person shall commence an adjudicative proceeding by filing a request for agency
8565 action in accordance with Section [~~63-46b-3~~] 63G-4-201.
8566 (2) After receipt of the advisory board's recommendation, the executive director shall
8567 apportion in a fair and equitable manner between the parties any costs of the adjudicative
8568 proceeding, including reasonable [~~attorney's~~] attorney fees.
8569 Section 155. Section **13-39-201** is amended to read:
8570 **13-39-201. Establishment of child protection registry.**
8571 (1) The division shall:
8572 (a) establish and operate a child protection registry to compile and secure a list of
8573 contact points the division has received pursuant to this section; or
8574 (b) contract with a third party to establish and secure the registry described in
8575 Subsection (1)(a).
8576 (2) (a) The division shall implement the registry described in this section with respect
8577 to email addresses beginning on July 1, 2005.
8578 (b) The division shall implement the registry described in this section with respect to
8579 instant message identities.
8580 (c) The division shall implement the registry described in this section with respect to
8581 mobile or other telephone numbers.
8582 (3) (a) A person may register a contact point with the division pursuant to rules
8583 established by the division under Subsection 13-39-203(1) if:

8584 (i) the contact point belongs to a minor;
8585 (ii) a minor has access to the contact point; or
8586 (iii) the contact point is used in a household in which a minor is present.
8587 (b) A school or other institution that primarily serves minors may register its domain
8588 name with the division pursuant to rules made by the division under Subsection 13-39-203(1).
8589 (c) The division shall provide a disclosure in a confirmation message sent to a person
8590 who registers a contact point under this section that reads: "No solution is completely secure.
8591 The most effective way to protect children on the Internet is to supervise use and review all
8592 email messages and other correspondence. Under law, theft of a contact point from the Child
8593 Protection Registry is a second degree felony. While every attempt will be made to secure the
8594 Child Protection Registry, registrants and their guardians should be aware that their contact
8595 points may be at a greater risk of being misappropriated by marketers who choose to disobey
8596 the law."
8597 (4) A person desiring to send a communication described in Subsection 13-39-202(1)
8598 to a contact point or domain shall:
8599 (a) use a mechanism established by rule made by the division under Subsection
8600 13-39-203(2); and
8601 (b) pay a fee for use of the mechanism described in Subsection (4)(a) determined by
8602 the division in accordance with Section [~~63-38-3.2~~] 63J-1-303.
8603 (5) The division may implement a program to offer discounted compliance fees to
8604 senders who meet enhanced security conditions established and verified by the division, the
8605 third party registry provider, or a designee.
8606 (6) The contents of the registry, and any complaint filed about a sender who violates
8607 this chapter, are not subject to public disclosure under [~~Title 63, Chapter 2~~] Title 63G, Chapter
8608 2, Government Records Access and Management Act.
8609 (7) The state shall promote the registry on the state's official Internet website.
8610 Section 156. Section **13-39-203** is amended to read:
8611 **13-39-203. Rulemaking authority.**
8612 In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
8613 Rulemaking Act, the division shall make rules to establish procedures under which:
8614 (1) (a) a person may register a contact point with the division under Section 13-39-201,

8615 including:
8616 (i) the information necessary to register an instant message identity; and
8617 (ii) for purposes of Subsection 13-39-102(1)(b)(iv), an electronic address that is similar
8618 to a contact point listed in Subsection 13-39-102(1); and
8619 (b) a school or other institution that primarily serves minors may register its domain
8620 name with the division under Section 13-39-201;
8621 (2) the division shall:
8622 (a) provide a mechanism under which a person described in Subsection 13-39-201(4)
8623 may verify compliance with the registry to remove registered contact points from the person's
8624 communications; and
8625 (b) establish the mechanism described in Subsection (2)(a) in a manner that protects
8626 the privacy and security of a contact point registered with the division under Section
8627 13-39-201; and
8628 (3) the division may:
8629 (a) implement a program offering discounted fees to a sender who meets enhanced
8630 security conditions established and verified by the division, the third party registry provider, or
8631 a designee; and
8632 (b) allow the third party registry provider to assist in any public or industry awareness
8633 campaign promoting the registry.
8634 Section 157. Section **13-41-102** is amended to read:
8635 **13-41-102. Definitions.**
8636 For purposes of this chapter:
8637 (1) "Consumer" means a person who acquires a good or service for consumption.
8638 (2) "Division" means the Division of Consumer Protection.
8639 (3) (a) "Emergency territory" means the geographical area:
8640 (i) for which there has been a state of emergency declared; and
8641 (ii) that is directly affected by the events giving rise to a state of emergency.
8642 (b) "Emergency territory" does not include a geographical area that is affected by the
8643 events giving rise to a state of emergency only by economic market forces.
8644 (4) "Excessive price" means a price for a good or service that exceeds by more than
8645 10% the average price charged by that person for that good or service in the 30-day period

8646 immediately preceding the day on which the state of emergency is declared.
8647 (5) "Good" means any personal property displayed, held, or offered for sale by a
8648 merchant that is necessary for consumption or use as a direct result of events giving rise to a
8649 state of emergency.
8650 (6) "Retail" means the level of distribution where a good or service is typically sold
8651 directly, or otherwise provided, to a member of the public who is an end-user and does not
8652 resell the good or service.
8653 (7) "Service" means any activity that is performed in whole or in part for the purpose of
8654 financial gain including, but not limited to, personal service, professional service, rental,
8655 leasing, or licensing for use that is necessary for consumption or use as a direct result of events
8656 giving rise to a state of emergency.
8657 (8) "State of emergency" means a declaration of:
8658 (a) an emergency or major disaster by the President of the United States of America; or
8659 (b) a state of emergency by the governor under Section [~~63-5a-5~~] 63K-4-203.
8660 Section 158. Section **13-42-105** is amended to read:
8661 **13-42-105. Application for registration -- Form, fee, and accompanying**
8662 **documents.**
8663 (1) An application for registration as a provider must be in a form prescribed by the
8664 administrator.
8665 (2) Subject to adjustment of dollar amounts pursuant to Subsection 13-42-132(6), an
8666 application for registration as a provider must be accompanied by:
8667 (a) the fee established by the administrator in accordance with Section [~~63-38-3.2~~]
8668 63J-1-303;
8669 (b) the bond required by Section 13-42-113;
8670 (c) identification of all trust accounts required by Section 13-42-122 and an irrevocable
8671 consent authorizing the administrator to review and examine the trust accounts;
8672 (d) evidence of insurance in the amount of $250,000:
8673 (i) against the risks of dishonesty, fraud, theft, and other misconduct on the part of the
8674 applicant or a director, employee, or agent of the applicant;
8675 (ii) issued by an insurance company authorized to do business in this state and rated at
8676 least A by a nationally recognized rating organization;

8677 (iii) with no deductible;
8678 (iv) payable to the applicant, the individuals who have agreements with the applicant,
8679 and this state, as their interests may appear; and
8680 (v) not subject to cancellation by the applicant without the approval of the
8681 administrator;
8682 (e) a record consenting to the jurisdiction of this state containing:
8683 (i) the name, business address, and other contact information of its registered agent in
8684 this state for purposes of service of process; or
8685 (ii) the appointment of the administrator as agent of the provider for purposes of
8686 service of process; and
8687 (f) if the applicant is organized as a not-for-profit entity or is exempt from taxation,
8688 evidence of not-for-profit and tax-exempt status applicable to the applicant under the Internal
8689 Revenue Code, 26 U.S.C. Section 501.
8690 Section 159. Section **13-42-109** is amended to read:
8691 **13-42-109. Certification of registration -- Issuance or denial.**
8692 (1) Except as otherwise provided in Subsections (2) and (3), the administrator shall
8693 issue a certificate of registration as a provider to a person that complies with Sections
8694 13-42-105 and 13-42-106.
8695 (2) The administrator may deny registration if:
8696 (a) the application contains information that is materially erroneous or incomplete;
8697 (b) an officer, director, or owner of the applicant has been convicted of a crime, or
8698 suffered a civil judgment, involving dishonesty or the violation of state or federal securities
8699 laws;
8700 (c) the applicant or any of its officers, directors, or owners has defaulted in the payment
8701 of money collected for others; or
8702 (d) the administrator finds that the financial responsibility, experience, character, or
8703 general fitness of the applicant or its owners, directors, employees, or agents does not warrant
8704 belief that the business will be operated in compliance with this chapter.
8705 (3) The administrator shall deny registration if:
8706 (a) the application is not accompanied by the fee established by the administrator in
8707 accordance with Section [~~63-38-3.2~~] 63J-1-303; or

8708 (b) with respect to an applicant that is organized as a not-for-profit entity or has
8709 obtained tax-exempt status under the Internal Revenue Code, 26 U.S.C. Section 501, the
8710 applicant's board of directors is not independent of the applicant's employees and agents.
8711 (4) Subject to adjustment of the dollar amount pursuant to Subsection 13-42-132(6), a
8712 board of directors is not independent for purposes of Subsection (3) if more than one-fourth of
8713 its members:
8714 (a) are affiliates of the applicant, as defined in Subsection 13-42-102(2)(a) or
8715 13-42-102(2)(b)(i), (ii), (iv), (v), (vi), or (vii); or
8716 (b) after the date ten years before first becoming a director of the applicant, were
8717 employed by or directors of a person that received from the applicant more than $25,000 in
8718 either the current year or the preceding year.
8719 Section 160. Section **13-42-110** is amended to read:
8720 **13-42-110. Certificate of registration -- Timing.**
8721 (1) The administrator shall approve or deny an initial registration as a provider within
8722 120 days after an application is filed. In connection with a request pursuant to Subsection
8723 13-42-106(19) for additional information, the administrator may extend the 120-day period for
8724 not more than 60 days. Within seven days after denying an application, the administrator, in a
8725 record, shall inform the applicant of the reasons for the denial.
8726 (2) If the administrator denies an application for registration as a provider or does not
8727 act on an application within the time prescribed in Subsection (1), the applicant may appeal and
8728 request a hearing pursuant to [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
8729 Procedures Act.
8730 (3) Subject to Subsection 13-42-111(4) and Section 13-42-134, a registration as a
8731 provider is valid for one year.
8732 Section 161. Section **13-42-111** is amended to read:
8733 **13-42-111. Renewal of registration.**
8734 (1) A provider must obtain a renewal of its registration annually.
8735 (2) An application for renewal of registration as a provider must be in a form
8736 prescribed by the administrator, signed under penalty of perjury, and:
8737 (a) be filed no fewer than 30 and no more than 60 days before the registration expires;
8738 (b) be accompanied by the fee established by the administrator in accordance with

8739 Section [~~63-38-3.2~~] 63J-1-303 and the bond required by Section 13-42-113;
8740 (c) contain the matter required for initial registration as a provider by Subsections
8741 13-42-106(8) and (9) and a financial statement, audited by an accountant licensed to conduct
8742 audits, for the applicant's fiscal year immediately preceding the application;
8743 (d) disclose any changes in the information contained in the applicant's application for
8744 registration or its immediately previous application for renewal, as applicable;
8745 (e) supply evidence of insurance in an amount equal to the larger of $250,000 or the
8746 highest daily balance in the trust account required by Section 13-42-122 during the six-month
8747 period immediately preceding the application:
8748 (i) against risks of dishonesty, fraud, theft, and other misconduct on the part of the
8749 applicant or a director, employee, or agent of the applicant;
8750 (ii) issued by an insurance company authorized to do business in this state and rated at
8751 least A by a nationally recognized rating organization;
8752 (iii) with no deductible;
8753 (iv) payable to the applicant, the individuals who have agreements with the applicant,
8754 and this state, as their interests may appear; and
8755 (v) not subject to cancellation by the applicant without the approval of the
8756 administrator;
8757 (f) disclose the total amount of money received by the applicant pursuant to plans
8758 during the preceding 12 months from or on behalf of individuals who reside in this state and
8759 the total amount of money distributed to creditors of those individuals during that period;
8760 (g) disclose, to the best of the applicant's knowledge, the gross amount of money
8761 accumulated during the preceding 12 months pursuant to plans by or on behalf of individuals
8762 who reside in this state and with whom the applicant has agreements; and
8763 (h) provide any other information that the administrator reasonably requires to perform
8764 the administrator's duties under this section.
8765 (3) Except for the information required by Subsections 13-42-106(7), (14), and (17)
8766 and the addresses required by Subsection 13-42-106(4), the administrator shall make the
8767 information in an application for renewal of registration as a provider available to the public.
8768 (4) If a registered provider files a timely and complete application for renewal of
8769 registration, the registration remains effective until the administrator, in a record, notifies the

8770 applicant of a denial and states the reasons for the denial.
8771 (5) If the administrator denies an application for renewal of registration as a provider,
8772 the applicant, within 30 days after receiving notice of the denial, may appeal and request a
8773 hearing pursuant to [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures
8774 Act. Subject to Section 13-42-134, while the appeal is pending the applicant shall continue to
8775 provide debt-management services to individuals with whom it has agreements. If the denial is
8776 affirmed, subject to the administrator's order and Section 13-42-134, the applicant shall
8777 continue to provide debt-management services to individuals with whom it has agreements
8778 until, with the approval of the administrator, it transfers the agreements to another registered
8779 provider or returns to the individuals all unexpended money that is under the applicant's
8780 control.
8781 Section 162. Section **13-42-112** is amended to read:
8782 **13-42-112. Registration in another state -- Rulemaking.**
8783 (1) (a) Subject to rules made by the administrator, if a provider holds a license or
8784 certificate of registration in another state authorizing it to provide debt-management services,
8785 the provider may submit a copy of that license or certificate and the application for it instead of
8786 an application in the form prescribed by Subsection 13-42-105(1), Section 13-42-106, or
8787 Subsection 13-42-111(2).
8788 (b) The administrator shall accept the application and the license or certificate from
8789 the other state as an application for registration as a provider or for renewal of registration as a
8790 provider, as appropriate, in this state if:
8791 (i) the application in the other state contains information substantially similar to or
8792 more comprehensive than that required in an application submitted in this state;
8793 (ii) the applicant provides the information required by Subsections 13-42-106(1), (3),
8794 (10), (12), and (13);
8795 (iii) the applicant, under penalty of perjury, certifies that the information contained in
8796 the application is current or, to the extent it is not current, supplements the application to make
8797 the information current; and
8798 (iv) the applicant files a surety bond or substitute in accordance with Section
8799 13-42-113 or 13-42-114 that is solely payable or available to this state and to individuals who
8800 reside in this state.

8801 (2) The administrator, in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
8802 Utah Administrative Rulemaking Act, shall make rules designating the states in which a
8803 provider may have a license or certificate that may be submitted to the administrator in
8804 compliance with this section.
8805 Section 163. Section **13-42-132** is amended to read:
8806 **13-42-132. Powers of administrator.**
8807 (1) The administrator may act on its own initiative or in response to complaints and
8808 may receive complaints, take action to obtain voluntary compliance with this chapter, refer
8809 cases to the attorney general, and seek or provide remedies as provided in this chapter.
8810 (2) The administrator may investigate and examine, in this state or elsewhere, by
8811 subpoena or otherwise, the activities, books, accounts, and records of a person that provides or
8812 offers to provide debt-management services, or a person to which a provider has delegated its
8813 obligations under an agreement or this chapter, to determine compliance with this chapter.
8814 Information that identifies individuals who have agreements with the provider shall not be
8815 disclosed to the public. In connection with the investigation, the administrator may:
8816 (a) charge the person the reasonable expenses necessarily incurred to conduct the
8817 examination;
8818 (b) require or permit a person to file a statement under oath as to all the facts and
8819 circumstances of a matter to be investigated; and
8820 (c) seek a court order authorizing seizure from a bank at which the person maintains a
8821 trust account required by Section 13-42-122, any or all money, books, records, accounts, and
8822 other property of the provider that is in the control of the bank and relates to individuals who
8823 reside in this state.
8824 (3) The administrator may adopt rules to implement the provisions of this chapter in
8825 accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
8826 Rulemaking Act.
8827 (4) The administrator may enter into cooperative arrangements with any other federal
8828 or state agency having authority over providers and may exchange with any of those agencies
8829 information about a provider, including information obtained during an examination of the
8830 provider.
8831 (5) The administrator shall establish fees in accordance with Section [~~63-38-3.2~~]

8832 63J-1-303 to be paid by providers for the expense of administering this chapter.
8833 (6) The administrator, by rule, shall adopt dollar amounts instead of those specified in
8834 Sections 13-42-102, 13-42-105, 13-42-109, 13-42-113, 13-42-123, 13-42-133, and 13-42-135
8835 to reflect inflation, as measured by the United States Bureau of Labor Statistics Consumer
8836 Price Index for All Urban Consumers or, if that index is not available, another index adopted
8837 by rule by the administrator. The administrator shall adopt a base year and adjust the dollar
8838 amounts, effective on July 1 of each year, if the change in the index from the base year, as of
8839 December 31 of the preceding year, is at least 10%. The dollar amount must be rounded to the
8840 nearest $100, except that the amounts in Section 13-42-123 must be rounded to the nearest
8841 dollar.
8842 (7) The administrator shall notify registered providers of any change in dollar amounts
8843 made pursuant to Subsection (6) and make that information available to the public.
8844 Section 164. Section **13-42-134** is amended to read:
8845 **13-42-134. Suspension, revocation, or nonrenewal of registration.**
8846 (1) In this section, "insolvent" means:
8847 (a) having generally ceased to pay debts in the ordinary course of business other than as
8848 a result of good-faith dispute;
8849 (b) being unable to pay debts as they become due; or
8850 (c) being insolvent within the meaning of the federal bankruptcy law, 11 U.S.C.
8851 Section 101 et seq.
8852 (2) The administrator may suspend, revoke, or deny renewal of a provider's registration
8853 if:
8854 (a) a fact or condition exists that, if it had existed when the registrant applied for
8855 registration as a provider, would have been a reason for denying registration;
8856 (b) the provider has committed a material violation of this chapter or a rule or order of
8857 the administrator under this chapter;
8858 (c) the provider is insolvent;
8859 (d) the provider or an employee or affiliate of the provider has refused to permit the
8860 administrator to make an examination authorized by this chapter, failed to comply with
8861 Subsection 13-42-132(2)(b) within 15 days after request, or made a material misrepresentation
8862 or omission in complying with Subsection 13-42-132(2)(b); or

8863 (e) the provider has not responded within a reasonable time and in an appropriate
8864 manner to communications from the administrator.
8865 (3) If a provider does not comply with Subsection 13-42-122(6) or if the administrator
8866 otherwise finds that the public health or safety or general welfare requires emergency action,
8867 the administrator may order a summary suspension of the provider's registration, effective on
8868 the date specified in the order.
8869 (4) If the administrator suspends, revokes, or denies renewal of the registration of a
8870 provider, the administrator may seek a court order authorizing seizure of any or all of the
8871 money in a trust account required by Section 13-42-122, books, records, accounts, and other
8872 property of the provider which are located in this state.
8873 (5) If the administrator suspends or revokes a provider's registration, the provider may
8874 appeal and request a hearing pursuant to [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
8875 Administrative Procedures Act.
8876 Section 165. Section **13-43-203** is amended to read:
8877 **13-43-203. Office of the Property Rights Ombudsman -- Duties.**
8878 (1) The Office of the Property Rights Ombudsman shall:
8879 (a) develop and maintain expertise in and understanding of takings, eminent domain,
8880 and land use law;
8881 (b) assist state agencies and local governments in developing the guidelines required by
8882 [~~Title 63, Chapter 90a~~] Title 63L, Chapter 4, Constitutional Taking Issues;
8883 (c) at the request of a state agency or local government, assist the state agency or local
8884 government, in analyzing actions with potential takings implications or other land use issues;
8885 (d) advise real property owners who have a legitimate potential or actual takings claim
8886 against a state or local government entity or have questions about takings, eminent domain, and
8887 land use law;
8888 (e) identify state or local government actions that have potential takings implications
8889 and, if appropriate, advise those state or local government entities about those implications;
8890 and
8891 (f) provide information to private citizens, civic groups, government entities, and other
8892 interested parties about takings, eminent domain, and land use law and their rights and
8893 responsibilities under the takings, eminent domain, or land use laws through seminars and

8894 publications, and by other appropriate means.
8895 (2) The Office of the Property Rights Ombudsman may not represent private property
8896 owners, state agencies, or local governments in court or in adjudicative proceedings under
8897 [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
8898 (3) No member of the Office of the Property Rights Ombudsman nor a neutral third
8899 party rendering an advisory opinion under Section 13-43-205 or 13-43-206, may be compelled
8900 to testify in a civil action filed concerning the subject matter of any review, mediation, or
8901 arbitration by, or arranged through, the office.
8902 (4) (a) Except as provided in Subsection (4)(b), evidence of a review by the Office of
8903 the Property Rights Ombudsman and the opinions, writings, findings, and determinations of the
8904 Office of the Property Rights Ombudsman are not admissible as evidence in a judicial action.
8905 (b) Subsection (4)(a) does not apply to:
8906 (i) actions brought under authority of Title 78, Chapter 6, Small Claims Courts;
8907 (ii) a judicial confirmation or review of the arbitration itself as authorized in Title 78,
8908 Chapter 31a, Utah Uniform Arbitration Act;
8909 (iii) actions for de novo review of an arbitration award or issue brought under the
8910 authority of Subsection 13-43-204(3)(a)(i); or
8911 (iv) advisory opinions provided for in Sections 13-43-205 and 13-43-206.
8912 Section 166. Section **13-43-204** is amended to read:
8913 **13-43-204. Office of Property Rights Ombudsman -- Arbitration or mediation of**
8914 **takings or eminent domain disputes.**
8915 (1) If requested by the private property owner and otherwise appropriate, the Office of
8916 the Property Rights Ombudsman shall mediate, or conduct or arrange arbitration for, disputes
8917 between private property owners and government entities that involve:
8918 (a) takings or eminent domain issues;
8919 (b) actions for eminent domain under Title 78, Chapter 34, Eminent Domain; or
8920 (c) disputes about relocation assistance under Title 57, Chapter 12, Utah Relocation
8921 Assistance Act.
8922 (2) If arbitration or mediation is requested by a private property owner under this
8923 section, Section 57-12-14 or 78-34-21, and arranged by the Office of the Property Rights
8924 Ombudsman, the government entity or condemning entity shall participate in the mediation or

8925 arbitration as if the matter were ordered to mediation or arbitration by a court.
8926 (3) (a) (i) In conducting or arranging for arbitration under Subsection (1), the Office of
8927 the Property Rights Ombudsman shall follow the procedures and requirements of Title 78,
8928 Chapter 31a, Utah Uniform Arbitration Act.
8929 (ii) In applying Title 78, Chapter 31a, Utah Uniform Arbitration Act, the arbitrator and
8930 parties shall treat the matter as if:
8931 (A) it were ordered to arbitration by a court; and
8932 (B) the Office of the Property Rights Ombudsman or other arbitrator chosen as
8933 provided for in this section was appointed as arbitrator by the court.
8934 (iii) For the purpose of an arbitration conducted under this section, if the dispute to be
8935 arbitrated is not already the subject of legal action, the district court having jurisdiction over
8936 the county where the private property involved in the dispute is located is the court referred to
8937 in Title 78, Chapter 31a, Utah Uniform Arbitration Act.
8938 (iv) An arbitration award under this chapter may not be vacated under the provisions of
8939 Subsection 78-31a-124(1)(e) because of the lack of an arbitration agreement between the
8940 parties.
8941 (b) The Office of the Property Rights Ombudsman shall issue a written statement
8942 declining to arbitrate or to appoint an arbitrator when, in the opinion of the Office of the
8943 Property Rights Ombudsman:
8944 (i) the issues are not ripe for review;
8945 (ii) assuming the alleged facts are true, no cause of action exists under United States or
8946 Utah law;
8947 (iii) all issues raised are beyond the scope of the Office of the Property Rights
8948 Ombudsman's statutory duty to review; or
8949 (iv) the arbitration is otherwise not appropriate.
8950 (c) (i) The Office of the Property Rights Ombudsman shall appoint another person to
8951 arbitrate a dispute when:
8952 (A) either party objects to the Office of the Property Rights Ombudsman serving as the
8953 arbitrator and agrees to pay for the services of another arbitrator;
8954 (B) the Office of the Property Rights Ombudsman declines to arbitrate the dispute for a
8955 reason other than those stated in Subsection (3)(b) and one or both parties are willing to pay for

8956 the services of another arbitrator; or
8957 (C) the Office of the Property Rights Ombudsman determines that it is appropriate to
8958 appoint another person to arbitrate the dispute with no charge to the parties for the services of
8959 the appointed arbitrator.
8960 (ii) In appointing another person to arbitrate a dispute, the Office of the Property Rights
8961 Ombudsman shall appoint an arbitrator who is agreeable to:
8962 (A) both parties; or
8963 (B) the Office of the Property Rights Ombudsman and the party paying for the
8964 arbitrator.
8965 (iii) The Office of the Property Rights Ombudsman may, on its own initiative or upon
8966 agreement of both parties, appoint a panel of arbitrators to conduct the arbitration.
8967 (iv) The Department of Commerce may pay an arbitrator per diem and reimburse
8968 expenses incurred in the performance of the arbitrator's duties at the rates established by the
8969 Division of Finance under Sections 63A-3-106 and 63A-3-107.
8970 (d) In arbitrating a dispute, the arbitrator shall apply the relevant statutes, case law,
8971 regulations, and rules of Utah and the United States in conducting the arbitration and in
8972 determining the award.
8973 (e) The property owner and government entity may agree in advance of arbitration that
8974 the arbitration is binding and that no de novo review may occur.
8975 (f) Arbitration by or through the Office of the Property Rights Ombudsman is not
8976 necessary before bringing legal action to adjudicate any claim.
8977 (g) The lack of arbitration by or through the Office of the Property Rights Ombudsman
8978 does not constitute, and may not be interpreted as constituting, a failure to exhaust available
8979 administrative remedies or as a bar to bringing legal action.
8980 (h) Arbitration under this section is not subject to [~~Title 63, Chapter 46b~~] Title 63G,
8981 Chapter 4, Administrative Procedures Act, or Title 78, Chapter 31b, Alternative Dispute
8982 Resolution Act.
8983 (i) Within 30 days after an arbitrator issues a final award, and except as provided in
8984 Subsection (3)(e), any party may submit the award, or any issue upon which the award is based,
8985 to the district court for de novo review.
8986 (4) The filing with the Office of the Property Rights Ombudsman of a request for

8987 mediation or arbitration of a constitutional taking issue does not stay any county or municipal
8988 land use decision, including the decision of a board of adjustment.
8989 (5) Members of the Office of the Property Rights Ombudsman may not be compelled
8990 to testify in a civil action filed concerning the subject matter of any review, mediation, or
8991 arbitration by the Office of the Property Rights Ombudsman.
8992 Section 167. Section **13-43-206** is amended to read:
8993 **13-43-206. Advisory opinion -- Process.**
8994 (1) A request for an advisory opinion under Section 13-43-205 shall be:
8995 (a) filed with the Office of the Property Rights Ombudsman; and
8996 (b) accompanied by a filing fee of $150.
8997 (2) The Office of the Property Rights Ombudsman may establish policies providing for
8998 partial fee waivers for a person who is financially unable to pay the entire fee.
8999 (3) A person requesting an advisory opinion need not exhaust administrative remedies,
9000 including remedies described under Section 10-9a-801 or 17-27a-801, before requesting an
9001 advisory opinion.
9002 (4) The Office of the Property Rights Ombudsman shall:
9003 (a) deliver notice of the request to opposing parties indicated in the request;
9004 (b) inquire of all parties if there are other necessary parties to the dispute; and
9005 (c) deliver notice to all necessary parties.
9006 (5) If a governmental entity is an opposing party, the Office of the Property Rights
9007 Ombudsman shall deliver the request in the manner provided for in Section [~~63-30d-301~~]
9008 63G-7-301.
9009 (6) (a) The Office of the Property Rights Ombudsman shall promptly determine if the
9010 parties can agree to a neutral third party to issue an advisory opinion.
9011 (b) If no agreement can be reached within four business days after notice is delivered
9012 pursuant to Subsections (4) and (5), the Office of the Property Rights Ombudsman shall
9013 appoint a neutral third party to issue an advisory opinion.
9014 (7) All parties that are the subject of the request for advisory opinion shall:
9015 (a) share equally in the cost of the advisory opinion; and
9016 (b) provide financial assurance for payment that the neutral third party requires.
9017 (8) The neutral third party shall comply with the provisions of Section 78-31a-109, and

9018 shall promptly:
9019 (a) seek a response from all necessary parties to the issues raised in the request for
9020 advisory opinion;
9021 (b) investigate and consider all responses; and
9022 (c) issue a written advisory opinion within 15 business days after the appointment of
9023 the neutral third party under Subsection (6)(b), unless:
9024 (i) the parties agree to extend the deadline; or
9025 (ii) the neutral third party determines that the matter is complex and requires additional
9026 time to render an opinion, which may not exceed 30 calendar days.
9027 (9) An advisory opinion shall include a statement of the facts and law supporting the
9028 opinion's conclusions.
9029 (10) (a) Copies of any advisory opinion issued by the Office of the Property Rights
9030 Ombudsman shall be delivered as soon as practicable to all necessary parties.
9031 (b) A copy of the advisory opinion shall be delivered to the government entity in the
9032 manner provided for in Section [~~63-30d-401~~] 63G-7-401.
9033 (11) An advisory opinion issued by the Office of the Property Rights Ombudsman is
9034 not binding on any party to, nor admissible as evidence in, a dispute involving land use law
9035 except as provided in Subsection (12).
9036 (12) (a) If the same issue that is the subject of an advisory opinion is listed as a cause
9037 of action in litigation, and that cause of action is litigated on the same facts and circumstances
9038 and is resolved consistent with the advisory opinion, the substantially prevailing party on that
9039 cause of action may collect reasonable attorney fees and court costs pertaining to the
9040 development of that cause of action from the date of the delivery of the advisory opinion to the
9041 date of the court's resolution.
9042 (b) Nothing in this Subsection (12) is intended to create any new cause of action under
9043 land use law.
9044 (13) Unless filed by the local government, a request for an advisory opinion under
9045 Section 13-43-205 does not stay the progress of a land use application, or the effect of a land
9046 use decision.
9047 Section 168. Section **14-1-18** is amended to read:
9048 **14-1-18. Definitions -- Application of Procurement Code to payment and**

9049 **performance bonds.**
9050 (1) (a) For purposes of this chapter, "political subdivision" means any county, city,
9051 town, school district, local district, special service district, community development and
9052 renewal agency, public corporation, institution of higher education of the state, public agency
9053 of any political subdivision, and, to the extent provided by law, any other entity which expends
9054 public funds for construction.
9055 (b) For purposes of applying Section [~~63-56-504~~] 63G-6-505 to a political subdivision,
9056 "state" includes "political subdivision."
9057 (2) Section [~~63-56-504~~] 63G-6-505 applies to all contracts for the construction,
9058 alteration, or repair of any public building or public work of the state or a political subdivision
9059 of the state.
9060 Section 169. Section **15-9-103** is amended to read:
9061 **15-9-103. Administration -- Rulemaking -- Service of process -- Athlete Agents**
9062 **Licensing Board.**
9063 (1) (a) This chapter shall be administered by the Division of Occupational and
9064 Professional Licensing and is subject to the requirements of Title 58, Chapter 1, Division of
9065 Occupational and Professional Licensing Act, so long as the requirements of Title 58, Chapter
9066 1, are not inconsistent with the requirements of this chapter.
9067 (b) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
9068 Administrative Rulemaking Act, the division may make rules necessary to implement the
9069 provisions of this chapter.
9070 (2) By acting as an athlete agent in this state, a nonresident individual appoints the
9071 director of the division as the individual's agent for service of process in any civil action in this
9072 state related to the individual's acting as an athlete agent in this state.
9073 (3) (a) There is created the Athlete Agents Licensing Board consisting of four athlete
9074 agents and one member of the general public.
9075 (b) The Athlete Agents Licensing Board shall be appointed and serve in accordance
9076 with Section 58-1-201.
9077 (c) The duties and responsibilities of the Athlete Agents Licensing Board are in
9078 accordance with Sections 58-1-202 and 58-1-203.
9079 (d) In addition, the Athlete Agents Licensing Board shall designate one of its members

9080 on a permanent or rotating basis to:
9081 (i) assist the division in reviewing complaints concerning the unlawful or
9082 unprofessional conduct of a licensee; and
9083 (ii) advise the division in its investigation of these complaints.
9084 (e) A member of the Athlete Agents Licensing Board who has, under Subsection
9085 (3)(d), reviewed a complaint or advised in its investigation may be disqualified from
9086 participating with the board when the board serves as a presiding officer in an adjudicative
9087 proceeding concerning the complaint.
9088 Section 170. Section **15-9-105** is amended to read:
9089 **15-9-105. Registration as an athlete agent -- Form -- Requirements.**
9090 (1) An applicant for registration shall submit an application for registration to the
9091 division in a form prescribed by the division. An application filed under this section is a public
9092 record under [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records Access and
9093 Management Act. The application must be in the name of an individual and, except as
9094 otherwise provided in Subsection (2), signed or otherwise authenticated by the applicant under
9095 penalty of perjury and state or contain:
9096 (a) the name of the applicant and the address of the applicant's principal place of
9097 business;
9098 (b) the name of the applicant's business or employer, if applicable;
9099 (c) any business or occupation engaged in by the applicant for the five years
9100 immediately preceding the date of submission of the application;
9101 (d) a description of the applicant's:
9102 (i) formal training as an athlete agent;
9103 (ii) practical experience as an athlete agent; and
9104 (iii) educational background relating to the applicant's activities as an athlete agent;
9105 (e) the names and addresses of three individuals not related to the applicant who are
9106 willing to serve as references;
9107 (f) the name, sport, and last-known team for each individual for whom the applicant
9108 acted as an athlete agent during the five years next preceding the date of submission of the
9109 application;
9110 (g) the names and addresses of all persons who are:

9111 (i) with respect to the athlete agent's business if it is not a corporation, the partners,
9112 members, officers, managers, associates, or profit-sharers of the business; and
9113 (ii) with respect to a corporation employing the athlete agent, the officers, directors,
9114 and any shareholder of the corporation having an interest of 5% or greater;
9115 (h) whether the applicant or any person named pursuant to Subsection (1)(g) has been
9116 convicted of a crime that, if committed in this state, would be a crime involving moral
9117 turpitude or a felony, and identify the crime;
9118 (i) whether there has been any administrative or judicial determination that the
9119 applicant or any person named pursuant to Subsection (1)(g) has made a false, misleading,
9120 deceptive, or fraudulent representation;
9121 (j) any instance in which the conduct of the applicant or any person named pursuant to
9122 Subsection (1)(g) resulted in the imposition of a sanction, suspension, or declaration of
9123 ineligibility to participate in an interscholastic or intercollegiate athletic event on a
9124 student-athlete or educational institution;
9125 (k) any sanction, suspension, or disciplinary action taken against the applicant or any
9126 person named pursuant to Subsection (1)(g) arising out of occupational or professional
9127 conduct; and
9128 (l) whether there has been any denial of an application for, suspension or revocation of,
9129 or refusal to renew, the registration or licensure of the applicant or any person named pursuant
9130 to Subsection (1)(g) as an athlete agent in any state.
9131 (2) An individual who has submitted an application for, and holds a certificate of,
9132 registration or licensure as an athlete agent in another state, may submit a copy of the
9133 application and certificate in lieu of submitting an application in the form prescribed pursuant
9134 to Subsection (1). The division shall accept the application and the certificate from the other
9135 state as an application for registration in this state if the application to the other state:
9136 (a) was submitted in the other state within six months immediately preceding the
9137 submission of the application in this state and the applicant certifies that the information
9138 contained in the application is current;
9139 (b) contains information substantially similar to or more comprehensive than that
9140 required in an application submitted in this state; and
9141 (c) was signed by the applicant under penalty of perjury.

9142 Section 171. Section **15-9-106** is amended to read:
9143 **15-9-106. Certificate of registration -- Issuance or denial -- Renewal.**
9144 (1) Except as otherwise provided in Subsection (2), the division shall issue a certificate
9145 of registration to an individual who complies with Subsection 15-9-105(1) or whose
9146 application has been accepted under Subsection 15-9-105(2).
9147 (2) The division may refuse to issue a certificate of registration if the division
9148 determines that the applicant has engaged in conduct that has a significant adverse effect on the
9149 applicant's fitness to act as an athlete agent. In making the determination, the division may
9150 consider whether the applicant has:
9151 (a) been convicted of a crime that, if committed in this state, would be a crime
9152 involving moral turpitude or a felony;
9153 (b) made a materially false, misleading, deceptive, or fraudulent representation in the
9154 application or as an athlete agent;
9155 (c) engaged in conduct that would disqualify the applicant from serving in a fiduciary
9156 capacity;
9157 (d) engaged in conduct prohibited by Section 15-9-114;
9158 (e) had a registration or licensure as an athlete agent suspended, revoked, or denied or
9159 been refused renewal of registration or licensure as an athlete agent in any state;
9160 (f) engaged in conduct the consequence of which was that a sanction, suspension, or
9161 declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event
9162 was imposed on a student-athlete or educational institution; or
9163 (g) engaged in conduct that significantly, adversely reflects on the applicant's
9164 credibility, honesty, or integrity.
9165 (3) In making a determination under Subsection (2), the division shall consider:
9166 (a) how recently the conduct occurred;
9167 (b) the nature of the conduct and the context in which it occurred; and
9168 (c) any other relevant conduct of the applicant.
9169 (4) An athlete agent may apply to renew a registration by submitting an application for
9170 renewal in a form prescribed by the division. An application filed under this section is a public
9171 record under [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records Access and
9172 Management Act. The application for renewal must be signed by the applicant under penalty

9173 of perjury and must contain current information on all matters required in an original
9174 registration.
9175 (5) An individual who has submitted an application for renewal of registration or
9176 licensure in another state, in lieu of submitting an application for renewal in the form
9177 prescribed pursuant to Subsection (4), may file a copy of the application for renewal and a valid
9178 certificate of registration or licensure from the other state. The division shall accept the
9179 application for renewal from the other state as an application for renewal in this state if the
9180 application to the other state:
9181 (a) was submitted in the other state within six months immediately preceding the filing
9182 in this state and the applicant certifies the information contained in the application for renewal
9183 is current;
9184 (b) contains information substantially similar to or more comprehensive than that
9185 required in an application for renewal submitted in this state; and
9186 (c) was signed by the applicant under penalty of perjury.
9187 (6) A certificate of registration or a renewal of a registration is valid for two years.
9188 Section 172. Section **15-9-107** is amended to read:
9189 **15-9-107. Suspension, revocation, or refusal to renew registration.**
9190 (1) The division may suspend, revoke, or refuse to renew a registration for conduct that
9191 would have justified denial of registration under Subsection 15-9-106(2).
9192 (2) The division may suspend, revoke, or refuse to renew a certificate of registration or
9193 licensure only after proper notice and an opportunity for a hearing. [~~Title 63, Chapter 46b~~]
9194 Title 63G, Chapter 4, Administrative Procedures Act, applies to this chapter.
9195 Section 173. Section **15-9-109** is amended to read:
9196 **15-9-109. Registration and renewal fees.**
9197 (1) An application for registration or renewal of registration must be accompanied by a
9198 fee in an amount determined by the division in accordance with Section [~~63-38-3.2~~] 63J-1-303.
9199 (2) The division shall establish fees for:
9200 (a) an initial application for registration;
9201 (b) an application for registration based upon a certificate of registration or licensure
9202 issued by another state;
9203 (c) an application for renewal of registration; and

9204 (d) an application for renewal of registration based upon an application for renewal of
9205 registration or licensure submitted in another state.
9206 Section 174. Section **16-6a-107** is amended to read:
9207 **16-6a-107. Fees.**
9208 (1) Unless otherwise provided by statute, the division shall charge and collect a fee for
9209 services established by the division in accordance with Section [~~63-38-3.2~~] 63J-1-303
9210 including fees:
9211 (a) for furnishing a certified copy of any document, instrument, or paper relating to a
9212 domestic or foreign nonprofit corporation; and
9213 (b) for the certificate and affixing the seal to a certified copy described in Subsection
9214 (1)(a).
9215 (2) (a) The division shall provide expedited, 24-hour processing of any item under this
9216 section upon request.
9217 (b) The division shall charge and collect additional fees established by the division in
9218 accordance with Section [~~63-38-3.2~~] 63J-1-303 for expedited service provided under
9219 Subsection (2)(a).
9220 (3) (a) The division shall charge and collect a fee determined by the division in
9221 accordance with Section [~~63-38-3.2~~] 63J-1-303 at the time of any service of process on the
9222 director of the division as resident agent of a domestic or foreign nonprofit corporation.
9223 (b) The fee paid under Subsection (3)(a) may be recovered as taxable costs by the party
9224 to the suit or action causing the service to be made if the party prevails in the suit or action.
9225 Section 175. Section **16-6a-111** is amended to read:
9226 **16-6a-111. Appeal from division's refusal to file document.**
9227 If the division refuses to file a document delivered to it for filing, in accordance with
9228 [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, the following
9229 may appeal the refusal to the executive director:
9230 (1) the domestic or foreign nonprofit corporation for which the filing was requested; or
9231 (2) the representative of the domestic or foreign nonprofit corporation for which filing
9232 was requested.
9233 Section 176. Section **16-6a-1413** is amended to read:
9234 **16-6a-1413. Appeal from denial of reinstatement.**

9235 (1) If the division denies a nonprofit corporation's application for reinstatement
9236 following administrative dissolution under Section 16-6a-1411, the division shall mail to the
9237 nonprofit corporation in the manner provided in Subsection 16-6a-1411(6) written notice:
9238 (a) setting forth the reasons for denying the application; and
9239 (b) stating that the nonprofit corporation has the right to appeal the division's
9240 determination to the executive director as provided in Subsection (2).
9241 (2) If the division denies a nonprofit corporation's application for reinstatement
9242 following administrative dissolution, in accordance with [~~Title 63, Chapter 46b~~] Title 63G,
9243 Chapter 4, Administrative Procedures Act, the following may appeal the denial to the executive
9244 director:
9245 (a) the nonprofit corporation for which the reinstatement was requested; or
9246 (b) the representative of the nonprofit corporation for which reinstatement was
9247 requested.
9248 Section 177. Section **16-6a-1502** is amended to read:
9249 **16-6a-1502. Consequences of conducting affairs without authority.**
9250 (1) A foreign nonprofit corporation, its successor, or anyone acting on its behalf,
9251 conducting affairs in this state without authority may not be permitted to maintain a proceeding
9252 in any court in this state until an application for authority to conduct affairs is filed.
9253 (2) (a) A foreign nonprofit corporation or successor that conducts affairs in this state
9254 without authority shall be liable to this state in an amount equal to the sum of:
9255 (i) all fees imposed by this chapter or prior law that would have been paid for all years
9256 or portions of years during which it conducted affairs in this state without authority; and
9257 (ii) all penalties imposed by the division for failure to pay the fees described in
9258 Subsection (2)(a)(i).
9259 (b) An application for authority to conduct affairs may not be filed until payment of the
9260 amounts due under this Subsection (2) is made.
9261 (3) (a) A court may stay a proceeding commenced by a foreign nonprofit corporation,
9262 its successor, or assignee until it determines whether the foreign nonprofit corporation, its
9263 successor, or assignee is required to file an application for authority to conduct affairs.
9264 (b) If the court determines that a foreign nonprofit corporation, its successor, or
9265 assignee is required to file an application for authority to conduct affairs, the court may further

9266 stay the proceeding until the required application for authority to conduct affairs has been filed
9267 with the division.
9268 (4) (a) A foreign nonprofit corporation that conducts affairs in this state without
9269 authority is subject to a civil penalty, payable to this state, of $100 for each day in which it
9270 transacts business in this state without authority.
9271 (b) Notwithstanding Subsection (4)(a), the civil penalty imposed under Subsection
9272 (4)(a) may not exceed a total of $5,000 for each year.
9273 (c) The following are subject to a civil penalty payable to the state not exceeding
9274 $1,000:
9275 (i) each officer of a foreign nonprofit corporation who authorizes, directs, or
9276 participates in the conducting of affairs in this state without authority; and
9277 (ii) each agent of a foreign nonprofit corporation who transacts business in this state on
9278 behalf of a foreign nonprofit corporation that is not authorized.
9279 (d) The division may make rules to carry out the provisions of this Subsection (4),
9280 including procedures to request the division to abate for reasonable cause a penalty imposed
9281 under this Subsection (4).
9282 (e) If the division imposes a civil penalty under this Subsection (4) on a foreign
9283 nonprofit corporation, in accordance with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
9284 Administrative Procedures Act, the following may appeal the civil penalty to the executive
9285 director:
9286 (i) the foreign nonprofit corporation; or
9287 (ii) the representative of the foreign nonprofit corporation.
9288 (5) (a) The civil penalties set forth in Subsection (4) may be recovered in an action
9289 brought:
9290 (i) in an appropriate court in Salt Lake County; or
9291 (ii) in any other county in this state in which the foreign nonprofit corporation:
9292 (A) has a registered, principal, or business office; or
9293 (B) has conducted affairs.
9294 (b) Upon a finding by the court that a foreign nonprofit corporation or any of its
9295 officers or agents have conducted affairs in this state in violation of this part, in addition to or
9296 instead of a civil penalty, the court shall issue an injunction restraining:

9297 (i) the further conducting of affairs of the foreign nonprofit corporation; and
9298 (ii) the further exercise of any corporate rights and privileges in this state.
9299 (c) Upon issuance of the injunction described in Subsection (5)(b), the foreign
9300 nonprofit corporation shall be enjoined from conducting affairs in this state until:
9301 (i) all civil penalties have been paid, plus any interest and court costs assessed by the
9302 court; and
9303 (ii) the foreign nonprofit corporation has otherwise complied with the provisions of
9304 this part.
9305 (6) Notwithstanding Subsections (1) and (2), the failure of a foreign nonprofit
9306 corporation to have authority to conduct affairs in this state does not:
9307 (a) impair the validity of its corporate acts; or
9308 (b) prevent the foreign nonprofit corporation from defending any proceeding in this
9309 state.
9310 Section 178. Section **16-6a-1517** is amended to read:
9311 **16-6a-1517. Appeal from revocation.**
9312 If the division revokes the authority of a foreign nonprofit corporation to conduct affairs
9313 in this state, in accordance with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
9314 Procedures Act, the following may appeal the refusal to the executive director:
9315 (1) the foreign nonprofit corporation; or
9316 (2) the representative of the foreign nonprofit corporation.
9317 Section 179. Section **16-7-11** is amended to read:
9318 **16-7-11. Fees for filing documents and issuing certificates.**
9319 The division shall charge and collect a fee determined by it pursuant to Section
9320 [~~63-38-3.2~~] 63J-1-303 for:
9321 (1) filing articles of incorporation of a corporation sole and issuing a certificate of
9322 incorporation;
9323 (2) filing articles of amendment and issuing a certificate of amendment;
9324 (3) issuing each additional certificate of incorporation or amendment;
9325 (4) filing a certificate of authorized agent and issuing the agent's certificate;
9326 (5) filing a revocation of authority;
9327 (6) furnishing a certified copy of any document, instrument, or paper relating to a

9328 corporation sole and affixing its seal;
9329 (7) issuing a certificate of dissolution; and
9330 (8) issuing a certificate of merger or consolidation.
9331 Section 180. Section **16-10a-122** is amended to read:
9332 **16-10a-122. Fees.**
9333 Unless otherwise provided by statute, the division shall charge and collect fees for
9334 services as provided in Section [~~63-38-3.2~~] 63J-1-303.
9335 Section 181. Section **16-10a-1423** is amended to read:
9336 **16-10a-1423. Appeal from denial of reinstatement.**
9337 If the division denies a corporation's application for reinstatement under Section
9338 16-10a-1422 following administrative dissolution, the division shall mail to the corporation in
9339 the manner provided in Subsection 16-10a-1421(6) written notice:
9340 (1) setting forth the reasons for denying the application; and
9341 (2) stating that the corporation has the right to appeal the division's determination to
9342 the executive director of the Department of Commerce in accordance with [~~Title 63, Chapter~~
9343 ~~46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
9344 Section 182. Section **16-12-3** is amended to read:
9345 **16-12-3. Declaration of trust -- Filing fee.**
9346 An original and one copy of the declaration of trust of a real estate investment trust
9347 shall be delivered to the Division of Corporations and Commercial Code, and [~~he~~] the division
9348 shall endorse on the original and one copy the word "filed." The Division of Corporations and
9349 Commercial Code shall file the original in [~~his~~] the division's office, and shall return the copy
9350 to the trustees or their representatives. The Division of Corporations and Commercial Code
9351 may charge a fee pursuant to Section [~~63-38-3.2~~] 63J-1-303 for the filing.
9352 Section 183. Section **16-13-12** is amended to read:
9353 **16-13-12. Licensing, supervision, and examination by commissioner of financial**
9354 **institutions -- Fees.**
9355 A development corporation shall be licensed, supervised, and examined by the
9356 commissioner of financial institutions and shall make such report of its condition from time to
9357 time as the commissioner shall require. A development corporation shall pay a fee determined
9358 by the commissioner pursuant to Section [~~63-38-3.2~~] 63J-1-303 for a license and for each

9359 examination.
9360 Section 184. Section **16-15-105** is amended to read:
9361 **16-15-105. Filing of certificate -- Fees.**
9362 (1) A business trust is registered when two copies of the certificate of registration are
9363 filed with the division. The documents to be filed shall be true copies made by photographic,
9364 xerographic, electronic, or other process that provides similar copy accuracy of a document that
9365 has been properly executed.
9366 (2) The division shall endorse the original and one copy of a certificate of registration
9367 and:
9368 (a) file the original in the division office; and
9369 (b) return the copy to the trustee or the trustee's representative.
9370 (3) The division may charge a fee in accordance with Section [~~63-38-3.2~~] 63J-1-303
9371 for the filing.
9372 Section 185. Section **16-15-107** is amended to read:
9373 **16-15-107. Expiration of filing -- Notice.**
9374 (1) A filing under this chapter shall be effective for a period of three years from the
9375 date of filing plus the notice period provided in Subsection (2).
9376 (2) (a) If no new filing is made by or on behalf of the trust who made the original filing
9377 within three years of the date of filing, the division shall send a notice by regular mail, postage
9378 prepaid, to the address shown for the registered office in the filing indicating that it will expire
9379 30 days after the division mailed the notice.
9380 (b) If no new filing is made within 30 days after the date of the division mailing the
9381 notice, the business trust's registration expires.
9382 (3) If the registration of a business trust has expired or has been canceled for failure to
9383 maintain a registered agent, the business trust may not conduct business in this state until it has
9384 newly registered with the division under this chapter.
9385 (4) The division may charge a fee in accordance with Section [~~63-38-3.2~~] 63J-1-303
9386 for the renewal of a registration.
9387 Section 186. Section **16-15-108** is amended to read:
9388 **16-15-108. When amendments are required.**
9389 (1) An amended certificate shall be filed with the division not later than 30 days after

9390 any change in:
9391 (a) any person acting as a trustee of the trust, or the address of any trustee;
9392 (b) the registered agent of the trust;
9393 (c) the registered office of the business trust; or
9394 (d) in any information required to be filed with the division under this chapter.
9395 (2) The amended certificate shall be signed by each trustee of the business trust and
9396 filed in the same manner as a certificate of registration under Section 16-15-105.
9397 (3) The division may charge a fee in accordance with Section [~~63-38-3.2~~] 63J-1-303
9398 for amending a certificate of registration.
9399 Section 187. Section **17-15-24** is amended to read:
9400 **17-15-24. Procurement -- Use of recycled goods.**
9401 The procurement officer or other person responsible for purchasing supplies for each
9402 county and each entity created by a county or joined by a county shall:
9403 (1) maintain for reference a copy of the current listing of recycled items available on a
9404 state contract as issued by the chief procurement officer appointed under Section [~~63-56-204~~]
9405 63G-6-204; and
9406 (2) give recycled items consideration when inviting bids and purchasing supplies, in
9407 compliance with Section 11-37-101.
9408 Section 188. Section **17-16-21** is amended to read:
9409 **17-16-21. Fees of county officers.**
9410 (1) As used in this section, "county officer" means all of the county officers
9411 enumerated in Section 17-53-101 except county recorders, county constables, and county
9412 sheriffs.
9413 (2) (a) Each county officer shall collect, in advance, for exclusive county use and
9414 benefit:
9415 (i) all fees established by the county legislative body under Section 17-53-211; and
9416 (ii) any other fees authorized or required by law.
9417 (b) As long as the displaced homemaker program is authorized by Section 35A-3-114,
9418 the county clerk shall:
9419 (i) assess $20 in addition to whatever fee for a marriage license is established under
9420 authority of this section; and

9421 (ii) transmit $20 from each marriage license fee to the Division of Finance to be
9422 credited to the displaced homemaker program.
9423 (c) As long as the Children's Legal Defense Account is authorized by Section
9424 [~~63-63a-8~~] 51-9-408, the county clerk shall:
9425 (i) assess $10 in addition to whatever fee for a marriage license is established under
9426 authority of this section and in addition to the $20 assessed for the displaced homemaker
9427 program; and
9428 (ii) transmit $10 from each marriage license fee to the Division of Finance for deposit
9429 in the Children's Legal Defense Account.
9430 (3) This section does not apply to any fees currently being assessed by the state but
9431 collected by county officers.
9432 Section 189. Section **17-16a-4** is amended to read:
9433 **17-16a-4. Prohibited use of official position -- Exception.**
9434 (1) Except as provided in Subsection (3), it is an offense for an elected or appointed
9435 officer, under circumstances not amounting to a violation of Section [~~63-56-1001~~] 63G-6-1001
9436 or 76-8-105, to:
9437 (a) disclose confidential information acquired by reason of [~~his~~] the officer's official
9438 position or use that information to secure special privileges or exemptions for himself or
9439 others;
9440 (b) use or attempt to use [~~his~~] the officer's official position to secure special privileges
9441 for [~~himself~~] the officer or for others; or
9442 (c) knowingly receive, accept, take, seek or solicit, directly or indirectly, any gift or
9443 loan for [~~himself~~] the officer or for another, if the gift or loan tends to influence [~~him~~] the
9444 officer in the discharge of [~~his~~] the officer's official duties.
9445 (2) This section is inapplicable to:
9446 (a) an occasional nonpecuniary gift having a value of less than $50;
9447 (b) an award publicly presented;
9448 (c) any bona fide loan made in the ordinary course of business; or
9449 (d) political campaign contributions actually used in a political campaign.
9450 (3) A member of a county legislative body who is also a member of the governing
9451 board of a provider of mental health or substance abuse services under contract with the county

9452 does not commit an offense under Subsection (1)(a) or (b) by discharging, in good faith, the
9453 duties and responsibilities of each position, if the county legislative body member does not
9454 participate in the process of selecting the mental health or substance abuse service provider.
9455 Section 190. Section **17-21-17** is amended to read:
9456 **17-21-17. Prohibited acts.**
9457 (1) Upon acceptance of an instrument entitled to be recorded, the recorder may not:
9458 (a) record the instrument in any manner other than the manner required by this chapter;
9459 or
9460 (b) alter, change, obliterate, or insert any new matter in any instrument of record.
9461 (2) A recorder does not violate this section by:
9462 (a) denying access to:
9463 (i) an instrument of record that has been classified as private under Section [~~63-2-302~~]
9464 63G-2-302; or
9465 (ii) a portion of an instrument of record that has been classified as private under
9466 Section [~~63-2-302~~] 63G-2-302; or
9467 (b) placing an endorsement, reference, or other note on a document in the course of the
9468 recorder's work.
9469 Section 191. Section **17-21-19** is amended to read:
9470 **17-21-19. Records open to inspection -- Copies.**
9471 (1) Unless otherwise classified as private under Section [~~63-2-302~~] 63G-2-302, all
9472 instruments of record and all indexes required by this chapter are open to public inspection
9473 during office hours.
9474 (2) Upon payment of the applicable fee, a person may obtain copies of a public record.
9475 Section 192. Section **17-27a-203** is amended to read:
9476 **17-27a-203. Notice of intent to prepare a general plan or comprehensive general**
9477 **plan amendments in certain counties.**
9478 (1) Before preparing a proposed general plan or a comprehensive general plan
9479 amendment, each county of the first or second class shall provide ten calendar days notice of its
9480 intent to prepare a proposed general plan or a comprehensive general plan amendment to:
9481 (a) each affected entity;
9482 (b) the Automated Geographic Reference Center created in Section 63F-1-506;

9483 (c) the association of governments, established pursuant to an interlocal agreement
9484 under Title 11, Chapter 13, Interlocal Cooperation Act, of which the county is a member; and
9485 (d) the state planning coordinator appointed under Section [~~63-38d-202~~] 63J-4-202.
9486 (2) Each notice under Subsection (1) shall:
9487 (a) indicate that the county intends to prepare a general plan or a comprehensive
9488 general plan amendment, as the case may be;
9489 (b) describe or provide a map of the geographic area that will be affected by the general
9490 plan or amendment;
9491 (c) be sent by mail, e-mail, or other effective means;
9492 (d) invite the affected entities to provide information for the county to consider in the
9493 process of preparing, adopting, and implementing a general plan or amendment concerning:
9494 (i) impacts that the use of land proposed in the proposed general plan or amendment
9495 may have; and
9496 (ii) uses of land within the county that the affected entity is considering that may
9497 conflict with the proposed general plan or amendment; and
9498 (e) include the address of an Internet website, if the county has one, and the name and
9499 telephone number of a person where more information can be obtained concerning the county's
9500 proposed general plan or amendment.
9501 Section 193. Section **17-27a-402** is amended to read:
9502 **17-27a-402. Information and technical assistance from the state.**
9503 Each state official, department, and agency shall:
9504 (1) promptly deliver any data and information requested by a county, unless the
9505 disclosure is prohibited by [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records
9506 Access and Management Act; and
9507 (2) furnish any other technical assistance and advice that they have available to the
9508 county without additional cost to the county.
9509 Section 194. Section **17-43-202** is amended to read:
9510 **17-43-202. Local substance abuse authorities -- Requirements prior to**
9511 **distributing public funds.**
9512 (1) Each local substance abuse authority shall award all public funds in compliance
9513 with:

9514 (a) the requirements of [~~Title 63, Chapter 56~~] Title 63G, Chapter 6, Utah Procurement
9515 Code; or
9516 (b) a county procurement ordinance that requires similar procurement practices.
9517 (2) If all initial bids on the project are rejected, the authority shall publish a new
9518 invitation to bid. If no satisfactory bid is received by the authority when the bids received from
9519 the second invitation are opened, the authority may execute a contract without requiring
9520 competitive bidding.
9521 (3) A local substance abuse authority need not comply with the procurement provisions
9522 of this section when it disburses public funds to another political subdivision of the state or an
9523 institution of higher education of the state.
9524 (4) Each contract awarded by a local substance abuse authority shall be for a fixed
9525 amount and limited period. A contract may be modified due to changes in available funding for
9526 the same contract purpose without competition.
9527 Section 195. Section **17-43-302** is amended to read:
9528 **17-43-302. Local mental health authorities -- Requirements prior to distributing**
9529 **public funds.**
9530 (1) Each local mental health authority shall award all public funds by complying with
9531 the requirements of [~~Title 63, Chapter 56~~] Title 63G, Chapter 6, Utah Procurement Code, or by
9532 complying with a county procurement ordinance which requires similar procurement practices.
9533 (2) If all initial bids on the project are rejected, the authority shall publish a new
9534 invitation to bid in the manner specified in this section. If no satisfactory bid is received by the
9535 authority when the bids received from the second invitation are opened, the authority may
9536 execute a contract without requiring competitive bidding.
9537 (3) The local mental health authority need not comply with the procurement provisions
9538 of this section when it disburses public funds to another political subdivision of the state or an
9539 institution of higher education of the state.
9540 (4) Each contract awarded by a local mental health authority shall be for a fixed
9541 amount and limited period. A contract may be modified due to changes in available funding for
9542 the same contract purpose without competition.
9543 Section 196. Section **17-50-302** is amended to read:
9544 **17-50-302. General county powers.**

9545 (1) A county may:
9546 (a) as prescribed by statute, levy, assess, and collect taxes, borrow money, and levy and
9547 collect special assessments for benefits conferred; and
9548 (b) provide services, exercise powers, and perform functions that are reasonably related
9549 to the safety, health, morals, and welfare of their inhabitants, except as limited or prohibited by
9550 statute.
9551 (2) (a) A county may:
9552 (i) sue and be sued;
9553 (ii) subject to Subsection (2)(c), acquire real property by tax sale, purchase, lease,
9554 contract, or gift, and hold the real property as necessary and proper for county purposes;
9555 (iii) (A) subject to Subsection (2)(b), acquire real property by condemnation, as
9556 provided in Title 78, Chapter 34, Eminent Domain; and
9557 (B) hold the real property as necessary and proper for county purposes;
9558 (iv) as may be necessary to the exercise of its powers, acquire personal property by
9559 purchase, lease, contract, or gift, and hold such personal property; and
9560 (v) manage and dispose of its property as the interests of its inhabitants may require.
9561 (b) (i) For purposes of Subsection (2)(a)(iii), water rights that are not appurtenant to
9562 land do not constitute real property that may be acquired by the county through condemnation.
9563 (ii) Nothing in Subsection (2)(a)(iii) may be construed to authorize a county to acquire
9564 by condemnation the rights to water unless the land to which those water rights are appurtenant
9565 is acquired by condemnation.
9566 (c) (i) Except as provided in Subsection (2)(c)(iv), each county intending to acquire
9567 real property for the purpose of expanding the county's infrastructure or other facilities used for
9568 providing services that the county offers or intends to offer shall provide written notice, as
9569 provided in this Subsection (2)(c), of its intent to acquire the property if:
9570 (A) the property is located:
9571 (I) outside the boundaries of the unincorporated area of the county; and
9572 (II) in a county of the first or second class; and
9573 (B) the intended use of the property is contrary to:
9574 (I) the anticipated use of the property under the general plan of the county in whose
9575 unincorporated area or the municipality in whose boundaries the property is located; or

9576 (II) the property's current zoning designation.
9577 (ii) Each notice under Subsection (2)(c)(i) shall:
9578 (A) indicate that the county intends to acquire real property;
9579 (B) identify the real property; and
9580 (C) be sent to:
9581 (I) each county in whose unincorporated area and each municipality in whose
9582 boundaries the property is located; and
9583 (II) each affected entity.
9584 (iii) A notice under this Subsection (2)(c) is a protected record as provided in
9585 Subsection [~~63-2-304~~] 63G-2-305(7).
9586 (iv) (A) The notice requirement of Subsection (2)(c)(i) does not apply if the county
9587 previously provided notice under Section 17-27a-203 identifying the general location within
9588 the municipality or unincorporated part of the county where the property to be acquired is
9589 located.
9590 (B) If a county is not required to comply with the notice requirement of Subsection
9591 (2)(c)(i) because of application of Subsection (2)(c)(iv)(A), the county shall provide the notice
9592 specified in Subsection (2)(c)(i) as soon as practicable after its acquisition of the real property.
9593 Section 197. Section **17-50-401** is amended to read:
9594 **17-50-401. Review of claims by county executive -- Auditor review -- Attorney**
9595 **review -- Claim requirements -- Approval or disapproval of claim -- Written explanation**
9596 **of claim process.**
9597 (1) Subject to Subsection (3), each county executive shall review each claim against
9598 the county and disapprove or, if payment appears to the county executive to be just, lawful, and
9599 properly due and owing, approve the claim.
9600 (2) Upon receiving a notice of claim under Section [~~63-30d-401~~] 63G-7-401, the
9601 county clerk shall deliver the notice of claim to the county executive.
9602 (3) (a) The county executive shall forward all claims regarding liability to the county
9603 attorney, or, in a county that has a district attorney but not a county attorney, to the district
9604 attorney for the attorney's review and recommendation to the county executive regarding
9605 liability and payment.
9606 (b) Except as provided in Section 17-50-405, the county executive shall forward all

9607 claims requesting payment for goods or services to the county auditor for the auditor's review
9608 and recommendation to the county executive.
9609 (4) Each claim for goods or services against a county shall:
9610 (a) itemize the claim, giving applicable names, dates, and particular goods provided or
9611 services rendered;
9612 (b) if the claim is for service of process, state the character of process served, upon
9613 whom served, the number of days engaged, and the number of miles traveled;
9614 (c) be duly substantiated as to its correctness and as to the fact that it is justly due;
9615 (d) if the claim is for materials furnished, state to whom the materials were furnished,
9616 by whom ordered, and the quantity and price agreed upon; and
9617 (e) be presented to the county executive within a year after the last item of the account
9618 or credit accrued.
9619 (5) If the county executive refuses to hear or consider a claim because it is not properly
9620 made out, the county executive shall cause notice of the refusal to be given to the claimant or
9621 the claimant's agent and shall allow a reasonable amount of time for the claim to be properly
9622 itemized and substantiated.
9623 (6) Each county shall prepare and make available to a person submitting or intending to
9624 submit a claim under this part a written explanation, in simple and easy to understand language,
9625 of how to submit a claim to the county and of the county's process for receiving, reviewing, and
9626 deciding a claim.
9627 (7) Nothing in this section may be construed to modify the requirements of Section
9628 [~~63-30d-401~~] 63G-7-401.
9629 Section 198. Section **17-53-225** is amended to read:
9630 **17-53-225. County legislative body may adopt Utah Procurement Code --**
9631 **Retention of records.**
9632 (1) A county legislative body may adopt any or all of the provisions of [~~Title 63,~~
9633 ~~Chapter 56~~] Title 63G, Chapter 6, Utah Procurement Code, or the rules promulgated pursuant
9634 to that code.
9635 (2) Whenever any county is required by law to receive bids for purchases, construction,
9636 repairs, or any other purpose requiring the expenditure of funds, that county shall keep on file
9637 all bids received, together with proof of advertisement by publication or otherwise, for:

9638 (a) at least three years following the letting of any contract pursuant to those bids; or
9639 (b) three years following the first advertisement for the bids, if all bids pursuant to that
9640 advertisement are rejected.
9641 Section 199. Section **17-53-311** is amended to read:
9642 **17-53-311. Contracting for management, maintenance, operation, or construction**
9643 **of jails.**
9644 (1) (a) With the approval of the sheriff, a county executive may contract with private
9645 contractors for management, maintenance, operation, and construction of county jails.
9646 (b) A county executive may include a provision in the contract that allows use of a
9647 building authority created under the provisions of Title 17A, Chapter 3, Part 9, Municipal
9648 Building Authorities, to construct or acquire a jail facility.
9649 (c) A county executive may include a provision in the contract that requires that any
9650 jail facility meet any federal, state, or local standards for the construction of jails.
9651 (2) If a county executive contracts only for the management, maintenance, or operation
9652 of a jail, the county executive shall include provisions in the contract that:
9653 (a) require the private contractor to post a performance bond in the amount set by the
9654 county legislative body;
9655 (b) establish training standards that must be met by jail personnel;
9656 (c) require the private contractor to provide and fund training for jail personnel so that
9657 the personnel meet the standards established in the contract and any other federal, state, or local
9658 standards for the operation of jails and the treatment of jail prisoners;
9659 (d) require the private contractor to indemnify the county for errors, omissions,
9660 defalcations, and other activities committed by the private contractor that result in liability to
9661 the county;
9662 (e) require the private contractor to show evidence of liability insurance protecting the
9663 county and its officers, employees, and agents from liability arising from the construction,
9664 operation, or maintenance of the jail, in an amount not less than those specified in [~~Title 63,~~
9665 ~~Chapter 30d~~] Title 63G, Chapter 7, Governmental Immunity Act of Utah;
9666 (f) require the private contractor to:
9667 (i) receive all prisoners committed to the jail by competent authority; and
9668 (ii) provide them with necessary food, clothing, and bedding in the manner prescribed

9669 by the governing body; and
9670 (g) prohibit the use of inmates by the private contractor for private business purposes
9671 of any kind.
9672 (3) A contractual provision requiring the private contractor to maintain liability
9673 insurance in an amount not less than the liability limits established by [~~Title 63, Chapter 30d~~]
9674 Title 63G, Chapter 7, Governmental Immunity Act of Utah, may not be construed as waiving
9675 the limitation on damages recoverable from a governmental entity or its employees established
9676 by that chapter.
9677 Section 200. Section **17-53-313** is amended to read:
9678 **17-53-313. Hiring of professional architect, engineer, or surveyor.**
9679 Notwithstanding the adoption of some or all of the provisions of [~~Title 63, Chapter 56~~]
9680 Title 63G, Chapter 6, Utah Procurement Code, under Section 17-53-225, each county executive
9681 that engages the services of a professional architect, engineer, or surveyor and considers more
9682 than one such professional for the engagement:
9683 (1) shall consider, as a minimum, in the selection process:
9684 (a) the qualifications, experience, and background of each firm submitting a proposal;
9685 (b) the specific individuals assigned to the project and the time commitments of each to
9686 the project; and
9687 (c) the project schedule and the approach to the project that the firm will take; and
9688 (2) may engage the services of a professional architect, engineer, or surveyor based on
9689 the criteria under Subsection (1) rather than solely on lowest cost.
9690 Section 201. Section **17B-1-106** is amended to read:
9691 **17B-1-106. Notice before preparing or amending a long-range plan or acquiring**
9692 **certain property.**
9693 (1) As used in this section:
9694 (a) (i) "Affected entity" means each county, municipality, local district under this title,
9695 special service district, school district, interlocal cooperation entity established under Title 11,
9696 Chapter 13, Interlocal Cooperation Act, and specified public utility:
9697 (A) whose services or facilities are likely to require expansion or significant
9698 modification because of an intended use of land; or
9699 (B) that has filed with the local district a copy of the general or long-range plan of the

9700 county, municipality, local district, school district, interlocal cooperation entity, or specified
9701 public utility.
9702 (ii) "Affected entity" does not include the local district that is required under this
9703 section to provide notice.
9704 (b) "Specified public utility" means an electrical corporation, gas corporation, or
9705 telephone corporation, as those terms are defined in Section 54-2-1.
9706 (2) (a) If a local district under this title located in a county of the first or second class
9707 prepares a long-range plan regarding its facilities proposed for the future or amends an already
9708 existing long-range plan, the local district shall, before preparing a long-range plan or
9709 amendments to an existing long-range plan, provide written notice, as provided in this section,
9710 of its intent to prepare a long-range plan or to amend an existing long-range plan.
9711 (b) Each notice under Subsection (2)(a) shall:
9712 (i) indicate that the local district intends to prepare a long-range plan or to amend a
9713 long-range plan, as the case may be;
9714 (ii) describe or provide a map of the geographic area that will be affected by the
9715 long-range plan or amendments to a long-range plan;
9716 (iii) be sent to:
9717 (A) each county in whose unincorporated area and each municipality in whose
9718 boundaries is located the land on which the proposed long-range plan or amendments to a
9719 long-range plan are expected to indicate that the proposed facilities will be located;
9720 (B) each affected entity;
9721 (C) the Automated Geographic Reference Center created in Section 63F-1-506;
9722 (D) each association of governments, established pursuant to an interlocal agreement
9723 under Title 11, Chapter 13, Interlocal Cooperation Act, of which a county or municipality
9724 described in Subsection (2)(b)(iii)(A) is a member; and
9725 (E) the state planning coordinator appointed under Section [~~63-38d-202~~] 63J-4-202;
9726 (iv) with respect to the notice to counties and municipalities described in Subsection
9727 (2)(b)(iii)(A) and affected entities, invite them to provide information for the local district to
9728 consider in the process of preparing, adopting, and implementing the long-range plan or
9729 amendments to a long-range plan concerning:
9730 (A) impacts that the use of land proposed in the proposed long-range plan or

9731 amendments to a long-range plan may have on the county, municipality, or affected entity; and
9732 (B) uses of land that the county, municipality, or affected entity is planning or
9733 considering that may conflict with the proposed long-range plan or amendments to a long-range
9734 plan; and
9735 (v) include the address of an Internet website, if the local district has one, and the name
9736 and telephone number of a person where more information can be obtained concerning the
9737 local district's proposed long-range plan or amendments to a long-range plan.
9738 (3) (a) Except as provided in Subsection (3)(d), each local district intending to acquire
9739 real property in a county of the first or second class for the purpose of expanding the district's
9740 infrastructure or other facilities used for providing the services that the district is authorized to
9741 provide shall provide written notice, as provided in this Subsection (3), of its intent to acquire
9742 the property if the intended use of the property is contrary to:
9743 (i) the anticipated use of the property under the county or municipality's general plan;
9744 or
9745 (ii) the property's current zoning designation.
9746 (b) Each notice under Subsection (3)(a) shall:
9747 (i) indicate that the local district intends to acquire real property;
9748 (ii) identify the real property; and
9749 (iii) be sent to:
9750 (A) each county in whose unincorporated area and each municipality in whose
9751 boundaries the property is located; and
9752 (B) each affected entity.
9753 (c) A notice under this Subsection (3) is a protected record as provided in Subsection
9754 [~~63-2-304~~] 63G-2-305(7).
9755 (d) (i) The notice requirement of Subsection (3)(a) does not apply if the local district
9756 previously provided notice under Subsection (2) identifying the general location within the
9757 municipality or unincorporated part of the county where the property to be acquired is located.
9758 (ii) If a local district is not required to comply with the notice requirement of
9759 Subsection (3)(a) because of application of Subsection (3)(d)(i), the local district shall provide
9760 the notice specified in Subsection (3)(a) as soon as practicable after its acquisition of the real
9761 property.

9762 Section 202. Section **17B-1-108** is amended to read:
9763 **17B-1-108. Restrictions on local district procurement of architect-engineer**
9764 **services.**
9765 (1) As used in this section:
9766 (a) "Architect-engineer services" means those professional services within the scope of
9767 the practice of architecture as defined in Section 58-3a-102.
9768 (b) "Engineer services" means those professional services within the scope of the
9769 practice of professional engineering as defined in Section 58-22-102.
9770 (2) When a local district elects to obtain architect services or engineering services by
9771 using a competitive procurement process and has provided public notice of its competitive
9772 procurement process:
9773 (a) a higher education entity, or any part of one, may not submit a proposal in response
9774 to the local district's competitive procurement process; and
9775 (b) the local district may not award a contract to perform the architect services or
9776 engineering services solicited in the competitive procurement process to a higher education
9777 entity or any part of one.
9778 (3) Notwithstanding Subsection [~~63-56-102~~] 63G-6-104(3)(d), each local district board
9779 that engages the services of a professional architect, engineer, or surveyor and considers more
9780 than one such professional for the engagement:
9781 (a) shall consider, as a minimum, in the selection process:
9782 (i) the qualifications, experience, and background of each firm submitting a proposal;
9783 (ii) the specific individuals assigned to the project and the time commitments of each
9784 to the project; and
9785 (iii) the project schedule and the approach to the project that the firm will take; and
9786 (b) may engage the services of a professional architect, engineer, or surveyor based on
9787 the criteria under Subsection (3)(a) rather than solely on lowest cost.
9788 Section 203. Section **17B-2a-818** is amended to read:
9789 **17B-2a-818. Requirements applicable to public transit district contracts.**
9790 (1) If the expenditure required to construct district facilities or works exceeds $25,000,
9791 the construction shall be let as provided in [~~Title 63, Chapter 56~~] Title 63G, Chapter 6, Utah
9792 Procurement Code.

9793 (2) (a) The board of trustees of a public transit district shall advertise each bid or
9794 proposal through public notice as the board determines.
9795 (b) A notice under Subsection (2)(a) may:
9796 (i) include publication in:
9797 (A) a newspaper of general circulation in the district;
9798 (B) a trade journal; or
9799 (C) other method determined by the board; and
9800 (ii) be made at least once, not less than ten days before the expiration of the period
9801 within which bids or proposals are received.
9802 (3) (a) The board of trustees may, in its discretion:
9803 (i) reject any or all bids or proposals; and
9804 (ii) readvertise or give notice again.
9805 (b) If, after rejecting bids or proposals, the board of trustees determines and declares by
9806 a two-thirds vote of all members present that in the board's opinion the supplies, equipment,
9807 and materials may be purchased at a lower price in the open market, the board may purchase
9808 the supplies, equipment, and materials in the open market, notwithstanding any provisions
9809 requiring contracts, bids, proposals, advertisement, or notice.
9810 (4) The board of trustees of a public transit district may let a contract without
9811 advertising for or inviting bids if:
9812 (a) the board finds, upon a two-thirds vote of all members present, that a repair,
9813 alteration, or other work or the purchase of materials, supplies, equipment, or other property is
9814 of urgent necessity; or
9815 (b) the district's general manager certifies by affidavit that there is only one source for
9816 the required supplies, equipment, materials, or construction items.
9817 (5) If a public transit district retains or withholds any payment on a contract with a
9818 private contractor to construct facilities under this section, the board shall retain or withhold
9819 and release the payment as provided in Section 13-8-5.
9820 Section 204. Section **17C-2-602** is amended to read:
9821 **17C-2-602. Prerequisites to the acquisition of property by eminent domain --**
9822 **Civil action authorized -- Record of good faith negotiations to be retained.**
9823 (1) Before an agency may acquire property by eminent domain, the agency shall:

9824 (a) negotiate in good faith with the affected record property owner;
9825 (b) provide to each affected record property owner a written declaration that includes:
9826 (i) an explanation of the eminent domain process and the reasons for using it,
9827 including:
9828 (A) the need for the agency to obtain an independent appraisal that indicates the fair
9829 market value of the property and how the fair market value was determined;
9830 (B) a statement that the agency may adopt a resolution authorizing the agency to make
9831 an offer to the record property owner to purchase the property for the fair market value amount
9832 determined by the appraiser and that, if the offer is rejected, the agency has the right to acquire
9833 the property through an eminent domain proceeding; and
9834 (C) a statement that the agency will prepare an offer that will include the price the
9835 agency is offering for the property, an explanation of how the agency determined the price
9836 being offered, the legal description of the property, conditions of the offer, and the time at
9837 which the offer will expire;
9838 (ii) an explanation of the record property owner's relocation rights under Title 57,
9839 Chapter 12, Utah Relocation Assistance Act, and how to receive relocation assistance; and
9840 (iii) a statement that the owner has the right to receive just compensation and an
9841 explanation of how to obtain it; and
9842 (c) provide to the affected record property owner or the owner's designated
9843 representative a notice that is printed in a type size of at least ten-point type that contains:
9844 (i) a description of the property to be acquired;
9845 (ii) the name of the agency acquiring the property and the agency's contact person and
9846 telephone number; and
9847 (iii) a copy of Title 57, Chapter 12, Utah Relocation Assistance Act.
9848 (2) A person may bring a civil action against an agency for a violation of Subsection
9849 (1)(b) that results in damage to that person.
9850 (3) Each agency shall keep a record and evidence of the good faith negotiations
9851 required under Subsection (1)(a) and retain the record and evidence as provided in:
9852 (a) [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records Access and
9853 Management Act; or
9854 (b) an ordinance or policy that the agency had adopted under Section [~~63-2-701~~]

9855 63G-2-701.
9856 (4) A record property owner whose property is being taken by an agency through the
9857 exercise of eminent domain may elect to receive for the real property being taken:
9858 (a) fair market value; or
9859 (b) replacement property under Section 57-12-7.
9860 Section 205. Section **19-1-201** is amended to read:
9861 **19-1-201. Powers of department.**
9862 (1) The department shall:
9863 (a) enter into cooperative agreements with the Department of Health to delineate
9864 specific responsibilities to assure that assessment and management of risk to human health
9865 from the environment are properly administered;
9866 (b) consult with the Department of Health and enter into cooperative agreements, as
9867 needed, to ensure efficient use of resources and effective response to potential health and safety
9868 threats from the environment, and to prevent gaps in protection from potential risks from the
9869 environment to specific individuals or population groups; and
9870 (c) coordinate implementation of environmental programs to maximize efficient use of
9871 resources by developing, with local health departments, a Comprehensive Environmental
9872 Service Delivery Plan that:
9873 (i) recognizes that the department and local health departments are the foundation for
9874 providing environmental health programs in the state;
9875 (ii) delineates the responsibilities of the department and each local health department
9876 for the efficient delivery of environmental programs using federal, state, and local authorities,
9877 responsibilities, and resources;
9878 (iii) provides for the delegation of authority and pass through of funding to local health
9879 departments for environmental programs, to the extent allowed by applicable law, identified in
9880 the plan, and requested by the local health department; and
9881 (iv) is reviewed and updated annually.
9882 (2) The department may:
9883 (a) investigate matters affecting the environment;
9884 (b) investigate and control matters affecting the public health when caused by
9885 environmental hazards;

9886 (c) prepare, publish, and disseminate information to inform the public concerning
9887 issues involving environmental quality;
9888 (d) establish and operate programs, as authorized by this title, necessary for protection
9889 of the environment and public health from environmental hazards;
9890 (e) use local health departments in the delivery of environmental health programs to
9891 the extent provided by law;
9892 (f) enter into contracts with local health departments or others to meet responsibilities
9893 established under this title;
9894 (g) acquire real and personal property by purchase, gift, devise, and other lawful
9895 means;
9896 (h) prepare and submit to the governor a proposed budget to be included in the budget
9897 submitted by the governor to the Legislature;
9898 (i) (i) establish a schedule of fees that may be assessed for actions and services of the
9899 department according to the procedures and requirements of Section [~~63-38-3.2~~] 63J-1-303;
9900 and
9901 (ii) in accordance with Section [~~63-38-3.2~~] 63J-1-303, all fees shall be reasonable, fair,
9902 and reflect the cost of services provided;
9903 (j) prescribe by rule reasonable requirements not inconsistent with law relating to
9904 environmental quality for local health departments;
9905 (k) perform the administrative functions of the boards established by Section 19-1-106,
9906 including the acceptance and administration of grants from the federal government and from
9907 other sources, public or private, to carry out the board's functions; and
9908 (l) upon the request of any board or the executive secretary, provide professional,
9909 technical, and clerical staff and field and laboratory services, the extent of which are limited by
9910 the funds available to the department for the staff and services.
9911 Section 206. Section **19-1-301** is amended to read:
9912 **19-1-301. Adjudicative proceedings.**
9913 The department and its boards shall comply with the procedures and requirements of
9914 [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
9915 Section 207. Section **19-1-305** is amended to read:
9916 **19-1-305. Administrative enforcement proceedings -- Tolling of limitation period.**

9917 Issuing a notice of a violation, an order, or a notice of agency action under this title tolls
9918 the running of the period of limitation for commencing a civil action to assess or collect a
9919 penalty until the sooner of:
9920 (1) the day on which the notice of violation, order, or agency action becomes final
9921 under [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act; or
9922 (2) three years from the day on which the department issues a notice or order described
9923 in this section.
9924 Section 208. Section **19-1-306** is amended to read:
9925 **19-1-306. Records of the department.**
9926 (1) Except as provided in this section, records of the department shall be subject to
9927 [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records Access and Management Act.
9928 (2) (a) The standards of the federal Freedom of Information Act, 5 U.S.C. Sec. 552,
9929 and not the standards of Subsections [~~63-2-304~~] 63G-2-305(1) and (2), shall govern access to
9930 records of the department for which business confidentiality has been claimed under Section
9931 [~~63-2-308~~] 63G-2-309, to the extent those records relate to a program:
9932 (i) that is delegated, authorized, or for which primacy has been granted to the state;
9933 (ii) for which the state is seeking delegation, authorization, or primacy; or
9934 (iii) under the federal Comprehensive Environmental Response, Compensation, and
9935 Liability Act.
9936 (b) The regulation of the United States Environmental Protection Agency interpreting
9937 the federal Freedom of Information Act, as it appeared at 40 C.F.R. Part 2 on January 1, 1992,
9938 shall also apply to the records described in Subsection (1).
9939 (3) (a) The department may, upon request, make trade secret and confidential business
9940 records available to the United States Environmental Protection Agency insofar as they relate
9941 to a delegated program, to a program for which the state is seeking delegation, or to a program
9942 under the federal Comprehensive Environmental Response, Compensation and Liability Act.
9943 (b) In the event a record is released to the United States Environmental Protection
9944 Agency under Subsection (3)(a), the department shall convey any claim of confidentiality to the
9945 United States Environmental Protection Agency and shall notify the person who submitted the
9946 information of its release.
9947 (4) Trade secret and confidential business records under Subsection (2) shall be

9948 managed as protected records under the Government Records Access and Management Act,
9949 and all provisions of that act shall apply except Subsections [~~63-2-304~~] 63G-2-305(1) and (2).
9950 (5) Records obtained from the United States Environmental Protection Agency and
9951 requested by that agency to be kept confidential shall be managed as protected records under
9952 the Government Records Access and Management Act, and all provisions of that act shall
9953 apply except to the extent they conflict with this [~~subsection~~] section.
9954 Section 209. Section **19-1-403** is amended to read:
9955 **19-1-403. Clean Fuels and Vehicle Technology Fund -- Contents -- Loans or**
9956 **grants made with fund monies.**
9957 (1) (a) There is created a revolving fund known as the Clean Fuels and Vehicle
9958 Technology Fund.
9959 (b) The fund consists of:
9960 (i) appropriations to the fund;
9961 (ii) other public and private contributions made under Subsection (1)(d);
9962 (iii) interest earnings on cash balances; and
9963 (iv) all monies collected for loan repayments and interest on loans.
9964 (c) All money appropriated to the fund is nonlapsing.
9965 (d) The department may accept contributions from other public and private sources for
9966 deposit into the fund.
9967 (2) (a) Except as provided in Subsection (3), the department may make a loan or a
9968 grant with monies available in the fund for:
9969 (i) the conversion of a private sector business vehicle or a government vehicle to use a
9970 clean fuel, if certified by the Air Quality Board under Subsection 19-1-405(1)(a);
9971 (ii) the purchase of:
9972 (A) an OEM vehicle for use as a private sector business vehicle or government vehicle;
9973 or
9974 (B) a vehicle, certified by the Air Quality Board under Subsection 19-1-405(1)(d), for
9975 use as a private sector business vehicle or government vehicle;
9976 (iii) the retrofit, certified by the Air Quality Board under Subsection 19-1-405(1)(d), of
9977 a private sector business vehicle or government vehicle;
9978 (iv) a fuel system, certified by the Air Quality Board under Subsection 19-1-405(1)(d),

9979 for a private sector business vehicle or government vehicle; or
9980 (v) a state match of a federal or nonfederal grant for any item under this Subsection
9981 (2)(a).
9982 (b) The amount of a loan for any vehicle under Subsection (2)(a)(i) or (2)(a)(ii)(A) may
9983 not exceed:
9984 (i) the actual cost of the vehicle conversion;
9985 (ii) the incremental cost of purchasing the OEM vehicle; or
9986 (iii) the cost of purchasing the OEM vehicle if there is no documented incremental
9987 cost.
9988 (c) The amount of a grant for any vehicle under Subsection (2)(a)(i) or (2)(a)(ii)(A)
9989 may not exceed:
9990 (i) 50% of the actual cost of the vehicle conversion minus the amount of any tax credit
9991 claimed under Section 59-7-605 or 59-10-1009 for the vehicle for which a grant is requested;
9992 or
9993 (ii) 50% of the incremental cost of purchasing an OEM vehicle minus the amount of
9994 any tax credit claimed under Section 59-7-605 or 59-10-1009 for the vehicle for which a grant
9995 is requested.
9996 (d) (i) Except as provided in Subsection (3) and subject to the availability of monies in
9997 the fund, the department may make a loan for the purchase of vehicle refueling equipment for a
9998 private sector business vehicle or a government vehicle.
9999 (ii) The maximum amount loaned per installation of refueling equipment may not
10000 exceed the actual cost of the refueling equipment.
10001 (iii) Except as provided in Subsection (3) and subject to the availability of monies in
10002 the fund, the department may make a grant for a state match of a federal or nonfederal grant for
10003 the purchase of vehicle refueling equipment for a private sector business vehicle or a
10004 government vehicle.
10005 (3) The department may not make a loan or grant under this part for an electric-hybrid
10006 vehicle.
10007 (4) The department may:
10008 (a) reimburse itself for the costs incurred in administering the fund from:
10009 (i) the fund; or

10010 (ii) application fees; and
10011 (b) establish an application fee for a loan or grant from the fund by following the
10012 procedures and requirements of Section [~~63-38-3.2~~] 63J-1-303.
10013 (5) (a) The fund balance may not exceed $10,000,000.
10014 (b) Interest on cash balances and repayment of loans in excess of the amount necessary
10015 to maintain the fund balance at $10,000,000 shall be deposited in the General Fund.
10016 (6) (a) Loans made from monies in the fund shall be supported by loan documents
10017 evidencing the intent of the borrower to repay the loan.
10018 (b) The original loan documents shall be filed with the Division of Finance and a copy
10019 shall be filed with the department.
10020 Section 210. Section **19-1-404** is amended to read:
10021 **19-1-404. Department duties -- Rulemaking -- Loan repayment.**
10022 (1) The department shall:
10023 (a) administer the fund created in Section 19-1-403 to encourage government officials
10024 and private sector business vehicle owners and operators to obtain and use clean fuel vehicles;
10025 and
10026 (b) by following the procedures and requirements of [~~Title 63, Chapter 46a~~] Title 63G,
10027 Chapter 3, Utah Administrative Rulemaking Act, make rules:
10028 (i) specifying the amount of money in the fund to be dedicated annually for grants;
10029 (ii) limiting the amount of a grant given to any person claiming a tax credit under
10030 Section 59-7-605 or 59-10-1009 for the motor vehicle for which a grant is requested to assure
10031 that the sum of the tax credit and grant does not exceed:
10032 (A) 50% of the incremental cost of the OEM vehicle; or
10033 (B) 50% of the cost of conversion equipment;
10034 (iii) limiting the number of motor vehicles per fleet operator that may be eligible for a
10035 grant in a year;
10036 (iv) specifying criteria the department shall consider in prioritizing and awarding loans
10037 and grants;
10038 (v) specifying repayment periods;
10039 (vi) specifying procedures for:
10040 (A) awarding loans and grants; and

10041 (B) collecting loans;
10042 (vii) requiring all loan and grant applicants to:
10043 (A) apply on forms provided by the department;
10044 (B) agree in writing to use the clean fuel for which each vehicle is converted or
10045 purchased using loan or grant proceeds for a minimum of 70% of the vehicle miles traveled
10046 beginning from the time of conversion or purchase of the vehicle;
10047 (C) agree in writing to notify the department if a vehicle converted or purchased using
10048 loan or grant proceeds becomes inoperable through mechanical failure or accident and to
10049 pursue a remedy outlined in department rules;
10050 (D) provide reasonable data to the department on a vehicle converted or purchased
10051 with loan or grant proceeds; and
10052 (E) submit a vehicle converted or purchased with loan or grant proceeds to inspections
10053 by the department as required in department rules and as necessary for administration of the
10054 loan and grant program; and
10055 (viii) specifying the criteria for awarding a state match under Subsection 19-1-403(2).
10056 (2) (a) When developing repayment schedules for the loans, the department shall
10057 consider the projected savings from use of the clean fuel vehicle.
10058 (b) A repayment schedule may not exceed ten years.
10059 (c) The department shall make a loan from the fund for a private sector vehicle at an
10060 interest rate equal to the annual return earned in the state treasurer's Public Treasurer's Pool as
10061 determined the month immediately preceding the closing date of the loan.
10062 (d) The department shall make a loan from the fund for a government vehicle with no
10063 interest rate.
10064 (3) The Division of Finance shall:
10065 (a) collect and account for the loans; and
10066 (b) have custody of all loan documents, including all notes and contracts, evidencing
10067 the indebtedness of the fund.
10068 Section 211. Section **19-1-405** is amended to read:
10069 **19-1-405. Air Quality Board duties -- Rulemaking.**
10070 (1) By following the procedures and requirements of [~~Title 63, Chapter 46a~~] Title 63G,
10071 Chapter 3, Utah Administrative Rulemaking Act, the Air Quality Board may make rules to:

10072 (a) certify a motor vehicle on which conversion equipment has been installed if:
10073 (i) before the installation of conversion equipment, the motor vehicle does not exceed
10074 the emission cut points for:
10075 (A) a transient test driving cycle, as specified in 40 CFR 51, Appendix E to Subpart S;
10076 or
10077 (B) an equivalent test for the make, model, and year of the motor vehicle; and
10078 (ii) the motor vehicle's emissions of regulated pollutants, when operating with clean
10079 fuel, is less than the emissions were before the installation of conversion equipment;
10080 (b) recognize a test or standard that demonstrates a reduction in emissions;
10081 (c) recognize a certification standard from another state;
10082 (d) certify a fuel, vehicle, retrofit, or fuel system if it is at least as effective in reducing
10083 air pollution as fuels under Subsection 19-1-402(1)(a) or vehicles under Subsection
10084 19-1-402(2); or
10085 (e) establish criteria for determining the effectiveness of a fuel, vehicle, retrofit, or fuel
10086 system in reducing air pollution.
10087 (2) A reduction in emissions under Subsection (1)(a)(ii) is demonstrated by:
10088 (a) certification of the conversion equipment by the federal Environmental Protection
10089 Agency or by a state whose certification standards are recognized by the Air Quality Board;
10090 (b) testing the motor vehicle, before and after the installation of the conversion
10091 equipment, in accordance with 40 CFR 86, Control of Air Pollution from New and In-use
10092 Motor Vehicle Engines: Certification and Test Procedures, using all fuel the motor vehicle is
10093 capable of using; or
10094 (c) any other test or standard recognized by the Air Quality Board in rule.
10095 Section 212. Section **19-2-104** is amended to read:
10096 **19-2-104. Powers of board.**
10097 (1) The board may make rules in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
10098 Chapter 3, Utah Administrative Rulemaking Act:
10099 (a) regarding the control, abatement, and prevention of air pollution from all sources
10100 and the establishment of the maximum quantity of air contaminants that may be emitted by any
10101 air contaminant source;
10102 (b) establishing air quality standards;

10103 (c) requiring persons engaged in operations which result in air pollution to:
10104 (i) install, maintain, and use emission monitoring devices, as the board finds necessary;
10105 (ii) file periodic reports containing information relating to the rate, period of emission,
10106 and composition of the air contaminant; and
10107 (iii) provide access to records relating to emissions which cause or contribute to air
10108 pollution;
10109 (d) implementing 15 U.S.C.A. 2601 et seq. Toxic Substances Control Act, Subchapter
10110 II - Asbestos Hazard Emergency Response, and reviewing and approving asbestos management
10111 plans submitted by local education agencies under that act;
10112 (e) establishing a requirement for a diesel emission opacity inspection and maintenance
10113 program for diesel-powered motor vehicles;
10114 (f) implementing an operating permit program as required by and in conformity with
10115 Titles IV and V of the federal Clean Air Act Amendments of 1990;
10116 (g) establishing requirements for county emissions inspection and maintenance
10117 programs after obtaining agreement from the counties that would be affected by the
10118 requirements;
10119 (h) with the approval of the governor, implementing in air quality nonattainment areas
10120 employer-based trip reduction programs applicable to businesses having more than 100
10121 employees at a single location and applicable to federal, state, and local governments to the
10122 extent necessary to attain and maintain ambient air quality standards consistent with the state
10123 implementation plan and federal requirements under the standards set forth in Subsection (2);
10124 and
10125 (i) implementing lead-based paint remediation training, certification, and performance
10126 requirements in accordance with 15 U.S.C.A. 2601 et seq., Toxic Substances Control Act,
10127 Subchapter IV -- Lead Exposure Reduction, Sections 402 and 406.
10128 (2) When implementing Subsection (1)(h) the board shall take into consideration:
10129 (a) the impact of the business on overall air quality; and
10130 (b) the need of the business to use automobiles in order to carry out its business
10131 purposes.
10132 (3) The board may:
10133 (a) hold hearings relating to any aspect of or matter in the administration of this chapter

10134 and compel the attendance of witnesses and the production of documents and other evidence,
10135 administer oaths and take testimony, and receive evidence as necessary;
10136 (b) issue orders necessary to enforce the provisions of this chapter, enforce the orders
10137 by appropriate administrative and judicial proceedings, and institute judicial proceedings to
10138 secure compliance with this chapter;
10139 (c) settle or compromise any civil action initiated to compel compliance with this
10140 chapter and the rules made under this chapter;
10141 (d) secure necessary scientific, technical, administrative, and operational services,
10142 including laboratory facilities, by contract or otherwise;
10143 (e) prepare and develop a comprehensive plan or plans for the prevention, abatement,
10144 and control of air pollution in this state;
10145 (f) encourage voluntary cooperation by persons and affected groups to achieve the
10146 purposes of this chapter;
10147 (g) encourage local units of government to handle air pollution within their respective
10148 jurisdictions on a cooperative basis and provide technical and consultative assistance to them;
10149 (h) encourage and conduct studies, investigations, and research relating to air
10150 contamination and air pollution and their causes, effects, prevention, abatement, and control;
10151 (i) determine by means of field studies and sampling the degree of air contamination
10152 and air pollution in all parts of the state;
10153 (j) monitor the effects of the emission of air contaminants from motor vehicles on the
10154 quality of the outdoor atmosphere in all parts of this state and take appropriate action with
10155 respect to them;
10156 (k) collect and disseminate information and conduct educational and training programs
10157 relating to air contamination and air pollution;
10158 (l) advise, consult, contract, and cooperate with other agencies of the state, local
10159 governments, industries, other states, interstate or interlocal agencies, the federal government,
10160 and with interested persons or groups;
10161 (m) consult, upon request, with any person proposing to construct, install, or otherwise
10162 acquire an air contaminant source in the state concerning the efficacy of any proposed control
10163 device, or system for this source, or the air pollution problem which may be related to the
10164 source, device, or system, but a consultation does not relieve any person from compliance with

10165 this chapter, the rules adopted under it, or any other provision of law;
10166 (n) accept, receive, and administer grants or other funds or gifts from public and
10167 private agencies, including the federal government, for the purpose of carrying out any of the
10168 functions of this chapter;
10169 (o) require the owner and operator of each new source which directly emits or has the
10170 potential to emit 100 tons per year or more of any air contaminant or the owner or operator of
10171 each existing source which by modification will increase emissions or have the potential of
10172 increasing emissions by 100 tons per year or more of any air contaminant, to pay a fee
10173 sufficient to cover the reasonable costs of:
10174 (i) reviewing and acting upon the notice required under Section 19-2-108; and
10175 (ii) implementing and enforcing requirements placed on the sources by any approval
10176 order issued pursuant to notice, not including any court costs associated with any enforcement
10177 action;
10178 (p) assess and collect noncompliance penalties as required in Section 120 of the federal
10179 Clean Air Act, 42 U.S.C. Sec. 7420;
10180 (q) meet the requirements of federal air pollution laws;
10181 (r) establish work practice, certification, and clearance air sampling requirements for
10182 persons who:
10183 (i) contract for hire to conduct demolition, renovation, salvage, encapsulation work
10184 involving friable asbestos-containing materials, or asbestos inspections;
10185 (ii) conduct work described in Subsection (3)(r)(i) in areas to which the general public
10186 has unrestrained access or in school buildings that are subject to the federal Asbestos Hazard
10187 Emergency Response Act of 1986;
10188 (iii) conduct asbestos inspections in facilities subject to 15 U.S.C.A. 2601 et seq.,
10189 Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response; or
10190 (iv) conduct lead paint inspections in facilities subject to 15 U.S.C.A. 2601 et seq.,
10191 Toxic Substances Control Act, Subchapter IV -- Lead Exposure Reduction;
10192 (s) establish certification requirements for persons required under 15 U.S.C.A. 2601 et
10193 seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response, to
10194 be accredited as inspectors, management planners, abatement project designers, asbestos
10195 abatement contractors and supervisors, or asbestos abatement workers;

10196 (t) establish certification requirements for asbestos project monitors, which shall
10197 provide for experience-based certification of persons who, prior to establishment of the
10198 certification requirements, had received relevant asbestos training, as defined by rule, and had
10199 acquired at least 1,000 hours of experience as project monitors;
10200 (u) establish certification procedures and requirements for certification of the
10201 conversion of a motor vehicle to a clean-fuel vehicle, certifying the vehicle is eligible for the
10202 tax credit granted in Section 59-7-605 or 59-10-1009;
10203 (v) establish a program to certify private sector air quality permitting professionals
10204 (AQPP), as described in Section 19-2-109.5; and
10205 (w) establish certification requirements for persons required under 15 U.S.C.A. 2601 et
10206 seq., Toxic Control Act, Subchapter IV -- Lead Exposure Reduction, to be accredited as
10207 inspectors, risk assessors, supervisors, project designers, or abatement workers.
10208 (4) Any rules adopted under this chapter shall be consistent with provisions of federal
10209 laws, if any, relating to control of motor vehicles or motor vehicle emissions.
10210 (5) Nothing in this chapter authorizes the board to require installation of or payment for
10211 any monitoring equipment by the owner or operator of a source if the owner or operator has
10212 installed or is operating monitoring equipment that is equivalent to equipment which the board
10213 would require under this section.
10214 Section 213. Section **19-2-105.3** is amended to read:
10215 **19-2-105.3. Clean fuel requirements for fleets.**
10216 (1) As used in this section:
10217 (a) "1990 Clean Air Act" means the federal Clean Air Act as amended in 1990.
10218 (b) "Clean fuel" means:
10219 (i) propane, compressed natural gas, or electricity;
10220 (ii) other fuel the Air Quality Board created in Title 19, Chapter 2, Air Conservation
10221 Act, determines annually on or before July 1 is at least as effective as fuels under Subsection
10222 (1)(b)(i) in reducing air pollution; and
10223 (iii) other fuel that meets the clean fuel vehicle standards in the 1990 Clean Air Act.
10224 (c) "Fleet" means ten or more vehicles:
10225 (i) owned or operated by a single entity as defined by board rule; and
10226 (ii) capable of being fueled or that are fueled at a central location.

10227 (d) "Fleet" does not include motor vehicles that are:
10228 (i) held for lease or rental to the general public;
10229 (ii) held for sale or used as demonstration vehicles by motor vehicle dealers;
10230 (iii) used by motor vehicle manufacturers for product evaluations or tests;
10231 (iv) authorized emergency vehicles as defined in Section 41-6a-102;
10232 (v) registered under Title 41, Chapter 1a, Part 2, Registration, as farm vehicles;
10233 (vi) special mobile equipment as defined in Section 41-1a-102;
10234 (vii) heavy duty trucks with a gross vehicle weight rating of more than 26,000 pounds;
10235 (viii) regularly used by employees to drive to and from work, parked at the employees'
10236 personal residences when they are not at their employment, and not practicably fueled at a
10237 central location;
10238 (ix) owned, operated, or leased by public transit districts; or
10239 (x) exempted by board rule.
10240 (2) (a) After evaluation of reasonably available pollution control strategies, and as part
10241 of the state implementation plan demonstrating attainment of the national ambient air quality
10242 standards, the board may by rule, subject to Subsection (2)(c), require fleets in specified
10243 geographical areas to use clean fuels if the board determines fleet use of clean fuels is:
10244 (i) necessary to demonstrate attainment of the national ambient air quality standards in
10245 any area where they are required; and
10246 (ii) reasonably cost effective when compared to other similarly beneficial control
10247 strategies for demonstrating attainment of the national ambient air quality standards.
10248 (b) State implementation plans developed prior to July 1, 1995, may require fleets to
10249 use clean fuels no earlier than July 1, 1995, unless the board determines fleet use of clean fuels
10250 is necessary prior to July 1, 1995, to demonstrate attainment of the national ambient air quality
10251 standards in any area by an attainment date established by federal law.
10252 (c) The board may not require more than 50% of those trucks in a fleet that are heavy
10253 duty trucks having a gross vehicle weight rating of more than 8,500 pounds and not more than
10254 26,000 pounds to convert to clean fuels under Subsection (2)(b).
10255 (3) (a) After evaluation of reasonably available pollution control strategies, and as part
10256 of a state implementation plan demonstrating only maintenance of the national ambient air
10257 quality standards, the board may by rule, subject to Subsection (3)(b), require fleets in specified

10258 geographical areas to use clean fuels if the board determines fleet use of clean fuels is:
10259 (i) necessary to demonstrate maintenance of the national ambient air quality standards
10260 in any area where they are required; and
10261 (ii) reasonably cost effective as compared with other similarly beneficial control
10262 strategies for demonstrating maintenance of the national ambient air quality standards.
10263 (b) Under Subsection (3)(a) the board may require no more than:
10264 (i) 30% of a fleet to use clean fuels before January 1, 1998;
10265 (ii) 50% of a fleet to use clean fuels before January 1, 1999; and
10266 (iii) 70% of a fleet to use clean fuels before January 1, 2000.
10267 (c) The board may not require more than 50% of those trucks in a fleet that are heavy
10268 duty trucks having a gross vehicle weight rating of more than 8,500 pounds and not more than
10269 26,000 pounds to convert to clean fuels under Subsection (3)(b).
10270 (4) Rules the board makes under this section may include:
10271 (a) dates by which fleets are required to convert to clean fuels under the provisions of
10272 this section;
10273 (b) definitions of fleet owners or operators;
10274 (c) definitions of vehicles exempted from this section by rule;
10275 (d) certification requirements for persons who install clean fuel conversion equipment,
10276 including testing and certification standards regarding installers; and
10277 (e) certification fees for installers, established under Section [~~63-38-3.2~~] 63J-1-303.
10278 (5) Implementation of this section and rules made under this section are subject to the
10279 reasonable availability of clean fuel in the local market as determined by the board.
10280 Section 214. Section **19-2-109.1** is amended to read:
10281 **19-2-109.1. Operating permit required -- Emissions fee -- Implementation.**
10282 (1) As used in this section and Sections 19-2-109.2 and 19-2-109.3:
10283 (a) "EPA" means the federal Environmental Protection Agency.
10284 (b) "1990 Clean Air Act" means the federal Clean Air Act as amended in 1990.
10285 (c) "Operating permit" means a permit issued by the executive secretary to sources of
10286 air pollution that meet the requirements of Titles IV and V of the 1990 Clean Air Act.
10287 (d) "Program" means the air pollution operating permit program established under this
10288 section to comply with Title V of the 1990 Clean Air Act.

10289 (e) "Regulated pollutant" has the same meaning as defined in Title V of the 1990 Clean
10290 Air Act and implementing federal regulations.
10291 (2) (a) A person may not operate any source of air pollution required to have a permit
10292 under Title V of the 1990 Clean Air Act without having obtained an operating permit from the
10293 executive secretary under procedures the board establishes by rule.
10294 (b) A person is not required to submit an operating permit application until the
10295 governor has submitted an operating permit program to the EPA.
10296 (c) Any operating permit issued under this section may not become effective until the
10297 day after the EPA issues approval of the permit program or November 15, 1995, whichever
10298 occurs first.
10299 (3) (a) Operating permits issued under this section shall be for a period of five years
10300 unless the board makes a written finding, after public comment and hearing, and based on
10301 substantial evidence in the record, that an operating permit term of less than five years is
10302 necessary to protect the public health and the environment of the state.
10303 (b) The executive secretary may issue, modify, or renew an operating permit only after
10304 providing public notice, an opportunity for public comment, and an opportunity for a public
10305 hearing.
10306 (c) The executive secretary shall, in conformity with the 1990 Clean Air Act and
10307 implementing federal regulations, revise the conditions of issued operating permits to
10308 incorporate applicable federal regulations in conformity with Section 502(b)(9) of the 1990
10309 Clean Air Act, if the remaining period of the permit is three or more years.
10310 (d) The executive secretary may terminate, modify, revoke, or reissue an operating
10311 permit for cause.
10312 (4) (a) The board shall establish a proposed annual emissions fee that conforms with
10313 Title V of the 1990 Clean Air Act for each ton of regulated pollutant, applicable to all sources
10314 required to obtain a permit. The emissions fee established under this section is in addition to
10315 fees assessed under Section 19-2-108 for issuance of an approval order.
10316 (b) In establishing the fee the board shall comply with the provisions of Section
10317 [~~63-38-3.2~~] 63J-1-303 that require a public hearing and require the established fee to be
10318 submitted to the Legislature for its approval as part of the department's annual appropriations
10319 request.

10320 (c) The fee shall cover all reasonable direct and indirect costs required to develop and
10321 administer the program and the small business assistance program established under Section
10322 19-2-109.2. The board shall prepare an annual report of the emissions fees collected and the
10323 costs covered by those fees under this Subsection (4).
10324 (d) The fee shall be established uniformly for all sources required to obtain an
10325 operating permit under the program and for all regulated pollutants.
10326 (e) The fee may not be assessed for emissions of any regulated pollutant if the
10327 emissions are already accounted for within the emissions of another regulated pollutant.
10328 (f) An emissions fee may not be assessed for any amount of a regulated pollutant
10329 emitted by any source in excess of 4,000 tons per year of that regulated pollutant.
10330 (5) Emissions fees for the period:
10331 (a) of July 1, 1992, through June 30, 1993, shall be based on the most recent emissions
10332 inventory prepared by the executive secretary; and
10333 (b) on and after July 1, 1993, but prior to issuance of an operating permit, shall be
10334 based on the most recent emissions inventory, unless a source elects prior to July 1, 1992, to
10335 base the fee on allowable emissions, if applicable for a regulated pollutant.
10336 (6) After an operating permit is issued the emissions fee shall be based on actual
10337 emissions for a regulated pollutant unless a source elects, prior to the issuance or renewal of a
10338 permit, to base the fee during the period of the permit on allowable emissions for that regulated
10339 pollutant.
10340 (7) If the owner or operator of a source subject to this section fails to timely pay an
10341 annual emissions fee, the executive secretary may:
10342 (a) impose a penalty of not more than 50% of the fee, in addition to the fee, plus
10343 interest on the fee computed at 12% annually; or
10344 (b) revoke the operating permit.
10345 (8) The owner or operator of a source subject to this section may contest an emissions
10346 fee assessment or associated penalty in an adjudicative hearing under the [~~Title 63, Chapter~~
10347 ~~46b~~] Title 63G, Chapter 4, Administrative Procedures Act, as provided in this Subsection (8).
10348 (a) The owner or operator must pay the fee under protest prior to being entitled to a
10349 hearing. Payment of an emissions fee or penalty under protest is not a waiver of the right to
10350 contest the fee or penalty under this [~~subsection~~] section.

10351 (b) A request for a hearing under this subsection shall be made after payment of the
10352 emissions fee and within six months after the emissions fee was due.
10353 (9) To reinstate an operating permit revoked under Subsection (7) the owner or
10354 operator shall pay all outstanding emissions fees, a penalty of not more than 50% of all
10355 outstanding fees, and interest on the outstanding emissions fees computed at 12% annually.
10356 (10) All emissions fees and penalties collected by the department under this section
10357 shall be deposited in the General Fund as the Air Pollution Operating Permit Program
10358 dedicated credit to be used solely to pay for the reasonable direct and indirect costs incurred by
10359 the department in developing and administering the program and the small business assistance
10360 program under Section 19-2-109.2.
10361 (11) Failure of the executive secretary to act on any operating permit application or
10362 renewal is a final administrative action only for the purpose of obtaining judicial review by any
10363 of the following persons to require the executive secretary to take action on the permit or its
10364 renewal without additional delay:
10365 (a) the applicant;
10366 (b) any person who participated in the public comment process; or
10367 (c) any other person who could obtain judicial review of that action under applicable
10368 law.
10369 Section 215. Section **19-2-109.3** is amended to read:
10370 **19-2-109.3. Public access to information.**
10371 A copy of each permit application, compliance plan, emissions or compliance
10372 monitoring report, certification, and each operating permit issued under this chapter shall be
10373 made available to the public in accordance with [~~Title 63, Chapter 2~~] Title 63G, Chapter 2,
10374 Government Records Access and Management Act.
10375 Section 216. Section **19-2-109.5** is amended to read:
10376 **19-2-109.5. Private sector air quality permitting professionals certification**
10377 **program.**
10378 (1) As used in this section, "AQPP" means an air quality permitting professional.
10379 (2) The board may establish a program to certify private sector AQPPs, including
10380 consultants and employees of companies that may seek air quality permits from the division.
10381 Any program established under this section shall include:

10382 (a) a training program established and operated by the department, which describes and
10383 explains the state law and rules regarding the air quality permit application and approval
10384 procedure under this chapter;
10385 (b) the requirement to pass an exam to measure qualifications of AQPP applicants;
10386 (c) an option for certification of an AQPP by passing the exam without undergoing any
10387 training required under the program;
10388 (d) an application process, including a fee established under Section [~~63-38-3.2~~]
10389 63J-1-303 that covers the costs of the training, testing, and application process and the
10390 department's maintenance of a list of certified AQPPs;
10391 (e) certification of qualified AQPP applicants;
10392 (f) maintenance by the department of a current list of certified AQPPs, which is
10393 available to the public; [~~and~~]
10394 (g) procedures for the expedited review by the department of air quality permit
10395 applications submitted by certified AQPPs; and
10396 (h) professional standards for AQPPs.
10397 (3) The board may not require AQPP certification as a condition of preparing or
10398 submitting a notice of intent or operating permit application under this chapter.
10399 (4) Any program under this section shall provide for revocation of any certification
10400 issued under this section if the department determines, through an administrative hearing
10401 conducted under [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act,
10402 that the AQPP:
10403 (a) knowingly or negligently submitted false information or data as part of an air
10404 quality permit application;
10405 (b) prepared more than three air quality permit applications in one calendar year in a
10406 manner that each did not substantially comply with department application requirements; or
10407 (c) prepared any air quality permit application in violation of the professional standards
10408 defined by department rule.
10409 Section 217. Section **19-2-112** is amended to read:
10410 **19-2-112. Generalized condition of air pollution creating emergency -- Sources**
10411 **causing imminent danger to health -- Powers of executive director -- Declaration of**
10412 **emergency.**

10413 (1) (a) [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act,
10414 and any other provision of law to the contrary notwithstanding, if the executive director finds
10415 that a generalized condition of air pollution exists and that it creates an emergency requiring
10416 immediate action to protect human health or safety, the executive director, with the
10417 concurrence of the governor, shall order persons causing or contributing to the air pollution to
10418 reduce or discontinue immediately the emission of air contaminants.
10419 (b) The order shall fix a place and time, not later than 24 hours after its issuance, for a
10420 hearing to be held before the governor.
10421 (c) Not more than 24 hours after the commencement of this hearing, and without
10422 adjournment of it, the governor shall affirm, modify, or set aside the order of the executive
10423 director.
10424 (2) In the absence of a generalized condition of air pollution referred to in Subsection
10425 (1), but if the executive director finds that emissions from the operation of one or more air
10426 contaminant sources is causing imminent danger to human health or safety, [~~he~~] the executive
10427 director may commence adjudicative proceedings under Section [~~63-46b-20~~] 63G-4-502.
10428 (3) Nothing in this section limits any power that the governor or any other officer has
10429 to declare an emergency and act on the basis of that declaration.
10430 Section 218. Section **19-2-115** is amended to read:
10431 **19-2-115. Violations -- Penalties -- Reimbursement for expenses.**
10432 (1) As used in this section, the terms "knowingly," "willfully," and "criminal
10433 negligence" shall mean as defined in Section 76-2-103.
10434 (2) (a) A person who violates this chapter, or any rule, order, or permit issued or made
10435 under this chapter is subject in a civil proceeding to a penalty not to exceed $10,000 per day for
10436 each violation.
10437 (b) Subsection (2)(a) also applies to rules made under the authority of Section
10438 19-2-104, for implementation of 15 U.S.C.A. 2601 et seq., Toxic Substances Control Act,
10439 Subchapter II - Asbestos Hazard Emergency Response.
10440 (c) Penalties assessed for violations described in 15 U.S.C.A. 2647, Toxic Substances
10441 Control Act, Subchapter II - Asbestos Hazard Emergency Response, may not exceed the
10442 amounts specified in that section and shall be used in accordance with that section.
10443 (3) A person is guilty of a class A misdemeanor and is subject to imprisonment under

10444 Section 76-3-204 and a fine of not more than $25,000 per day of violation if that person
10445 knowingly violates any of the following under this chapter:
10446 (a) an applicable standard or limitation;
10447 (b) a permit condition; or
10448 (c) a fee or filing requirement.
10449 (4) A person is guilty of a third degree felony and is subject to imprisonment under
10450 Section 76-3-203 and a fine of not more than $25,000 per day of violation who knowingly:
10451 (a) makes any false material statement, representation, or certification, in any notice or
10452 report required by permit; or
10453 (b) renders inaccurate any monitoring device or method required to be maintained by
10454 this chapter or applicable rules made under this chapter.
10455 (5) Any fine or penalty assessed under Subsections (2) or (3) is in lieu of any penalty
10456 under Section 19-2-109.1.
10457 (6) A person who willfully violates Section 19-2-120 is guilty of a class A
10458 misdemeanor.
10459 (7) A person who knowingly violates any requirement of an applicable implementation
10460 plan adopted by the board, more than 30 days after having been notified in writing by the
10461 executive secretary that the person is violating the requirement, knowingly violates an order
10462 issued under Subsection 19-2-110(1)(a), or knowingly handles or disposes of asbestos in
10463 violation of a rule made under this chapter is guilty of a third degree felony and subject to
10464 imprisonment under Section 76-3-203 and a fine of not more than $25,000 per day of violation
10465 in the case of the first offense, and not more than $50,000 per day of violation in the case of
10466 subsequent offenses.
10467 (8) (a) As used in this section:
10468 (i) "Hazardous air pollutant" means any hazardous air pollutant listed under 42 USC
10469 7412 or any extremely hazardous substance listed under 42 USC 11002(a)(2).
10470 (ii) "Organization" means a legal entity, other than a government, established or
10471 organized for any purpose, and includes a corporation, company, association, firm, partnership,
10472 joint stock company, foundation, institution, trust, society, union, or any other association of
10473 persons.
10474 (iii) "Serious bodily injury" means bodily injury which involves a substantial risk of

10475 death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or
10476 protracted loss or impairment of the function of a bodily member, organ, or mental faculty.
10477 (b) (i) A person is guilty of a class A misdemeanor and subject to imprisonment under
10478 Section 76-3-204 and a fine of not more than $25,000 per day of violation if that person with
10479 criminal negligence:
10480 (A) releases into the ambient air any hazardous air pollutant; and
10481 (B) places another person in imminent danger of death or serious bodily injury.
10482 (ii) As used in this Subsection (8)(b), "person" does not include an employee who is
10483 carrying out the employee's normal activities and who is not a part of senior management
10484 personnel or a corporate officer.
10485 (c) A person is guilty of a second degree felony and is subject to imprisonment under
10486 Section 76-3-203 and a fine of not more than $50,000 per day of violation if that person:
10487 (i) knowingly releases into the ambient air any hazardous air pollutant; and
10488 (ii) knows at the time that [~~he~~] the person is placing another person in imminent danger
10489 of death or serious bodily injury.
10490 (d) If a person is an organization, it shall, upon conviction of violating Subsection
10491 (8)(c), be subject to a fine of not more than $1,000,000.
10492 (e) (i) A defendant who is an individual is considered to have acted knowingly under
10493 Subsections (8)(c) and (d), if:
10494 (A) the defendant's conduct placed another person in imminent danger of death or
10495 serious bodily injury; and
10496 (B) the defendant was aware of or believed that there was an imminent danger of death
10497 or serious bodily injury to another person.
10498 (ii) Knowledge possessed by a person other than the defendant may not be attributed to
10499 the defendant.
10500 (iii) Circumstantial evidence may be used to prove that the defendant possessed actual
10501 knowledge, including evidence that the defendant took affirmative steps to be shielded from
10502 receiving relevant information.
10503 (f) (i) It is an affirmative defense to prosecution under this Subsection (8) that the
10504 conduct charged was freely consented to by the person endangered and that the danger and
10505 conduct charged were reasonably foreseeable hazards of:

10506 (A) an occupation, a business, a profession; or
10507 (B) medical treatment or medical or scientific experimentation conducted by
10508 professionally approved methods and the other person was aware of the risks involved prior to
10509 giving consent.
10510 (ii) The defendant has the burden of proof to establish any affirmative defense under
10511 this Subsection (8)(f) and must prove that defense by a preponderance of the evidence.
10512 (9) (a) Except as provided in Subsection (9)(b), and unless prohibited by federal law,
10513 all penalties assessed and collected under the authority of this section shall be deposited in the
10514 General Fund.
10515 (b) The department may reimburse itself and local governments from monies collected
10516 from civil penalties for extraordinary expenses incurred in environmental enforcement
10517 activities.
10518 (c) The department shall regulate reimbursements by making rules in accordance with
10519 [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
10520 (i) define qualifying environmental enforcement activities; and
10521 (ii) define qualifying extraordinary expenses.
10522 Section 219. Section **19-3-104** is amended to read:
10523 **19-3-104. Registration and licensing of radiation sources by department --**
10524 **Assessment of fees -- Rulemaking authority and procedure -- Siting criteria.**
10525 (1) As used in this section:
10526 (a) "Decommissioning" includes financial assurance.
10527 (b) "Source material" and "byproduct material" have the same definitions as in 42
10528 U.S.C.A. 2014, Atomic Energy Act of 1954, as amended.
10529 (2) The board may require the registration or licensing of radiation sources that
10530 constitute a significant health hazard.
10531 (3) All sources of ionizing radiation, including ionizing radiation producing machines,
10532 shall be registered or licensed by the department.
10533 (4) The board may make rules:
10534 (a) necessary for controlling exposure to sources of radiation that constitute a
10535 significant health hazard;
10536 (b) to meet the requirements of federal law relating to radiation control to ensure the

10537 radiation control program under this part is qualified to maintain primacy from the federal
10538 government;
10539 (c) to establish:
10540 (i) board accreditation requirements and procedures for mammography facilities; and
10541 (ii) certification procedure and qualifications for persons who survey mammography
10542 equipment and oversee quality assurance practices at mammography facilities; and
10543 (d) as necessary regarding the possession, use, transfer, or delivery of source and
10544 byproduct material and the disposal of byproduct material to establish requirements for:
10545 (i) the licensing, operation, decontamination, and decommissioning, including financial
10546 assurances; and
10547 (ii) the reclamation of sites, structures, and equipment used in conjunction with the
10548 activities described in this Subsection (4).
10549 (5) (a) On and after January 1, 2003, a fee is imposed for the regulation of source and
10550 byproduct material and the disposal of byproduct material at uranium mills or commercial
10551 waste facilities, as provided in this Subsection (5).
10552 (b) On and after January 1, 2003 through March 30, 2003:
10553 (i) $6,667 per month for uranium mills or commercial sites disposing of or
10554 reprocessing byproduct material; and
10555 (ii) $4,167 per month for those uranium mills the executive secretary has determined
10556 are on standby status.
10557 (c) On and after March 31, 2003 through June 30, 2003 the same fees as in Subsection
10558 (5)(b) apply, but only if the federal Nuclear Regulatory Commission grants to Utah an
10559 amendment for agreement state status for uranium recovery regulation on or before March 30,
10560 2003.
10561 (d) If the Nuclear Regulatory Commission does not grant the amendment for state
10562 agreement status on or before March 30, 2003, fees under Subsection (5)(e) do not apply and
10563 are not required to be paid until on and after the later date of:
10564 (i) October 1, 2003; or
10565 (ii) the date the Nuclear Regulatory Commission grants to Utah an amendment for
10566 agreement state status for uranium recovery regulation.
10567 (e) For the payment periods beginning on and after July 1, 2003, the department shall

10568 establish the fees required under Subsection (5)(a) under Section [~~63-38-3.2~~] 63J-1-303,
10569 subject to the restrictions under Subsection (5)(d).
10570 (f) The department shall deposit fees it receives under this Subsection (5) into the
10571 Environmental Quality Restricted Account created in Section 19-1-108.
10572 (6) (a) The department shall assess fees for registration, licensing, and inspection of
10573 radiation sources under this section.
10574 (b) The department shall comply with the requirements of Section [~~63-38-3.2~~]
10575 63J-1-303 in assessing fees for licensure and registration.
10576 (7) The department shall coordinate its activities with the Department of Health rules
10577 made under Section 26-21a-203.
10578 (8) (a) Except as provided in Subsection (9), the board may not adopt rules, for the
10579 purpose of the state assuming responsibilities from the United States Nuclear Regulatory
10580 Commission with respect to regulation of sources of ionizing radiation, that are more stringent
10581 than the corresponding federal regulations which address the same circumstances.
10582 (b) In adopting those rules, the board may incorporate corresponding federal
10583 regulations by reference.
10584 (9) (a) The board may adopt rules more stringent than corresponding federal
10585 regulations for the purpose described in Subsection (8) only if it makes a written finding after
10586 public comment and hearing and based on evidence in the record that corresponding federal
10587 regulations are not adequate to protect public health and the environment of the state.
10588 (b) Those findings shall be accompanied by an opinion referring to and evaluating the
10589 public health and environmental information and studies contained in the record which form
10590 the basis for the board's conclusion.
10591 (10) (a) The board shall by rule:
10592 (i) authorize independent qualified experts to conduct inspections required under this
10593 chapter of x-ray facilities registered with the division; and
10594 (ii) establish qualifications and certification procedures necessary for independent
10595 experts to conduct these inspections.
10596 (b) Independent experts under this Subsection (10) are not considered employees or
10597 representatives of the division or the state when conducting the inspections.
10598 (11) (a) The board may by rule establish criteria for siting commercial low-level

10599 radioactive waste treatment or disposal facilities, subject to the prohibition imposed by Section
10600 19-3-103.7.
10601 (b) Subject to Subsection 19-3-105(10), any facility under Subsection (11)(a) for which
10602 a radioactive material license is required by this section shall comply with those criteria.
10603 (c) Subject to Subsection 19-3-105(10), a facility may not receive a radioactive material
10604 license until siting criteria have been established by the board. The criteria also apply to
10605 facilities that have applied for but not received a radioactive material license.
10606 (12) The board shall by rule establish financial assurance requirements for closure and
10607 postclosure care of radioactive waste land disposal facilities, taking into account existing
10608 financial assurance requirements.
10609 Section 220. Section **19-3-106.4** is amended to read:
10610 **19-3-106.4. Generator site access permits.**
10611 (1) A generator or broker may not transfer radioactive waste to a commercial
10612 radioactive waste treatment or disposal facility in the state without first obtaining a generator
10613 site access permit from the executive secretary.
10614 (2) The board may make rules pursuant to Section 19-3-104 governing a generator site
10615 access permit program.
10616 (3) (a) Except as provided in Subsection (3)(b), the department shall establish fees for
10617 generator site access permits in accordance with Section [~~63-38-3.2~~] 63J-1-303.
10618 (b) On and after July 1, 2001 through June 30, 2002, the fees are:
10619 (i) $1,300 for generators transferring 1,000 or more cubic feet of radioactive waste per
10620 year;
10621 (ii) $500 for generators transferring less than 1,000 cubic feet of radioactive waste per
10622 year; and
10623 (iii) $5,000 for brokers.
10624 (c) The department shall deposit fees received under this section into the
10625 Environmental Quality Restricted Account created in Section 19-1-108.
10626 (4) This section does not apply to a generator or broker transferring radioactive waste
10627 to a uranium mill licensed under 10 C.F.R. Part 40, Domestic Licensing of Source Material.
10628 Section 221. Section **19-3-109** is amended to read:
10629 **19-3-109. Civil penalties -- Appeals.**

10630 (1) A person who violates any provision of Sections 19-3-104 through 19-3-113, any
10631 rule or order issued under the authority of those sections, or the terms of a license, permit, or
10632 registration certificate issued under the authority of those sections is subject to a civil penalty
10633 not to exceed $5,000 for each violation.
10634 (2) The board may assess and make a demand for payment of a penalty under this
10635 section and may compromise or remit that penalty.
10636 (3) In order to make demand for payment of a penalty assessed under this section, the
10637 board shall issue a notice of agency action, specifying, in addition to the requirements for
10638 notices of agency action contained in [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
10639 Administrative Procedures Act:
10640 (a) the date, facts, and nature of each act or omission charged;
10641 (b) the provision of the statute, rule, order, license, permit, or registration certificate
10642 that is alleged to have been violated;
10643 (c) each penalty that the bureau proposes to impose, together with the amount and date
10644 of effect of that penalty; and
10645 (d) that failure to pay the penalty or respond may result in a civil action for collection.
10646 (4) A person notified according to Subsection (3) may request an adjudicative
10647 proceeding.
10648 (5) Upon request by the board, the attorney general may institute a civil action to
10649 collect a penalty imposed under this section.
10650 (6) (a) Except as provided in Subsection (b), the department shall deposit all monies
10651 collected from civil penalties imposed under this section into the General Fund.
10652 (b) The department may reimburse itself and local governments from monies collected
10653 from civil penalties for extraordinary expenses incurred in environmental enforcement
10654 activities.
10655 (c) The department shall regulate reimbursements by making rules that:
10656 (i) define qualifying environmental enforcement activities; and
10657 (ii) define qualifying extraordinary expenses.
10658 Section 222. Section **19-3-111** is amended to read:
10659 **19-3-111. Impounding of radioactive material.**
10660 (1) The board may impound the radioactive material of any person if:

10661 (a) the material poses an imminent threat or danger to the public health or safety; or
10662 (b) that person is violating:
10663 (i) any provision of Sections 19-3-104 through 19-3-113;
10664 (ii) any rules or orders enacted or issued under the authority of those sections; or
10665 (iii) the terms of a license, permit, or registration certificate issued under the authority
10666 of those sections.
10667 (2) Before any dispositive action may be taken with regard to impounded radioactive
10668 materials, the board shall comply with the procedures and requirements of [~~Title 63, Chapter~~
10669 ~~46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
10670 Section 223. Section **19-3-303** is amended to read:
10671 **19-3-303. Definitions.**
10672 As used in this part:
10673 (1) "Final judgment" means a final ruling or judgment, including any supporting
10674 opinion, that determines the rights of the parties and concerning which all appellate remedies
10675 have been exhausted or the time for appeal has expired.
10676 (2) "Goods" means any materials or supplies, whether raw, processed, or
10677 manufactured.
10678 (3) "Greater than class C radioactive waste" means low-level radioactive waste that has
10679 higher concentrations of specific radionuclides than allowed for class C waste.
10680 (4) "Gross value of the contract" means the totality of the consideration received for
10681 any goods, services, or municipal-type services delivered or rendered in the state without any
10682 deduction for expense paid or accrued with respect to it.
10683 (5) "High-level nuclear waste" has the same meaning as in Section 19-3-102.
10684 (6) "Municipal-type services" includes, but is not limited to:
10685 (a) fire protection service;
10686 (b) waste and garbage collection and disposal;
10687 (c) planning and zoning;
10688 (d) street lighting;
10689 (e) life support and paramedic services;
10690 (f) water;
10691 (g) sewer;

10692 (h) electricity;
10693 (i) natural gas or other fuel; or
10694 (j) law enforcement.
10695 (7) "Organization" means a corporation, limited liability company, partnership, limited
10696 liability partnership, joint venture, consortium, association, trust, or other entity formed to
10697 undertake an enterprise, whether or not for profit.
10698 (8) "Placement" means transportation, transfer, storage, decay in storage, treatment, or
10699 disposal.
10700 (9) "Political subdivision" means any county, city, town, school district, public transit
10701 district, redevelopment agency, special improvement or taxing district, or other governmental
10702 subdivision or public corporation.
10703 (10) "Rule" means a rule made by the department under [~~Title 63, Chapter 46a~~] Title
10704 63G, Chapter 3, Utah Administrative Rulemaking Act.
10705 (11) "Service" or "services" means any work or governmental program which provides
10706 a benefit.
10707 (12) "Storage facility" means any facility which stores, holds, or otherwise provides for
10708 the emplacement of waste regardless of the intent to recover that waste for subsequent use,
10709 processing, or disposal.
10710 (13) "Transfer facility" means any facility which transfers waste from and between
10711 transportation modes, vehicles, cars, or other units, and includes rail terminals and intermodal
10712 transfer points.
10713 (14) "Waste" or "wastes" means high-level nuclear waste and greater than class C
10714 radioactive waste.
10715 Section 224. Section **19-3-308** is amended to read:
10716 **19-3-308. Application fee and annual fees.**
10717 (1) (a) Any application for a waste transfer, storage, decay in storage, treatment, or
10718 disposal facility shall be accompanied by an initial fee of $5,000,000.
10719 (b) The applicant shall subsequently pay an additional fee to cover the costs to the state
10720 associated with review of the application, including costs to the state and the state's contractors
10721 for permitting, technical, administrative, legal, safety, and emergency response reviews,
10722 planning, training, infrastructure, and other impact analyses, studies, and services required to

10723 evaluate a proposed facility.
10724 (2) For the purpose of funding the state oversight and inspection of any waste transfer,
10725 storage, decay in storage, treatment, or disposal facility, and to establish state infrastructure,
10726 including, but not limited to providing for state Department of Environmental Quality, state
10727 Department of Transportation, state Department of Public Safety, and other state agencies'
10728 technical, administrative, legal, infrastructure, maintenance, training, safety, socio-economic,
10729 law enforcement, and emergency resources necessary to respond to these facilities, the owner
10730 or operator shall pay to the state a fee as established by department rule under Section
10731 [~~63-38-3.2~~] 63J-1-303, to be assessed:
10732 (a) per ton of storage cask and high level nuclear waste per year for storage, decay in
10733 storage, treatment, or disposal of high level nuclear waste;
10734 (b) per ton of transportation cask and high level nuclear waste for each transfer of high
10735 level nuclear waste;
10736 (c) per ton of storage cask and greater than class C radioactive waste for the storage,
10737 decay in storage, treatment, or disposal of greater than class C radioactive waste; and
10738 (d) per ton of transportation cask and greater than class C radioactive waste for each
10739 transfer of greater than class C radioactive waste.
10740 (3) Funds collected under Subsection (2) shall be placed in the Nuclear Accident and
10741 Hazard Compensation Account, created in Subsection 19-3-309(3).
10742 (4) The owner or operator of the facility shall pay the fees imposed under this section
10743 to the department on or before the 15th day of the month following the month in which the fee
10744 accrued.
10745 (5) Annual fees due under this part accrue on July 1 of each year and shall be paid to
10746 the department by July 15 of that year.
10747 Section 225. Section **19-3-315** is amended to read:
10748 **19-3-315. Transportation requirements.**
10749 (1) A person may not transport wastes in the state, including on highways, roads, rail,
10750 by air, or otherwise, without:
10751 (a) having received approval from the state Department of Transportation; and
10752 (b) having demonstrated compliance with rules of the state Department of
10753 Transportation.

10754 (2) The Department of Transportation may:
10755 (a) make rules requiring a transport and route approval permit, weight restrictions,
10756 tracking systems, and state escort; and
10757 (b) assess appropriate fees as established under Section [~~63-38-3.2~~] 63J-1-303 for each
10758 shipment of waste, consistent with the requirements and limitations of federal law.
10759 (3) The Department of Environmental Quality shall establish any other transportation
10760 rules as necessary to protect the public health, safety, and environment.
10761 (4) Unless expressly authorized by the governor, with the concurrence of the
10762 Legislature, an easement or other interest in property may not be granted upon any lands within
10763 the state for a right of way for any carrier transportation system that:
10764 (a) is not a class I common or contract rail carrier organized and doing business prior to
10765 January 1, 1999; and
10766 (b) transports high level nuclear waste or greater than class C radioactive waste to a
10767 storage facility within the state.
10768 Section 226. Section **19-4-104** is amended to read:
10769 **19-4-104. Powers of board.**
10770 (1) The board may:
10771 (a) make rules in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
10772 Administrative Rulemaking Act:
10773 (i) establishing standards that prescribe the maximum contaminant levels in any public
10774 water system and provide for monitoring, record-keeping, and reporting of water quality related
10775 matters;
10776 (ii) governing design, construction, operation, and maintenance of public water
10777 systems;
10778 (iii) granting variances and exemptions to the requirements established under this
10779 chapter that are not less stringent than those allowed under federal law;
10780 (iv) protecting watersheds and water sources used for public water systems; and
10781 (v) governing capacity development in compliance with Section 1420 of the federal
10782 Safe Drinking Water Act, 42 U.S.C.A. 300f et seq.;
10783 (b) issue orders necessary to enforce the provisions of this chapter, enforce the orders
10784 by appropriate administrative and judicial proceedings, and institute judicial proceedings to

10785 secure compliance with this chapter;
10786 (c) (i) hold hearings relating to the administration of this chapter and compel the
10787 attendance of witnesses, the production of documents and other evidence, administer oaths and
10788 take testimony, and receive evidence as necessary; or
10789 (ii) appoint hearing officers and authorize them to exercise powers under this
10790 Subsection (1)(c);
10791 (d) require the submission to the executive secretary of plans and specifications for
10792 construction of, substantial addition to, or alteration of public water systems for review and
10793 approval by the board before that action begins and require any modifications or impose any
10794 conditions that may be necessary to carry out the purposes of this chapter;
10795 (e) advise, consult, cooperate with, provide technical assistance to, and enter into
10796 agreements, contracts, or cooperative arrangements with state, federal, or interstate agencies,
10797 municipalities, local health departments, educational institutions, or others necessary to carry
10798 out the purposes of this chapter and to support the laws, ordinances, rules, and regulations of
10799 local jurisdictions;
10800 (f) request and accept financial assistance from other public agencies, private entities,
10801 and the federal government to carry out the purposes of this chapter;
10802 (g) develop and implement an emergency plan to protect the public when declining
10803 drinking water quality or quantity creates a serious health risk and issue emergency orders if a
10804 health risk is imminent;
10805 (h) authorize employees or agents of the department, after reasonable notice and
10806 presentation of credentials, to enter any part of a public water system at reasonable times to
10807 inspect the facilities and water quality records required by board rules, conduct sanitary
10808 surveys, take samples, and investigate the standard of operation and service delivered by public
10809 water systems;
10810 (i) meet the requirements of federal law related or pertaining to drinking water; and
10811 (j) exercise all other incidental powers necessary to carry out the purpose of this
10812 chapter.
10813 (2) (a) The board may adopt and enforce standards and establish fees for certification
10814 of operators of any public water system.
10815 (b) The board may not require certification of operators for a water system serving a

10816 population of 800 or less except:
10817 (i) to the extent required for compliance with Section 1419 of the federal Safe Drinking
10818 Water Act, 42 U.S.C.A. 300f et seq.; and
10819 (ii) for a system that is required to treat its drinking water.
10820 (c) The certification program shall be funded from certification and renewal fees.
10821 (3) Routine extensions or repairs of existing public water systems that comply with the
10822 rules and do not alter the system's ability to provide an adequate supply of water are exempt
10823 from the provisions of Subsection (1)(d).
10824 (4) (a) The board may adopt and enforce standards and establish fees for certification
10825 of persons engaged in administering cross connection control programs or backflow prevention
10826 assembly training, repair, and maintenance testing.
10827 (b) The certification program shall be funded from certification and renewal fees.
10828 Section 227. Section **19-4-109** is amended to read:
10829 **19-4-109. Violations -- Penalties -- Reimbursement for expenses.**
10830 (1) Any person that violates any rule or order made or issued pursuant to this chapter is
10831 subject to a civil penalty of not more than $1,000 per day for each day of violation. The board
10832 may assess and make a demand for payment of a penalty under this section by directing the
10833 executive secretary to issue a notice of agency action under [~~Title 63, Chapter 46b~~] Title 63G,
10834 Chapter 4, Administrative Procedures Act.
10835 (2) (a) Any person that willfully violates any rule or order made or issued pursuant to
10836 this chapter, or that willfully fails to take any corrective action required by such an order, is
10837 guilty of a class B misdemeanor and subject to a fine of not more than $5,000 per day for each
10838 day of violation.
10839 (b) In addition, the person is subject, in a civil proceeding, to a penalty of not more
10840 than $5,000 per day for each day of violation.
10841 (3) (a) Except as provided in Subsection (b), all penalties assessed and collected under
10842 the authority of this section shall be deposited in the General Fund.
10843 (b) The department may reimburse itself and local governments from monies collected
10844 from civil penalties for extraordinary expenses incurred in environmental enforcement
10845 activities.
10846 (c) The department shall regulate reimbursements by making rules that:

10847 (i) define qualifying environmental enforcement activities; and
10848 (ii) define qualifying extraordinary expenses.
10849 Section 228. Section **19-5-104** is amended to read:
10850 **19-5-104. Powers and duties of board.**
10851 (1) The board has the following powers and duties, but the board shall give priority to
10852 pollution that results in hazards to the public health:
10853 (a) develop programs for the prevention, control, and abatement of new or existing
10854 pollution of the waters of the state;
10855 (b) advise, consult, and cooperate with other agencies of the state, the federal
10856 government, other states, and interstate agencies, and with affected groups, political
10857 subdivisions, and industries to further the purposes of this chapter;
10858 (c) encourage, participate in, or conduct studies, investigations, research, and
10859 demonstrations relating to water pollution and causes of water pollution as the board finds
10860 necessary to discharge its duties;
10861 (d) collect and disseminate information relating to water pollution and the prevention,
10862 control, and abatement of water pollution;
10863 (e) adopt, modify, or repeal standards of quality of the waters of the state and classify
10864 those waters according to their reasonable uses in the interest of the public under conditions the
10865 board may prescribe for the prevention, control, and abatement of pollution;
10866 (f) make rules in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
10867 Administrative Rulemaking Act, taking into account Subsection (2), to:
10868 (i) implement the awarding of construction loans to political subdivisions and
10869 municipal authorities under Section 11-8-2, including:
10870 (A) requirements pertaining to applications for loans;
10871 (B) requirements for determination of eligible projects;
10872 (C) requirements for determination of the costs upon which loans are based, which
10873 costs may include engineering, financial, legal, and administrative expenses necessary for the
10874 construction, reconstruction, and improvement of sewage treatment plants, including major
10875 interceptors, collection systems, and other facilities appurtenant to the plant;
10876 (D) a priority schedule for awarding loans, in which the board may consider in addition
10877 to water pollution control needs any financial needs relevant, including per capita cost, in

10878 making a determination of priority; and
10879 (E) requirements for determination of the amount of the loan;
10880 (ii) implement the awarding of loans for nonpoint source projects pursuant to Section
10881 73-10c-4.5;
10882 (iii) set effluent limitations and standards subject to Section 19-5-116;
10883 (iv) implement or effectuate the powers and duties of the board; and
10884 (v) protect the public health for the design, construction, operation, and maintenance of
10885 underground wastewater disposal systems, liquid scavenger operations, and vault and earthen
10886 pit privies;
10887 (g) issue, modify, or revoke orders:
10888 (i) prohibiting or abating discharges;
10889 (ii) requiring the construction of new treatment works or any parts of them, or requiring
10890 the modification, extension, or alteration of existing treatment works as specified by board rule
10891 or any parts of them, or the adoption of other remedial measures to prevent, control, or abate
10892 pollution;
10893 (iii) setting standards of water quality, classifying waters or evidencing any other
10894 determination by the board under this chapter; and
10895 (iv) requiring compliance with this chapter and with rules made under this chapter;
10896 (h) review plans, specifications, or other data relative to disposal systems or any part of
10897 disposal systems, and issue construction permits for the installation or modification of
10898 treatment works or any parts of them;
10899 (i) after public notice and opportunity for a public hearing, issue, continue in effect,
10900 revoke, modify, or deny discharge permits under reasonable conditions the board may prescribe
10901 to control the management of sewage sludge or to prevent or control the discharge of
10902 pollutants, including effluent limitations for the discharge of wastes into the waters of the state;
10903 (j) give reasonable consideration in the exercise of its powers and duties to the
10904 economic impact of water pollution control on industry and agriculture;
10905 (k) exercise all incidental powers necessary to carry out the purposes of this chapter,
10906 including delegation to the department of its duties as appropriate to improve administrative
10907 efficiency;
10908 (l) meet the requirements of federal law related to water pollution;

10909 (m) establish and conduct a continuing planning process for control of water pollution
10910 including the specification and implementation of maximum daily loads of pollutants;
10911 (n) make rules governing inspection, monitoring, recordkeeping, and reporting
10912 requirements for underground injections and require permits for them, to protect drinking water
10913 sources, except for wells, pits, and ponds covered by Section 40-6-5 regarding gas and oil,
10914 recognizing that underground injection endangers drinking water sources if:
10915 (i) injection may result in the presence of any contaminant in underground water which
10916 supplies or can reasonably be expected to supply any public water system, as defined in Section
10917 19-4-102; and
10918 (ii) the presence of the contaminant may result in the public water system not
10919 complying with any national primary drinking water standards or may otherwise adversely
10920 affect the health of persons;
10921 (o) make rules governing sewage sludge management, including permitting, inspecting,
10922 monitoring, recordkeeping, and reporting requirements;
10923 (p) adopt and enforce rules and establish fees to cover the costs of testing for
10924 certification of operators of treatment works and sewerage systems operated by political
10925 subdivisions;
10926 (q) notwithstanding the provisions of Section 19-4-112, make rules governing design
10927 and construction of irrigation systems which convey sewage treatment facility effluent of
10928 human origin in pipelines under pressure, unless contained in surface pipes wholly on private
10929 property and for agricultural purposes, and which are constructed after May 4, 1998; and
10930 (r) (i) approve, approve in part, approve with conditions, or deny, in writing, an
10931 application for water reuse under Title 73, Chapter 3c, Wastewater Reuse Act; and
10932 (ii) issue an operating permit for water reuse under Title 73, Chapter 3c, Wastewater
10933 Reuse Act.
10934 (2) In determining eligible project costs and in establishing priorities pursuant to
10935 Subsection (1)(f)(i), the board shall take into consideration the availability of federal grants.
10936 (3) In establishing certification rules under Subsection (1)(p), the board shall:
10937 (a) base the requirements for certification on the size, treatment process type, and
10938 complexity of the treatment works and sewerage systems operated by political subdivisions;
10939 (b) allow operators until three years after the date of adoption of the rules to obtain

10940 initial certification;
10941 (c) allow new operators one year from the date they are hired by a treatment plant or
10942 sewerage system or three years after the date of adoption of the rules, whichever occurs later, to
10943 obtain certification;
10944 (d) issue certification upon application and without testing, at a grade level comparable
10945 to the grade of current certification to operators who are currently certified under the voluntary
10946 certification plan for wastewater works operators as recognized by the board; and
10947 (e) issue a certification upon application and without testing that is valid only at the
10948 treatment works or sewerage system where that operator is currently employed if the operator:
10949 (i) is in charge of and responsible for the treatment works or sewerage system on
10950 March 16, 1991;
10951 (ii) has been employed at least ten years in the operation of that treatment works or
10952 sewerage system prior to March 16, 1991; and
10953 (iii) demonstrates to the board [~~his~~] the operator's capability to operate the treatment
10954 works or sewerage system at which [~~he~~] the operator is currently employed by providing
10955 employment history and references as required by the board.
10956 Section 229. Section **19-5-113** is amended to read:
10957 **19-5-113. Power of board to enter property for investigation -- Records and**
10958 **reports required of owners or operators.**
10959 (1) The board or its authorized representative has, after presentation of credentials, the
10960 authority to enter at reasonable times upon any private or public property for the purpose of:
10961 (a) sampling, inspecting, or investigating matters or conditions relating to pollution or
10962 the possible pollution of any waters of the state, effluents or effluent sources, monitoring
10963 equipment, or sewage sludge; and
10964 (b) reviewing and copying records required to be maintained under this chapter.
10965 (2) (a) The board may require a person managing sewage sludge, or the owner or
10966 operator of a disposal system, including a system discharging into publicly[-]owned treatment
10967 works, to:
10968 (i) establish and maintain reasonable records and make reports relating to the operation
10969 of the system or the management of the sewage sludge;
10970 (ii) install, use, and maintain monitoring equipment or methods;

10971 (iii) sample, and analyze effluents or sewage sludges; and
10972 (iv) provide other information reasonably required.
10973 (b) The records, reports, and information shall be available to the public except as
10974 provided in Subsection 19-1-306(2) or Subsections [~~63-2-304~~] 63G-2-305(1) and (2),
10975 Government Records Access and Management Act, as appropriate, for other than effluent
10976 information.
10977 Section 230. Section **19-5-120** is amended to read:
10978 **19-5-120. Sewage permit program fee.**
10979 (1) The department may assess a fee established under Section [~~63-38-3.2~~] 63J-1-303
10980 against persons required to obtain a permit under Section 19-5-108 for the management of
10981 sewage sludge, to be applied to the costs of administering the sewage permit program required
10982 by this chapter.
10983 (2) The total of the combined fees assessed against all permittees under this section
10984 may not be more than $28,000 annually.
10985 (3) In establishing the fee for each sludge disposal permit holder, the department shall
10986 take into account the proportionate size of the population served by the permit holder.
10987 (4) All proceeds from the fee shall be applied to the administering of the sewage permit
10988 program required by this chapter.
10989 Section 231. Section **19-5-121** is amended to read:
10990 **19-5-121. Underground wastewater disposal systems -- Certification required to**
10991 **design, inspect, maintain, or conduct percolation or soil tests -- Exemptions -- Rules --**
10992 **Fees.**
10993 (1) As used in this section, "maintain" does not include the pumping of an underground
10994 wastewater disposal system.
10995 (2) (a) Except as provided in Subsections (2)(b) and (2)(c), beginning January 1, 2002,
10996 a person may not design, inspect, maintain, or conduct percolation or soil tests for an
10997 underground wastewater disposal system, without first obtaining certification from the board.
10998 (b) An individual is not required to obtain certification from the board to maintain an
10999 underground wastewater disposal system that serves a noncommercial, private residence owned
11000 by the individual or a member of the individual's family and in which the individual or a
11001 member of the individual's family resides or an employee of the individual resides without

11002 payment of rent.
11003 (c) The board shall make rules allowing an uncertified individual to conduct
11004 percolation or soil tests for an underground wastewater disposal system that serves a
11005 noncommercial, private residence owned by the individual and in which the individual resides
11006 or intends to reside, or which is intended for use by an employee of the individual without
11007 payment of rent, if the individual:
11008 (i) has the capability of properly conducting the tests; and
11009 (ii) is supervised by a certified individual when conducting the tests.
11010 (3) (a) The board shall adopt and enforce rules for the certification and recertification
11011 of individuals who design, inspect, maintain, or conduct percolation or soil tests for
11012 underground wastewater disposal systems.
11013 (b) (i) The rules shall specify requirements for education and training and the type and
11014 duration of experience necessary to obtain certification.
11015 (ii) The rules shall recognize the following in meeting the requirements for
11016 certification:
11017 (A) the experience of a contractor licensed under Title 58, Chapter 55, Utah
11018 Construction Trades Licensing Act, who has five or more years of experience installing
11019 underground wastewater disposal systems;
11020 (B) the experience of an environmental health scientist licensed under Title 58, Chapter
11021 20a, Environmental Health Scientist Act; or
11022 (C) the educational background of a professional engineer licensed under Title 58,
11023 Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act.
11024 (iii) If eligibility for certification is based on experience, the applicant for certification
11025 must show proof of experience.
11026 (4) The department may establish fees in accordance with Section [~~63-38-3.2~~]
11027 63J-1-303 for the testing and certification of individuals who design, inspect, maintain, or
11028 conduct percolation or soil tests for underground wastewater disposal systems.
11029 Section 232. Section **19-5-122** is amended to read:
11030 **19-5-122. Underground wastewater disposal systems -- Fee imposed on new**
11031 **systems.**
11032 (1) Beginning July 1, 2001, a one-time fee is imposed on each new underground

11033 wastewater disposal system installed.
11034 (2) (a) From July 1, 2001 through June 30, 2002, the fee shall be $25.
11035 (b) Beginning July 1, 2002, the fee shall be established by the department in
11036 accordance with Section [~~63-38-3.2~~] 63J-1-303.
11037 (3) (a) The fee shall be paid when plans and specifications for the construction of a
11038 new underground wastewater disposal system are approved by the local health department or
11039 the Department of Environmental Quality.
11040 (b) A local health department shall remit the fee revenue to the Division of Finance
11041 quarterly.
11042 (4) The fee revenue shall be:
11043 (a) deposited into the Underground Wastewater Disposal Restricted Account created in
11044 Section 19-5-123; and
11045 (b) used to pay for costs of underground wastewater disposal system training programs.
11046 Section 233. Section **19-6-102.6** is amended to read:
11047 **19-6-102.6. Legislative participation in landfill siting disputes.**
11048 (1) (a) Upon the Legislature's receipt of a written request by a county governing body
11049 or a member of the Legislature whose district is involved in a landfill siting dispute, the
11050 president of the Senate and the speaker of the House shall appoint a committee as described
11051 under Subsection (2) and volunteers under Subsection (3) to actively seek an acceptable
11052 location for a municipal landfill if there is a dispute between two or more counties regarding
11053 the proposed site of a municipal landfill.
11054 (b) The president and the speaker shall consult with the legislators appointed under this
11055 subsection regarding their appointment of members of the committee under Subsection (2), and
11056 volunteers under Subsection (3).
11057 (2) The committee shall consist of the following members, appointed jointly by the
11058 president and the speaker:
11059 (a) two members from the Senate:
11060 (i) one member from the county where the proposed landfill site is located; and
11061 (ii) one member from the other county involved in the dispute, but if more than one
11062 other county is involved, still only one senator from one of those counties;
11063 (b) two members from the House:

11064 (i) one member from the county where the proposed landfill site is located; and
11065 (ii) one member from the other county involved in the dispute, but if more than one
11066 other county is involved, still only one representative from one of those counties;
11067 (c) one individual whose current principal residence is within a community located
11068 within 20 miles of any exterior boundary of the proposed landfill site, but if no community is
11069 located within 20 miles of the community, then an individual whose current residence is in the
11070 community nearest the proposed landfill site;
11071 (d) two resident citizens from the county where the proposed landfill site is located;
11072 and
11073 (e) three resident citizens from the other county involved in the dispute, but if more
11074 than one other county is involved, still only three citizen representatives from those counties.
11075 (3) Two volunteers shall be appointed under Subsection (1). The volunteers shall be
11076 individuals who agree to assist, as requested, the committee members who represent the
11077 interests of the county where the proposed landfill site is located.
11078 (4) (a) Funding and staffing for the committee shall be provided jointly and equally by
11079 the Senate and the House.
11080 (b) The Department of Environmental Quality shall, at the request of the committee
11081 and as funds are available within the department's existing budget, provide support in arranging
11082 for committee hearings to receive public input and secretarial staff to make a record of those
11083 hearings.
11084 (5) The committee shall:
11085 (a) appoint a chair from among its members; and
11086 (b) meet as necessary, but not less often than once per month, until its work is
11087 completed.
11088 (6) The committee shall report in writing the results of its work and any
11089 recommendations it may have for legislative action to the interim committees of the Legislature
11090 as directed by the Legislative Management Committee.
11091 (7) (a) All action by the division, the executive secretary, or the division board of the
11092 Department of Environmental Quality regarding any proposed municipal landfill site,
11093 regarding which a request has been submitted under Subsection (1), is tolled for one year from
11094 the date the request is submitted, or until the committee completes its work under this section,

11095 whichever occurs first. This Subsection (7) also tolls the time limits imposed by Subsection
11096 19-6-108(13).
11097 (b) This Subsection (7) applies to any proposed landfill site regarding which the
11098 department has not granted final approval on or before March 21, 1995.
11099 (c) As used in this Subsection (7), "final approval" means final agency action taken
11100 after conclusion of proceedings under Sections [~~63-46b-9~~] 63G-4-207 through [~~63-46b-18~~]
11101 63G-4-405.
11102 (8) This section does not apply to a municipal solid waste facility that is, on or before
11103 March 23, 1994:
11104 (a) operating under an existing permit or the renewal of an existing permit issued by
11105 the local health department or other authority granted by the Department of Environmental
11106 Quality; or
11107 (b) operating under the approval of the local health department, regardless of whether a
11108 formal permit has been issued.
11109 Section 234. Section **19-6-105** is amended to read:
11110 **19-6-105. Rules of board.**
11111 (1) The board may make rules in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
11112 Chapter 3, Utah Administrative Rulemaking Act:
11113 (a) establishing minimum standards for protection of human health and the
11114 environment, for the storage, collection, transport, recovery, treatment, and disposal of solid
11115 waste, including requirements for the approval of plans for the construction, extension,
11116 operation, and closure of solid waste disposal sites;
11117 (b) identifying wastes which are determined to be hazardous, including wastes
11118 designated as hazardous under Sec. 3001 of the Resource Conservation and Recovery Act of
11119 1976, 42 U.S.C., Sec. 6921, et seq.;
11120 (c) governing generators and transporters of hazardous wastes and owners and
11121 operators of hazardous waste treatment, storage, and disposal facilities, including requirements
11122 for keeping records, monitoring, submitting reports, and using a manifest, without treating
11123 high-volume wastes such as cement kiln dust, mining wastes, utility waste, gas and oil drilling
11124 muds, and oil production brines in a manner more stringent than they are treated under federal
11125 standards;

11126 (d) requiring an owner or operator of a treatment, storage, or disposal facility that is
11127 subject to a plan approval under Section 19-6-108 or which received waste after July 26, 1982,
11128 to take appropriate corrective action or other response measures for releases of hazardous waste
11129 or hazardous waste constituents from the facility, including releases beyond the boundaries of
11130 the facility;
11131 (e) specifying the terms and conditions under which the board shall approve,
11132 disapprove, revoke, or review hazardous wastes operation plans;
11133 (f) governing public hearings and participation under this part;
11134 (g) establishing standards governing underground storage tanks, in accordance with
11135 Title 19, Chapter 6, Part 4, Underground Storage Tank Act;
11136 (h) relating to the collection, transportation, processing, treatment, storage, and
11137 disposal of infectious waste in health facilities in accordance with the requirements of Section
11138 19-6-106;
11139 (i) defining closure plans as major or minor;
11140 (j) defining modification plans as major or minor; and
11141 (k) prohibiting refuse, offal, garbage, dead animals, decaying vegetable matter, or
11142 organic waste substance of any kind to be thrown, or remain upon or in any street, road, ditch,
11143 canal, gutter, public place, private premises, vacant lot, watercourse, lake, pond, spring, or
11144 well.
11145 (2) If any of the following are determined to be hazardous waste and are therefore
11146 subjected to the provisions of this part, the board shall, in the case of landfills or surface
11147 impoundments that receive the solid wastes, take into account the special characteristics of the
11148 wastes, the practical difficulties associated with applying requirements for other wastes to the
11149 wastes, and site specific characteristics, including the climate, geology, hydrology, and soil
11150 chemistry at the site, if the modified requirements assure protection of human health and the
11151 environment and are no more stringent than federal standards applicable to wastes:
11152 (a) solid waste from the extraction, beneficiation, or processing of ores and minerals,
11153 including phosphate rock and overburden from the mining of uranium;
11154 (b) fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste
11155 generated primarily from the combustion of coal or other fossil fuels; and
11156 (c) cement kiln dust waste.

11157 (3) The board shall establish criteria for siting commercial hazardous waste treatment,
11158 storage, and disposal facilities, including commercial hazardous waste incinerators. Those
11159 criteria shall apply to any facility or incinerator for which plan approval is required under
11160 Section 19-6-108.
11161 Section 235. Section **19-6-108.3** is amended to read:
11162 **19-6-108.3. Executive secretary to issue written assurances, make determinations,**
11163 **and partition operation plans -- Board to make rules.**
11164 (1) Based upon risk to human health or the environment from potential exposure to
11165 hazardous waste, the executive secretary may:
11166 (a) even if corrective action is incomplete, issue an enforceable written assurance to a
11167 person acquiring an interest in real property covered by an operation plan that the person to
11168 whom the assurance is issued:
11169 (i) is not a permittee under the operation plan; and
11170 (ii) will not be subject to an enforcement action under this part for contamination that
11171 exists or for violations under this part that occurred before the person acquired the interest in
11172 the real property covered by the operation plan;
11173 (b) determine that corrective action to the real property covered by the operation plan
11174 is:
11175 (i) complete;
11176 (ii) incomplete;
11177 (iii) unnecessary with an environmental covenant; or
11178 (iv) unnecessary without an environmental covenant; and
11179 (c) partition from an operation plan a portion of real property subject to the operation
11180 plan after determining that corrective action for that portion of real property is:
11181 (i) complete;
11182 (ii) unnecessary with an environmental covenant; or
11183 (iii) unnecessary without an environmental covenant.
11184 (2) If the executive secretary determines that an environmental covenant is necessary
11185 under Subsection (1)(b) or (c), the executive secretary shall require that the real property be
11186 subject to an environmental covenant according to Title 57, Chapter 25, Uniform
11187 Environmental Covenants Act.

11188 (3) An assurance issued under Subsection (1) protects the person to whom the
11189 assurance is issued from any cost recovery and contribution action under state law.
11190 (4) By following the procedures and requirements of [~~Title 63, Chapter 46b~~] Title 63G,
11191 Chapter 4, Administrative Procedures Act, the board may adopt rules to administer this section.
11192 Section 236. Section **19-6-303** is amended to read:
11193 **19-6-303. Rulemaking provisions.**
11194 The executive director may regulate hazardous substances releases by making rules in
11195 accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
11196 Rulemaking Act, consistent with the substantive requirements of CERCLA, to establish the
11197 requirements for remedial investigation studies and remedial action plans.
11198 Section 237. Section **19-6-321** is amended to read:
11199 **19-6-321. Construction with other state and federal laws -- Governmental**
11200 **immunity.**
11201 (1) Except as provided in Subsection (2), nothing in this part affects or modifies in any
11202 way the obligations or liability of any person under a contract or any other provision of this part
11203 or state or federal law, including common law, for damages, indemnification, injury, or loss
11204 associated with a hazardous material or substance release or a substantial threat of a hazardous
11205 material or substance release.
11206 (2) In addition to the governmental immunity granted in [~~Title 63, Chapter 30d~~] Title
11207 63G, Chapter 7, Governmental Immunity Act of Utah, the state and its political subdivisions
11208 are not liable for actions performed under this part except as a result of intentional misconduct
11209 or gross negligence including reckless, willful, or wanton misconduct.
11210 (3) Nothing in this part affects, limits, or modifies in any way the authority granted to
11211 the state, any state agency, or any political subdivision under other state or federal law.
11212 Section 238. Section **19-6-326** is amended to read:
11213 **19-6-326. Written assurances.**
11214 (1) Based upon risk to human health or the environment from potential exposure to
11215 hazardous substances or materials, the executive director may issue enforceable written
11216 assurances to a bona fide prospective purchaser, contiguous property owner, or innocent
11217 landowner of real property that no enforcement action under this part may be initiated
11218 regarding that real property against the person to whom the assurances are issued.

11219 (2) An assurance granted under Subsection (1) grants the person to whom the
11220 assurance is issued protection from imposition of any state law cost recovery and contribution
11221 actions under this part.
11222 (3) The executive director may make rules in accordance with [~~Title 63, Chapter 46a~~]
11223 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary for the administration
11224 of this section.
11225 Section 239. Section **19-6-403** is amended to read:
11226 **19-6-403. Powers and duties of board.**
11227 (1) (a) The board shall regulate underground storage tanks and petroleum storage tanks
11228 by applying the provisions of this part and by making rules for:
11229 (i) certification of tank installers, inspectors, testers, and removers;
11230 (ii) registration of tanks;
11231 (iii) administration of the petroleum storage tank program;
11232 (iv) format and required information regarding records to be kept by tank owners or
11233 operators who are participating in the fund;
11234 (v) voluntary participation in the fund for above ground petroleum storage tanks and
11235 tanks exempt from regulation under 40 C.F.R., Part 280, Subpart (B), and specified in Section
11236 19-6-415; and
11237 (vi) certification of underground storage tank consultants, including requirements for
11238 minimum education or experience, which rules shall recognize the educational background of a
11239 professional engineer licensed under Title 58, Chapter 22, Professional Engineers and Land
11240 Surveyors Licensing Act, as meeting the education requirements for certification, but shall
11241 require proof of experience that meets certification requirements.
11242 (b) The board shall make rules in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
11243 Chapter 3, Utah Administrative Rulemaking Act, adopting requirements for underground
11244 storage tanks contained in Subtitle I of the Resource Conservation and Recovery Act, 42
11245 U.S.C. Section 6991c, et seq., and other future applicable final federal regulations.
11246 (2) The board shall ensure that the rules made under the authority of Subsection (1)
11247 meet federal requirements for the state's assumption of primacy in the regulation of
11248 underground storage tanks, as provided in Section 9004 of the Resource Conservation and
11249 Recovery Act, 42 U.S.C. Section 6991c, et seq.

11250 Section 240. Section **19-6-405.3** is amended to read:
11251 **19-6-405.3. Creation of Petroleum Storage Tank Loan Fund -- Purposes -- Loan**
11252 **eligibility -- Loan restrictions -- Rulemaking.**
11253 (1) There is created the revolving loan fund entitled the Petroleum Storage Tank Loan
11254 Fund.
11255 (2) The sources of monies for the loan fund are:
11256 (a) appropriations to the loan fund;
11257 (b) principal and interest received from the repayment of loans made by the executive
11258 secretary under Subsection (3); and
11259 (c) all investment income derived from money in the fund.
11260 (3) The executive secretary may loan, in accordance with this section, monies available
11261 in the loan fund to persons to be used for:
11262 (a) upgrading petroleum storage tanks and associated piping with corrosion protection,
11263 or spill and overfill prevention equipment as necessary to meet the federal deadline required
11264 under 40 CFR 280.21;
11265 (b) replacing underground storage tanks; or
11266 (c) permanently closing underground storage tanks.
11267 (4) A person may apply to the executive secretary for a loan under Subsection (3) if all
11268 tanks owned or operated by that person are in substantial compliance with all state and federal
11269 requirements or will be brought into substantial compliance using money from the loan fund.
11270 (5) The executive secretary shall consider loan applications under Subsection (4) to
11271 meet the following objectives:
11272 (a) support availability of gasoline in rural parts of the state;
11273 (b) support small businesses; and
11274 (c) reduce the threat of a petroleum release endangering the environment.
11275 (6) Loans made under this section shall:
11276 (a) be for no more than $45,000 for all tanks at any one facility;
11277 (b) be for no more than $15,000 per tank;
11278 (c) be for no more than 80% of the total cost of:
11279 (i) upgrading a tank and associated piping to meet requirements of 40 CFR 280.21;
11280 (ii) replacing the underground storage tank; or

11281 (iii) permanently closing the underground storage tank;
11282 (d) have a fixed annual interest rate of 3%;
11283 (e) have a term no longer than ten years;
11284 (f) be made on the condition the loan applicant obtains adequate security for the loan as
11285 established by board rule under Subsection (7); and
11286 (g) comply with rules made by the board under Subsection (7).
11287 (7) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
11288 Administrative Rulemaking Act, the board shall make rules establishing:
11289 (a) form, content, and procedure for loan applications;
11290 (b) criteria and procedures for prioritizing loan applications;
11291 (c) requirements and procedures for securing loans;
11292 (d) procedures for making the loans;
11293 (e) procedures for administering and ensuring repayment of loans, including late
11294 payment penalties; and
11295 (f) procedures for recovering on defaulted loans.
11296 (8) The decisions of the executive secretary in loaning money from the loan fund and
11297 otherwise administering the loan fund are not subject to [~~Title 63, Chapter 46b~~] Title 63G,
11298 Chapter 4, Administrative Procedures Act.
11299 (9) The Legislature shall appropriate monies for administration of the loan fund to the
11300 department from the loan fund.
11301 (10) The executive secretary may enter into agreements with public entities or private
11302 organizations to perform any tasks associated with administration of the loan fund.
11303 Section 241. Section **19-6-408** is amended to read:
11304 **19-6-408. Underground storage tank registration fee -- Processing fee for tanks**
11305 **not in the program.**
11306 (1) The department may assess an annual underground storage tank registration fee
11307 against owners or operators of underground storage tanks that have not been closed. These fees
11308 shall be:
11309 (a) billed per facility;
11310 (b) due on July 1 annually;
11311 (c) deposited with the department as dedicated credits;

11312 (d) used by the department for the administration of the underground storage tank
11313 program outlined in this part; and
11314 (e) established under Section [~~63-38-3.2~~] 63J-1-303.
11315 (2) (a) In addition to the fee under Subsection (1), an owner or operator who elects to
11316 demonstrate financial assurance through a mechanism other than the Environmental Assurance
11317 Program shall pay a processing fee of:
11318 (i) for fiscal year 1997-98, $1,000 for each financial assurance mechanism document
11319 submitted to the division for review; and
11320 (ii) on and after July 1, 1998, a processing fee established under Section [~~63-38-3.2~~]
11321 63J-1-303.
11322 (b) If a combination of financial assurance mechanisms is used to demonstrate
11323 financial assurance, the fee under Subsection (2)(a) shall be paid for each document submitted.
11324 (c) As used in this Subsection (2), "financial assurance mechanism document" may be
11325 a single document that covers more than one facility through a single financial assurance
11326 mechanism.
11327 (3) Any funds provided for administration of the underground storage tank program
11328 under this section that are not expended at the end of the fiscal year lapse into the Petroleum
11329 Storage Tank Restricted Account created in Section 19-6-405.5.
11330 (4) The executive secretary shall provide all owners or operators who pay the annual
11331 underground storage tank registration fee a certificate of registration.
11332 (5) (a) The executive secretary may issue a notice of agency action assessing a civil
11333 penalty of $1,000 per facility if an owner or operator of an underground storage tank facility
11334 fails to pay the required fee within 60 days after the July 1 due date.
11335 (b) The registration fee and late payment penalty accrue interest at 12% per annum.
11336 (c) If the registration fee, late payment penalty, and interest accrued under this
11337 Subsection (5) are not paid in full within 60 days after the July 1 due date any certificate of
11338 compliance issued prior to the July 1 due date lapses. The executive secretary may not reissue
11339 the certificate of compliance until full payment under this Subsection (5) is made to the
11340 department.
11341 (d) The executive secretary may waive any penalty assessed under this Subsection (5)
11342 if no fuel has been dispensed from the tank on or after July 1, 1991.

11343 Section 242. Section **19-6-410.5** is amended to read:
11344 **19-6-410.5. Environmental assurance program -- Participant fee.**
11345 (1) As used in this section:
11346 (a) "Cash balance" means cash plus investments and current accounts receivable minus
11347 current accounts payable, excluding the liabilities estimated by the state risk manager.
11348 (b) "Commission" means the State Tax Commission, as defined in Section 59-1-101.
11349 (2) (a) There is created an Environmental Assurance Program.
11350 (b) The program shall provide to participating owners and operators, upon payment of
11351 the fee imposed under Subsection (4), assistance with satisfying the financial responsibility
11352 requirements of 40 CFR, Part 280, Subpart H, by providing funds from the Petroleum Storage
11353 Tank Trust Fund established in Section 19-6-409, subject to the terms and conditions of
11354 Chapter 6, Part 4, Underground Storage Tank Act, and rules implemented under that part.
11355 (3) (a) Subject to Subsection (3)(b), participation in the program is voluntary.
11356 (b) Each owner and operator seeking to satisfy financial responsibility requirements
11357 through the program shall use the program for all petroleum underground storage tanks that the
11358 owner or operator owns or operates.
11359 (4) (a) There is assessed an environmental assurance fee of 1/2 cent per gallon on the
11360 first sale or use of petroleum products in the state.
11361 (b) The environmental assurance fee and any other revenue collected under this section
11362 shall be deposited in the Petroleum Storage Tank Trust Fund created in Section 19-6-409 and
11363 used solely for the purposes listed in Section 19-6-409.
11364 (5) (a) The commission shall collect the environmental assurance fee and any penalties
11365 and interest imposed under this section.
11366 (b) By following the procedures and requirements of [~~Title 63, Chapter 46a~~] Title 63G,
11367 Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules to establish:
11368 (i) the method of payment of the environmental assurance fee;
11369 (ii) the procedure for reimbursement or exemption of owners or operators who do not
11370 participate in the program, including owners and operators of above ground storage tanks; and
11371 (iii) the procedure for confirming with the department those owners and operators who
11372 qualify for reimbursement or exemption under Subsection (5)(b)(ii).
11373 (c) The commission may retain an amount not to exceed 2.5% of fees collected under

11374 this section for the cost to it of rendering its services.
11375 (6) (a) The person or entity responsible for payment of the fee under this section shall,
11376 by the last day of the month following the month in which the sale occurs:
11377 (i) complete and submit the form prescribed by the commission; and
11378 (ii) pay the fee to the commission.
11379 (b) (i) The penalties and interest for failure to file the form or to pay the environmental
11380 assurance fee are the same as the penalties and interest under Sections 59-1-401 and 59-1-402.
11381 (ii) The commission shall deposit penalties and interest collected under this section in
11382 the Petroleum Storage Tank Trust Fund.
11383 (c) The commission shall report to the department any person or entity who is
11384 delinquent in payment of the fee under this section.
11385 (7) (a) (i) If the cash balance of the Petroleum Storage Tank Trust Fund on June 30 of
11386 any year exceeds $20,000,000, the assessment of the environmental assurance fee as provided
11387 in Subsection (4) is reduced to 1/4 cent per gallon beginning November 1.
11388 (ii) The reduction shall remain in effect until modified by the Legislature in a general
11389 or special session.
11390 (b) The commission shall determine the cash balance of the fund each year as of June
11391 30.
11392 (c) Before September 1 of each year, the department shall provide the commission with
11393 the accounts payable of the fund as of June 30.
11394 Section 243. Section **19-6-427** is amended to read:
11395 **19-6-427. Liability of any person under other laws -- Additional state and**
11396 **governmental immunity -- Exceptions.**
11397 (1) Except as provided in Subsection (2), nothing in this part affects or modifies in any
11398 way:
11399 (a) the obligations or liability of any person under any other provision of this part or
11400 state or federal law, including common law, for damages, injury, or loss resulting from a
11401 release or substantial threat of a release of petroleum from an underground storage tank or a
11402 petroleum storage tank; or
11403 (b) the liability of any person for costs incurred except as provided in this part.
11404 (2) In addition to the governmental immunity granted in [~~Title 63, Chapter 30d~~] Title

11405 63G, Chapter 7, Governmental Immunity Act of Utah, the state and its political subdivisions
11406 are not liable for actions performed under this part except as a result of intentional misconduct
11407 or gross negligence including reckless, willful, or wanton misconduct.
11408 Section 244. Section **19-6-704** is amended to read:
11409 **19-6-704. Powers and duties of the board.**
11410 (1) The board shall make rules under [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
11411 Utah Administrative Rulemaking Act, as necessary to administer this part and to comply with
11412 40 CFR 279, Standards for the Management of Used Oil, to ensure the state's primacy to
11413 manage used oil under 40 CFR 279. For these purposes the board shall:
11414 (a) conduct adjudicative hearings as required in this part under [~~Title 63, Chapter 46b~~]
11415 Title 63G, Chapter 4, Administrative Procedures Act;
11416 (b) establish by rule conditions and procedures for registration and revocation of
11417 registration as a used oil collection center, used oil aggregation point, or DIYer used oil
11418 collection center;
11419 (c) provide by rule that used oil aggregation points that do not accept DIYer used oil
11420 are required to comply with used oil collection standards under this part, but are not required to
11421 be permitted or registered;
11422 (d) establish by rule conditions and fees required to obtain permits and operate as used
11423 oil transporters, used oil transfer facilities, used oil processors and rerefiners, and used oil fuel
11424 marketers;
11425 (e) establish by rule the amount of liability insurance or other financial responsibility
11426 the applicant shall have to qualify for a permit under Subsection (1)(d);
11427 (f) establish by rule the form and amount of reclamation surety required for
11428 reclamation of any site or facility required to be permitted under this part;
11429 (g) after public notice and opportunity for a public hearing, hear and act on permit
11430 issues appealed under Subsection 19-6-712(2);
11431 (h) establish by rule standards for tracking, analysis, and recordkeeping regarding used
11432 oil subject to regulation under this part, including:
11433 (i) manifests for handling and transferring used oil;
11434 (ii) analyses necessary to determine if used oil is on-specification or off-specification;
11435 (iii) records documenting date, quantities, and character of used oil transported,

11436 processed, transferred, or sold;
11437 (iv) records documenting persons between whom transactions under this subsection
11438 occurred; and
11439 (v) exemption of DIYer used oil collection centers from this subsection except as
11440 necessary to verify volumes of used oil picked up by a permitted transporter and the
11441 transporter's name and federal EPA identification number;
11442 (i) authorize inspections and audits of facilities, centers, and operations subject to
11443 regulation under this part;
11444 (j) establish by rule standards for:
11445 (i) used oil generators;
11446 (ii) used oil collection centers;
11447 (iii) DIYer used oil collection centers;
11448 (iv) aggregation points;
11449 (v) curbside used oil collection programs;
11450 (vi) used oil transporters;
11451 (vii) used oil transfer facilities;
11452 (viii) used oil burners;
11453 (ix) used oil processors and rerefiners; and
11454 (x) used oil marketers;
11455 (k) establish by rule standards for determining on-specification and off-specification
11456 used oil and specified mixtures of used oil, subject to Section 19-6-707 regarding rebuttable
11457 presumptions;
11458 (l) establish by rule standards for closure, remediation, and response to releases
11459 involving used oil; and
11460 (m) establish a public education program to promote used oil recycling and use of used
11461 oil collection centers.
11462 (2) The board may:
11463 (a) hold hearings relating to any aspect of or matter in the administration of this part
11464 and compel the attendance of witnesses and the production of documents and other evidence,
11465 administer oaths and take testimony, and receive evidence as necessary;
11466 (b) require retention and submission of records required under this part; and

11467 (c) require audits of records and recordkeeping procedures required under this part and
11468 rules made under this part, except that audits of records regarding the fee imposed and
11469 collected by the commission under Sections 19-6-714 and 19-6-715 are the responsibility of the
11470 commission under Section 19-6-716.
11471 Section 245. Section **19-6-721** is amended to read:
11472 **19-6-721. Violations -- Proceedings -- Orders.**
11473 (1) A person who violates any provision of this part or any order, permit, rule, or other
11474 requirement issued or adopted under this part is subject in a civil proceeding to a penalty of not
11475 more than $10,000 per day for each day of violation, in addition to any fine otherwise imposed
11476 for violation of this part.
11477 (2) (a) The board may bring suit in the name of the state to restrain the person from
11478 continuing the violation and to require the person to perform necessary remediation.
11479 (b) Suit under Subsection (2)(a) may be brought in any court in the state having
11480 jurisdiction in the county of residence of the person charged or in the county where the
11481 violation is alleged to have occurred.
11482 (c) The court may grant prohibitory and mandatory injunctions, including temporary
11483 restraining orders.
11484 (3) When the executive secretary finds a situation exists in violation of this part that
11485 presents an immediate threat to the public health or welfare, the executive secretary may issue
11486 an emergency order under [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
11487 Procedures Act.
11488 (4) All penalties collected under this section shall be deposited in the account created
11489 in Section 19-6-719.
11490 Section 246. Section **19-6-803** is amended to read:
11491 **19-6-803. Definitions.**
11492 As used in this part:
11493 (1) "Abandoned waste tire pile" means a waste tire pile regarding which the local
11494 department of health has not been able to:
11495 (a) locate the persons responsible for the tire pile; or
11496 (b) cause the persons responsible for the tire pile to remove it.
11497 (2) (a) "Beneficial use" means the use of chipped tires in a manner that is not recycling,

11498 storage, or disposal, but that serves as a replacement for another product or material for specific
11499 purposes.
11500 (b) "Beneficial use" includes the use of chipped tires:
11501 (i) as daily landfill cover;
11502 (ii) for civil engineering purposes;
11503 (iii) as low-density, light-weight aggregate fill; or
11504 (iv) for septic or drain field construction.
11505 (c) "Beneficial use" does not include the use of waste tires or material derived from
11506 waste tires:
11507 (i) in the construction of fences; or
11508 (ii) as fill, other than low-density, light-weight aggregate fill.
11509 (3) "Board" means the Solid and Hazardous Waste Control Board created under
11510 Section 19-1-106.
11511 (4) "Chip" or "chipped tire" means a two inch square or smaller piece of a waste tire.
11512 (5) "Commission" means the Utah State Tax Commission.
11513 (6) (a) "Consumer" means a person who purchases a new tire to satisfy a direct need,
11514 rather than for resale.
11515 (b) "Consumer" includes a person who purchases a new tire for a motor vehicle to be
11516 rented or leased.
11517 (7) "Crumb rubber" means waste tires that have been ground, shredded, or otherwise
11518 reduced in size such that the particles are less than or equal to 3/8 inch in diameter and are 98%
11519 wire free by weight.
11520 (8) "Disposal" means the deposit, dumping, or permanent placement of any waste tire
11521 in or on any land or in any water in the state.
11522 (9) "Dispose of" means to deposit, dump, or permanently place any waste tire in or on
11523 any land or in any water in the state.
11524 (10) "Division" means the Division of Solid and Hazardous Waste created in Section
11525 19-1-105, within the Department of Environmental Quality.
11526 (11) "Executive secretary" means the executive secretary of the Solid and Hazardous
11527 Waste Control Board created in Section 19-1-106.
11528 (12) "Fund" means the Waste Tire Recycling Fund created in Section 19-6-807.

11529 (13) "Landfill waste tire pile" means a waste tire pile:
11530 (a) located within the permitted boundary of a landfill operated by a governmental
11531 entity; and
11532 (b) consisting solely of waste tires brought to a landfill for disposal and diverted from
11533 the landfill waste stream to the waste tire pile.
11534 (14) "Local health department" means the local health department, as defined in
11535 Section 26A-1-102, with jurisdiction over the recycler.
11536 (15) "Materials derived from waste tires" means tire sections, tire chips, tire
11537 shreddings, rubber, steel, fabric, or other similar materials derived from waste tires.
11538 (16) "Mobile facility" means a mobile facility capable of cutting waste tires on site so
11539 the waste tires may be effectively disposed of by burial, such as in a landfill.
11540 (17) "New motor vehicle" means a motor vehicle which has never been titled or
11541 registered.
11542 (18) "Passenger tire equivalent" means a measure of mixed sizes of tires where each 25
11543 pounds of whole tires or material derived from waste tires is equal to one waste tire.
11544 (19) "Proceeds of the fee" means the money collected by the commission from
11545 payment of the recycling fee including interest and penalties on delinquent payments.
11546 (20) "Recycler" means a person who:
11547 (a) annually uses, or can reasonably be expected within the next year to use, a
11548 minimum of 100,000 waste tires generated in the state or 1,000 tons of waste tires generated in
11549 the state to recover energy or produce energy, crumb rubber, chipped tires, or an ultimate
11550 product; and
11551 (b) is registered as a recycler in accordance with Section 19-6-806.
11552 (21) "Recycling fee" means the fee provided for in Section 19-6-805.
11553 (22) "Shredded waste tires" means waste tires or material derived from waste tires that
11554 has been reduced to a six inch square or smaller.
11555 (23) (a) "Storage" means the placement of waste tires in a manner that does not
11556 constitute disposal of the waste tires.
11557 (b) "Storage" does not include:
11558 (i) the use of waste tires as ballast to maintain covers on agricultural materials or to
11559 maintain covers at a construction site; or

11560 (ii) the storage for five or fewer days of waste tires or material derived from waste tires
11561 that are to be recycled or applied to a beneficial use.
11562 (24) (a) "Store" means to place waste tires in a manner that does not constitute disposal
11563 of the waste tires.
11564 (b) "Store" does not include:
11565 (i) to use waste tires as ballast to maintain covers on agricultural materials or to
11566 maintain covers at a construction site; or
11567 (ii) to store for five or fewer days waste tires or material derived from waste tires that
11568 are to be recycled or applied to a beneficial use.
11569 (25) "Tire" means a pneumatic rubber covering designed to encircle the wheel of a
11570 vehicle in which a person or property is or may be transported or drawn upon a highway.
11571 (26) "Tire retailer" means any person engaged in the business of selling new tires either
11572 as replacement tires or as part of a new vehicle sale.
11573 (27) (a) "Ultimate product" means a product that has as a component materials derived
11574 from waste tires and that the executive secretary finds has a demonstrated market.
11575 (b) "Ultimate product" includes pyrolized materials derived from:
11576 (i) waste tires; or
11577 (ii) chipped tires.
11578 (c) "Ultimate product" does not include a product regarding which a waste tire remains
11579 after the product is disposed of or disassembled.
11580 (28) "Waste tire" means a tire that is no longer suitable for its original intended
11581 purpose because of wear, damage, or defect.
11582 (29) "Waste tire pile" means a pile of 1,000 or more waste tires at one location.
11583 (30) (a) "Waste tire transporter" means a person or entity engaged in picking up or
11584 transporting at one time more than ten whole waste tires, or the equivalent amount of material
11585 derived from waste tires, generated in Utah for the purpose of storage, processing, or disposal.
11586 (b) "Waste tire transporter" includes any person engaged in the business of collecting,
11587 hauling, or transporting waste tires or who performs these functions for another person, except
11588 as provided in Subsection (30)(c).
11589 (c) "Waste tire transporter" does not include:
11590 (i) a person transporting waste tires generated solely by:

11591 (A) that person's personal vehicles;
11592 (B) a commercial vehicle fleet owned or operated by that person or that person's
11593 employer;
11594 (C) vehicles sold, leased, or purchased by a motor vehicle dealership owned or
11595 operated by that person or that person's employer; or
11596 (D) a retail tire business owned or operated by that person or that person's employer;
11597 (ii) a solid waste collector operating under a license issued by a unit of local
11598 government as defined in Section [~~63-51-2~~] 63M-5-103, or a local health department;
11599 (iii) a recycler of waste tires;
11600 (iv) a person transporting tires by rail as a common carrier subject to federal regulation;
11601 or
11602 (v) a person transporting processed or chipped tires.
11603 Section 247. Section **19-6-806** is amended to read:
11604 **19-6-806. Registration of waste tire transporters and recyclers.**
11605 (1) (a) The executive secretary shall register each applicant for registration to act as a
11606 waste tire transporter if the applicant meets the requirements of this section.
11607 (b) An applicant for registration as a waste tire transporter shall:
11608 (i) submit an application in a form prescribed by the executive secretary;
11609 (ii) pay a fee as determined by the board under Section [~~63-38-3.2~~] 63J-1-303;
11610 (iii) provide the name and business address of the operator;
11611 (iv) provide proof of liability insurance or other form of financial responsibility in an
11612 amount determined by board rule, but not more than $300,000, for any liability the waste tire
11613 transporter may incur in transporting waste tires; and
11614 (v) meet requirements established by board rule.
11615 (c) The holder of a registration under this section shall advise the executive secretary in
11616 writing of any changes in application information provided to the executive secretary within 20
11617 days of the change.
11618 (d) If the executive secretary has reason to believe a waste tire transporter has disposed
11619 of tires other than as allowed under this part, the executive secretary shall conduct an
11620 investigation and, after complying with the procedural requirements of [~~Title 63, Chapter 46b~~]
11621 Title 63G, Chapter 4, Administrative Procedures Act, may revoke the registration.

11622 (2) (a) The executive secretary shall register each applicant for registration to act as a
11623 waste tire recycler if the applicant meets the requirements of this section.
11624 (b) An applicant for registration as a waste tire recycler shall:
11625 (i) submit an application in a form prescribed by the executive secretary;
11626 (ii) pay a fee as determined by the board under Section [~~63-38-3.2~~] 63J-1-303;
11627 (iii) provide the name and business address of the operator of the recycling business;
11628 (iv) provide proof of liability insurance or other form of financial responsibility in an
11629 amount determined by board rule, but not more than $300,000, for any liability the waste tire
11630 recycler may incur in storing and recycling waste tires;
11631 (v) engage in activities as described under the definition of recycler in Section
11632 19-6-803; and
11633 (vi) meet requirements established by board rule.
11634 (c) The holder of a registration under this section shall advise the executive secretary in
11635 writing of any changes in application information provided to the executive secretary within 20
11636 days of the change.
11637 (d) If the executive secretary has reason to believe a waste tire recycler has falsified any
11638 information provided in an application for partial reimbursement under this section, the
11639 executive secretary shall, after complying with the procedural requirements of [~~Title 63,~~
11640 ~~Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, revoke the registration.
11641 (3) The board shall establish a uniform fee for registration which shall be imposed by
11642 any unit of local government or local health department that requires a registration fee as part
11643 of the registration of waste tire transporters or waste tire recyclers.
11644 Section 248. Section **19-6-818** is amended to read:
11645 **19-6-818. Local health department rules.**
11646 (1) In accordance with Section 26A-1-121, the local health department shall make
11647 regulations to:
11648 (a) develop an application form; and
11649 (b) establish the procedure to apply for reimbursement.
11650 (2) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
11651 Administrative Rulemaking Act, the commission shall make rules to implement this part.
11652 (3) The local health departments shall take into consideration the removal schedule of

11653 tire transporters or recyclers in a geographical area when making regulations governing the
11654 storage of waste tires at any business that generates waste tires, pending removal of those waste
11655 tires for recycling.
11656 Section 249. Section **19-6-819** is amended to read:
11657 **19-6-819. Powers and duties of the board.**
11658 (1) The board shall make rules under [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
11659 Utah Administrative Rulemaking Act, as necessary to administer this part. For these purposes
11660 the board shall establish by rule:
11661 (a) conditions and procedures for acting to issue or revoke a registration as a waste tire
11662 recycler or transporter under Section 19-6-806;
11663 (b) the amount of liability insurance or other financial responsibility the applicant is
11664 required to have to qualify for registration under Section 19-6-806, which amount may not be
11665 more than $300,000 for any liability the waste tire transporter or recycler may incur in
11666 recycling or transporting waste tires;
11667 (c) the form and amount of financial assurance required for a site or facility used to
11668 store waste tires, which amount shall be sufficient to ensure the cleanup or removal of waste
11669 tires from that site or facility;
11670 (d) standards and required documentation for tracking and record keeping of waste
11671 tires subject to regulation under this part, including:
11672 (i) manifests for handling and transferring waste tires;
11673 (ii) records documenting date, quantities, and size or type of waste tires transported,
11674 processed, transferred, or sold;
11675 (iii) records documenting persons between whom transactions under this Subsection
11676 (1)(d) occurred and the amounts of waste tires involved in those transactions; and
11677 (iv) requiring that documentation under this Subsection (1)(d) be submitted on a
11678 quarterly basis, and that this documentation be made available for public inspection;
11679 (e) authorize inspections and audits of waste tire recycling, transportation, or storage
11680 facilities and operations subject to this part;
11681 (f) standards for payments authorized under Sections 19-6-809, 19-6-810, 19-6-811,
11682 and 19-6-812;
11683 (g) regarding applications to the executive secretary for reimbursements under Section

11684 19-6-811, the content of the reimbursement application form and the procedure to apply for
11685 reimbursement;
11686 (h) requirements for the storage of waste tires, including permits for storage;
11687 (i) the types of energy recovery or other appropriate environmentally compatible uses
11688 eligible for reimbursement, which:
11689 (i) shall include pyrolization, but not retreading; and
11690 (ii) shall apply to all waste tire recycling and beneficial use reimbursements within the
11691 state;
11692 (j) the applications of waste tires that are not eligible for reimbursement;
11693 (k) the applications of waste tires that are considered to be the storage or disposal of
11694 waste tires; and
11695 (l) provisions governing the storage or disposal of waste tires, including the process for
11696 issuing permits for waste tire storage sites.
11697 (2) The board may:
11698 (a) require retention and submission of the records required under this part;
11699 (b) require audits of the records and record keeping procedures required under this part
11700 and rules made under this part, except that audits of records regarding the fee imposed and
11701 collected by the commission under Sections 19-6-805 and 19-6-808 are the responsibility of the
11702 commission; and
11703 (c) as necessary, make rules requiring additional information as the board determines
11704 necessary to effectively administer Section 19-6-812, which rules may not place an undue
11705 burden on the operation of landfills.
11706 Section 250. Section **19-6-821** is amended to read:
11707 **19-6-821. Violations -- Civil proceedings and penalties -- Orders.**
11708 (1) A person who violates any provision of this part or any order, permit, plan
11709 approval, or rule issued or adopted under this part is subject to a civil penalty of not more than
11710 $10,000 per day for each day of violation as determined in a civil hearing under [~~Title 63,~~
11711 ~~Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, except:
11712 (a) any violation of Subsection 19-6-804(1) or (3), regarding landfills, is subject to the
11713 penalty under Subsection 19-6-804(4) rather than the penalties under this section; and
11714 (b) any violation of Subsection 19-6-808(1), (2), or (3) regarding payment of the

11715 recycling fee by the tire retailer is subject to penalties as provided in Subsection 19-6-808(4)
11716 rather than the penalties under this section.
11717 (2) The board may bring an action in the name of the state to restrain a person from
11718 continuing a violation of this part and to require the person to perform necessary remediation
11719 regarding a violation of this part.
11720 (3) When the executive secretary finds a situation exists in violation of this part that
11721 presents an immediate threat to the public health or welfare, the executive secretary may issue
11722 an emergency order under [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
11723 Procedures Act.
11724 (4) The executive secretary may revoke the registration of a waste tire recycler or
11725 transporter who violates any provision of this part or any order, plan approval, permit, or rule
11726 issued or adopted under this part.
11727 (5) The executive secretary may revoke the tire storage permit for a storage facility that
11728 is in violation of any provision of this part or any order, plan approval, permit, or rule issued or
11729 adopted under this part.
11730 (6) If a person has been convicted of violating a provision of this part prior to a finding
11731 by the executive secretary of a violation of the same provision in an administrative hearing, the
11732 executive secretary may not assess a civil monetary penalty under this section for the same
11733 offense for which the conviction was obtained.
11734 (7) All penalties collected under this section shall be deposited in the fund.
11735 Section 251. Section **19-6-906** is amended to read:
11736 **19-6-906. Decontamination standards -- Specialist certification standards --**
11737 **Rulemaking.**
11738 (1) The Department of Health shall make rules under [~~Title 63, Chapter 46a~~] Title 63G,
11739 Chapter 3, Utah Administrative Rulemaking Act, in consultation with the local health
11740 departments and the Department of Environmental Quality, to establish:
11741 (a) decontamination and sampling standards and best management practices for the
11742 inspection and decontamination of property and the disposal of contaminated debris under this
11743 part;
11744 (b) appropriate methods for the testing of buildings and interior surfaces, and
11745 furnishings, soil, and septic tanks for contamination; and

11746 (c) when testing for contamination may be required.
11747 (2) The Department of Environmental Quality Solid and Hazardous Waste Control
11748 Board shall make rules under [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
11749 Administrative Rulemaking Act, in consultation with the Department of Health and local
11750 health departments, to establish within the Department of Environmental Quality Division of
11751 Environmental Response and Remediation:
11752 (a) certification standards for any private person, firm, or entity involved in the
11753 decontamination of contaminated property; and
11754 (b) a process for revoking the certification of a decontamination specialist who fails to
11755 maintain the certification standards.
11756 (3) All rules made under this part shall be consistent with other state and federal
11757 requirements.
11758 (4) The board has authority to enforce the provisions under Subsection (2).
11759 Section 252. Section **19-6-1003** is amended to read:
11760 **19-6-1003. Board and executive secretary powers.**
11761 (1) By following the procedures and requirements of [~~Title 63, Chapter 46a~~] Title 63G,
11762 Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules:
11763 (a) governing administrative proceedings under this part;
11764 (b) specifying the terms and conditions under which the executive secretary shall
11765 approve, disapprove, revoke, or review a plan submitted by a manufacturer; and
11766 (c) governing reports and educational materials required by this part.
11767 (2) These rules shall include:
11768 (a) time requirements for plan submission, review, approval, and implementation;
11769 (b) a public notice and comment period for a proposed plan; and
11770 (c) safety standards for the collection, packaging, transportation, storage, recycling, and
11771 disposal of mercury switches.
11772 (3) The board may request the attorney general to bring an action for injunctive relief
11773 and enforcement of this part, including, without limitation, imposition of the penalty provided
11774 in Section 19-6-1006.
11775 (4) As authorized by the board, the executive secretary may:
11776 (a) review and approve or disapprove plans, specifications, or other data related to

11777 mercury switch removal;
11778 (b) enforce a rule by issuing a notice, an order, or both, which may be subsequently
11779 amended or revoked by the board; and
11780 (c) initiate an administrative action to compel compliance with this part and any rules
11781 adopted under this part.
11782 (5) The executive secretary shall establish a fee to cover the costs of a plan's review by
11783 following the procedures and requirements of Section [~~63-38-3.2~~] 63J-1-303.
11784 Section 253. Section **19-7-103** is amended to read:
11785 **19-7-103. Definitions.**
11786 As used in this chapter:
11787 (1) "Administrative proceeding" means an adjudicatory proceeding conducted by the
11788 department or other government entity with authority to enforce any environmental law,
11789 including any notice of violation proceeding, any department proceeding listed in Section
11790 19-1-305, or any proceeding conducted pursuant to [~~Title 63, Chapter 46b~~] Title 63G, Chapter
11791 4, Administrative Procedures Act.
11792 (2) "Environmental audit report" means any document, information, report, finding,
11793 communication, note, drawing, graph, chart, photograph, survey, suggestion, or opinion,
11794 whether in preliminary, draft, or final form, prepared as the result of or in response to an
11795 environmental self-evaluation.
11796 (3) "Environmental law" means any requirement contained in this title, or in rules
11797 made under this title, or in any rules, orders, permits, licenses, or closure plans issued or
11798 approved by the department, or in any other provision or ordinance addressing protection of the
11799 environment.
11800 (4) "Environmental self-evaluation" means a self-initiated assessment, audit, or review,
11801 not otherwise expressly required by an environmental law, that is performed to determine
11802 whether a person is in compliance with environmental laws. A person may perform an
11803 environmental self-evaluation through the use of employees or the use of outside consultants.
11804 Section 254. Section **19-7-104** is amended to read:
11805 **19-7-104. Unlawful disclosure -- Environmental audit report.**
11806 (1) Information that is divulged, disseminated, or otherwise disclosed in violation of
11807 Utah Rules of Evidence, Rule 508, may not be admitted as evidence in an administrative or

11808 judicial proceeding.
11809 (2) If any person, including a department employee or a presiding hearing officer,
11810 divulges or disseminates any part of the information contained in an environmental audit report
11811 and that report is privileged under Utah Rules of Evidence, Rule 508, the privilege is not
11812 waived except as provided under Utah Rules of Evidence, Rule 508(d)(1).
11813 (3) An environmental audit report obtained pursuant to an in camera review is a
11814 protected record for purposes of [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government
11815 Records Access and Management Act, and a department employee or attorney representing the
11816 department may not disclose the report except in accordance with the provisions of [~~Title 63,~~
11817 ~~Chapter 2~~] Title 63G, Chapter 2, Government Records Access and Management Act.
11818 Section 255. Section **19-8-112** is amended to read:
11819 **19-8-112. Denial of certificate of completion -- Appeal.**
11820 (1) If the executive director determines the applicant has not successfully completed a
11821 voluntary cleanup in accordance with an agreement entered into under this chapter, the
11822 executive director shall:
11823 (a) notify the applicant and the current owner of the property that is the subject of the
11824 agreement of the denial of a certificate of completion; and
11825 (b) provide to the applicant a list in writing of the reasons for the denial.
11826 (2) The applicant may appeal the determination of the executive director as provided in
11827 [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
11828 Section 256. Section **19-8-117** is amended to read:
11829 **19-8-117. Program report and budget allocations -- Fee schedule.**
11830 (1) (a) For applications submitted on or after May 5, 1997 through June 30, 1998, the
11831 application fee under this chapter is $2,000.
11832 (b) Regarding applications submitted on and after July 1, 1998, the executive director
11833 shall annually calculate the costs to administer the voluntary cleanup program under this
11834 chapter and shall establish the fees for the program under Section [~~63-38-3.2~~] 63J-1-303.
11835 (2) All fees under Subsection (1) shall be deposited in the account created under
11836 Section 19-8-103.
11837 Section 257. Section **19-8-120** is amended to read:
11838 **19-8-120. Creation of Brownfields Fund -- Purposes -- Loan and grant eligibility**

11839 **-- Loan restrictions -- Rulemaking.**
11840 (1) As used in this section, "brownfield" has the same meaning as in 42 U.S.C. Sec.
11841 9601(39).
11842 (2) There is created an enterprise fund known as the Brownfields Fund.
11843 (3) The fund is created to enable the state to use federal funding as available to provide
11844 capital for a revolving loan fund and to provide funds for grants to carry out cleanup activities
11845 at brownfield sites.
11846 (4) The sources of fund monies are:
11847 (a) federal grant monies;
11848 (b) principal and interest received from the repayment of loans made under this
11849 section; and
11850 (c) all investment income derived from fund monies.
11851 (5) The executive director may make loans and grants in accordance with this section
11852 from the fund to applicants who meet the criteria under the terms of the federal grant monies in
11853 the fund.
11854 (6) The executive director shall consider loan and grant applications under Subsection
11855 (5) to determine whether the application meets the objectives established by the federal grant.
11856 (7) Loans made under this section shall:
11857 (a) be for no greater amount than allowed by the federal grant;
11858 (b) have a fixed annual interest rate as allowed by the federal grant;
11859 (c) have a term as allowed by the federal grant;
11860 (d) be made on the condition the loan applicant obtains adequate security for the loan
11861 as established by administrative rules made under Subsection (9); and
11862 (e) comply with administrative rules made under Subsection (9).
11863 (8) Grants made under this section shall:
11864 (a) be for no greater amount than allowed by the federal grant; and
11865 (b) comply with administrative rules made under Subsection (9).
11866 (9) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
11867 Administrative Rulemaking Act, the executive director shall make rules establishing:
11868 (a) form, content, and procedure for loan and grant applications;
11869 (b) criteria and procedures for prioritizing loan and grant applications;

11870 (c) requirements and procedures for securing loans and grants;
11871 (d) procedures for making the loans;
11872 (e) procedures for administering and ensuring repayment of loans, including late
11873 payment penalties; and
11874 (f) procedures for recovering on defaulted loans.
11875 (10) The decisions of the executive director in loaning money from the fund, making
11876 grants, and otherwise administering the fund are not subject to [~~Title 63, Chapter 46b~~] Title
11877 63G, Chapter 4, Administrative Procedures Act.
11878 (11) Funding for the cost of administration of the fund shall be consistent with the
11879 terms of the federal grant.
11880 (12) The executive director may enter into agreements with public entities or private
11881 funding organizations to perform any task associated with administration of the fund.
11882 Section 258. Section **19-9-105** is amended to read:
11883 **19-9-105. Powers of authority.**
11884 The authority is a body corporate and politic that may:
11885 (1) sue and be sued in its own name;
11886 (2) have a seal and alter the seal at will;
11887 (3) borrow money and issue obligations, including refunding obligations, and provide
11888 for the rights of holders of those obligations;
11889 (4) establish hazardous waste treatment, disposal, or storage surcharge schedules for
11890 facilities operated by, or under authority of, the authority, and require all private facility
11891 operators who contract with the authority to collect fees for all hazardous waste received for
11892 treatment, disposal, or storage by those private facilities;
11893 (5) promulgate rules pursuant to [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
11894 Administrative Rulemaking Act, governing the exercise of its powers and fulfillment of its
11895 purposes;
11896 (6) enter into contracts and leases and execute all instruments necessary, convenient, or
11897 desirable;
11898 (7) acquire, purchase, hold, lease, use, or dispose of any property or any interest in
11899 property that is necessary, convenient, or desirable to carry out the purposes of this chapter, and
11900 sell, lease, transfer, and dispose of any property or interest in property at any time required in

11901 the exercise of its power, including, but not limited to, the sale, transfer, or disposal of any
11902 materials, substances, or sources or forms of energy derived from any activity engaged in by
11903 the authority;
11904 (8) contract with experts, advisers, consultants, and agents for needed services;
11905 (9) appoint officers and employees required for the performance of its duties, and fix
11906 and determine their qualifications and duties;
11907 (10) make, or contract for, plans, surveys, and studies necessary, convenient, or
11908 desirable to effectuate its purposes and powers and prepare any recommendations with respect
11909 to those plans, surveys, or studies;
11910 (11) receive and accept aid or contributions from any source, including the United
11911 States or the state, in the form of money, property, labor, or other things of value to be held,
11912 used, and applied to carry out the purposes of this chapter, subject to the conditions imposed
11913 upon that aid or contributions consistent with this chapter;
11914 (12) enter into agreements with any department, agency, or instrumentality of the
11915 United States or this state, or any financial institution, or contractor for the purpose of leasing
11916 and operating any facility;
11917 (13) consent to the modification of any obligation with the holder of that obligation, to
11918 the extent permitted by the obligation, relating to rates of interest or to the time and payment of
11919 any installment of principal or interest, or to the modification of any other contract, mortgage,
11920 mortgage loan, mortgage loan commitment, or agreement of any kind to which it is a party;
11921 (14) pledge revenues from any hazardous waste treatment, disposal, and storage facility
11922 to secure payment of any obligations relating to that facility, including interest on, and
11923 redemption of, those obligations;
11924 (15) execute or cause to be executed, mortgages, trust deeds, indentures, pledge
11925 agreements, assignments, security agreements, and financing statements that encumber
11926 property acquired, constructed, reconstructed, renovated, or repaired with the proceeds from the
11927 sale of such obligations;
11928 (16) exercise the power of eminent domain;
11929 (17) do all other things necessary to comply with the requirements of 42 U.S.C.
11930 Sections 6901-6986, the Resource Conservation and Recovery Act of 1976, and this part;
11931 (18) contract for the construction, operation, and maintenance of hazardous waste

11932 treatment, storage, and disposal facilities, including plants, works, instrumentalities, or parts
11933 thereof, for the collection, conveyance, treatment, exchange, storage, and disposal of hazardous
11934 waste, subject to approval by the board; and
11935 (19) exercise any other powers or duties necessary or appropriate to carry out and
11936 effectuate this chapter.
11937 Section 259. Section **19-10-108** is amended to read:
11938 **19-10-108. Appeals of institutional control decisions.**
11939 Any determination by the executive director under this chapter may be appealed as
11940 provided in [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
11941 Section 260. Section **19-11-101**, which is renumbered from Section 63-41-1 is
11942 renumbered and amended to read:
11943 **CHAPTER 11. WESTERN INTERSTATE NUCLEAR COMPACT**
11944 **Part 1. General Provisions**
11945 **[~~63-41-1~~]. 19-11-101. Title.**
11946 This [~~act shall be known and may be cited~~] chapter is known as the "Western Interstate
11947 Nuclear Compact."
11948 Section 261. Section **19-11-102**, which is renumbered from Section 63-41-2 is
11949 renumbered and amended to read:
11950 **[~~63-41-2~~]. 19-11-102. Definitions.**
11951 As used in this act:
11952 (1) The words "the compact" or "this compact" mean the Western Interstate Nuclear
11953 Compact.
11954 (2) The words "the board" mean the Western Interstate Nuclear Board.
11955 Section 262. Section **19-11-201**, which is renumbered from Section 63-41-3 is
11956 renumbered and amended to read:
11957 **Part 2. Compact**
11958 **[~~63-41-3~~]. 19-11-201. Text of compact.**
11959 The Western Interstate Nuclear Compact is hereby enacted into law in the state of Utah
11960 and entered into with all other states legally joining therein, in the form substantially as
11961 follows:
11962 ARTICLE I. POLICY AND PURPOSE

11963 The party states recognize that the proper employment of scientific and technological
11964 discoveries and advances in nuclear and related fields and direct and collateral application and
11965 adaptation of processes and techniques developed in connection therewith, properly correlated
11966 with the other resources of the region, can assist substantially in the industrial progress of the
11967 West and the further development of the economy of the region. They also recognize that
11968 optimum benefit from nuclear and related scientific or technological resources, facilities and
11969 skills requires systematic encouragement, guidance, assistance, and promotion from the party
11970 states on a co-operative basis. It is the policy of the party states to undertake such co-operation
11971 on a continuing basis. It is the purpose of this compact to provide the instruments and
11972 framework for such a co-operative effort in nuclear and related fields, to enhance the economy
11973 of the West and contribute to the individual and community well-being and the region's people.

11974 ARTICLE II. THE BOARD

11975 (a) There is hereby created an agency of the party states to be known as the Western
11976 Interstate Nuclear Board. The board shall be composed of one member from each party state
11977 designated or appointed in accordance with the law of the state which [~~he~~] the member
11978 represents and serving and subject to removal in accordance with such law. Any member of the
11979 board may provide for the discharge of [~~his~~] the member's duties and the performance of [~~his~~]
11980 the member's functions thereon (either for the duration of [~~his~~] the member's membership or
11981 for any lesser period of time) by a deputy or assistant, if the laws of [~~his~~] the member's state
11982 make specific provisions therefor. The federal government may be represented without vote if
11983 provision is made by federal law for such representation.

11984 (b) The board members of the party states shall each be entitled to one vote on the
11985 board. No action of the board shall be binding unless taken at a meeting at which a majority of
11986 all members representing the party states are present and unless a majority of the total number
11987 of votes on the board are cast in favor thereof.

11988 (c) The board shall have a seal.

11989 (d) The board shall elect annually, from among its members, a chairman, a
11990 vice-chairman, and treasurer. The board shall appoint and fix the compensation of an executive
11991 director who shall serve at its pleasure and who shall also act as secretary, and who, together
11992 with the treasurer, and such other personnel as the board may direct, shall be bonded in such
11993 amounts as the board may require.

11994 (e) The executive director, with the approval of the board, shall appoint and remove or
11995 discharge such personnel as may be necessary for the performance of the board's functions
11996 irrespective of the civil service, personnel or other merit system laws of any of the party states.
11997 (f) The board may establish and maintain, independently or in conjunction with any
11998 one or more of the party states, or its institutions or subdivisions, a suitable retirement system
11999 for its full-time employees. Employees of the board shall be eligible for social security
12000 coverage in respect of old age and survivors insurance provided that the board takes such steps
12001 as may be necessary pursuant to federal law to participate in such program of insurance as a
12002 governmental agency or unit. The board may establish and maintain or participate in such
12003 additional programs of employee benefits as may be appropriate.
12004 (g) The board may borrow, accept, or contract for the services of personnel from any
12005 state or the United States or any subdivision or agency thereof, from any interstate agency, or
12006 from any institution, person, firm or corporation.
12007 (h) The board may accept for any of its purposes and functions under this compact any
12008 and all donations, and grants of money, equipment, supplies, materials and services
12009 (conditional or otherwise) from any state or the United States or any subdivision or agency
12010 thereof, or interstate agency, or from any institution, person, firm, or corporation, and may
12011 receive, utilize, and dispose of the same. The nature, amount and conditions, if any, attendant
12012 upon any donation or grant accepted pursuant to this paragraph or upon any borrowing
12013 pursuant to paragraph (g) of this Article, together with the identity of the donor, grantor or
12014 lender, shall be detailed in the annual report of the board.
12015 (i) The board may establish and maintain such facilities as may be necessary for the
12016 transacting of its business. The board may acquire, hold, and convey real and personal property
12017 and any interest therein.
12018 (j) The board shall adopt bylaws, rules, and regulations for the conduct of its business,
12019 and shall have the power to amend and rescind these bylaws, rules, and regulations. The board
12020 shall publish its bylaws, rules, and regulations in convenient form and shall file a copy thereof,
12021 and shall also file a copy of any amendment thereto, with the appropriate agency or officer in
12022 each of the party states.
12023 (k) The board annually shall make to the governor of each party state, a report covering
12024 the activities of the board for the preceding year, and embodying such recommendations as

12025 may have been adopted by the board, which report shall be transmitted to the legislature of said
12026 state. The board may issue such additional reports as it may deem desirable.

12027 ARTICLE III. FINANCES

12028 (a) The board shall submit to the governor or designated officer or officers of each
12029 party state a budget of its estimated expenditures for such period as may be required by the
12030 laws of that jurisdiction for presentation to the legislature thereof.

12031 (b) Each of the board's budgets of estimated expenditures shall contain specific
12032 recommendations of the amount or amounts to be appropriated by each of the party states. Each
12033 of the board's requests for appropriations pursuant to a budget of estimated expenditures shall
12034 be apportioned equally among the party states. Subject to appropriation by their respective
12035 legislatures, the board shall be provided with such funds by each of the party states as are
12036 necessary to provide the means of establishing and maintaining facilities, a staff of personnel,
12037 and such activities as may be necessary to fulfill the powers and duties imposed upon and
12038 entrusted to the board.

12039 (c) The board may meet any of its obligations in whole or in part with funds available
12040 to it under Article II(h) of this compact, provided that the board takes specific action setting
12041 aside such funds prior to the incurring of any obligation to be met in whole or in part in this
12042 manner. Except where the board makes use of funds available to it under Article II(h) hereof,
12043 the board shall not incur any obligation prior to the allotment of funds by the party jurisdictions
12044 adequate to meet the same.

12045 (d) Any expenses and any other costs for each member of the board in attending board
12046 meetings shall be met by the board.

12047 (e) The board shall keep accurate accounts of all receipts and disbursements. The
12048 receipts and disbursements of the board shall be subject to the audit and accounting procedures
12049 established under its bylaws. However, all receipts and disbursements of funds handled by the
12050 board shall be audited yearly by a certified or licensed public accountant and the report of the
12051 audit shall be included in and become a part of the annual report of the board.

12052 (f) The accounts of the board shall be open at any reasonable time for inspection to
12053 persons authorized by the board, and duly designated representatives of governments
12054 contributing to the board's support.

12055 ARTICLE IV. ADVISORY COMMITTEES

12056 The board may establish such advisory and technical committees as it may deem
12057 necessary, membership on which may include but not be limited to private citizens, expert and
12058 lay personnel, representatives of industry, labor, commerce, agriculture, civic associations,
12059 medicine, education, voluntary health agencies, and officials of local, state and federal
12060 government, and may co-operate with and use the services of any such committees and the
12061 organizations which they represent in furthering any of its activities under this compact.

12062 ARTICLE V. POWERS

12063 The board shall have power to:
12064 (a) Encourage and promote co-operation among the party states in the development and
12065 utilization of nuclear and related technologies and their application to industry and other fields.
12066 (b) Ascertain and analyze on a continuing basis the position of the West with respect to
12067 the employment in industry of nuclear and related scientific findings and technologies.
12068 (c) Encourage the development and use of scientific advances and discoveries in
12069 nuclear facilities, energy, materials, products, by-products, and all other appropriate adaptations
12070 of scientific and technological advances and discoveries.
12071 (d) Collect, correlate, and disseminate information relating to the peaceful uses of
12072 nuclear energy, materials, and products, and other products and processes resulting from the
12073 application of related science and technology.
12074 (e) Encourage the development and use of nuclear energy, facilities, installations, and
12075 products as part of a balanced economy.
12076 (f) Conduct, or co-operate in conducting, programs of training for state and local
12077 personnel engaged in any aspects of:
12078 1. Nuclear industry, medicine, or education, or the promotion or regulation thereof.
12079 2. Applying nuclear scientific advances or discoveries, and any industrial, commercial
12080 or other processes resulting therefrom.
12081 3. The formulation or administration of measures designed to promote safety in any
12082 matter related to the development, use or disposal of nuclear energy, materials, products,
12083 by-products, installations, or wastes, or to safety in the production, use and disposal of any
12084 other substances peculiarly related thereto.
12085 (g) Organize and conduct, or assist and co-operate in organizing and conducting,
12086 demonstrations or research in any of the scientific, technological or industrial fields to which

12087 this compact relates.
12088 (h) Undertake such nonregulatory functions with respect to non-nuclear sources of
12089 radiation as may promote the economic development and general welfare of the West.
12090 (i) Study industrial, health, safety, and other standards, laws, codes, rules, regulations,
12091 and administrative practices in or related to nuclear fields.
12092 (j) Recommend such changes in, or amendments or additions to the laws, codes, rules,
12093 regulations, administrative procedures and practices or local laws or ordinances of the party
12094 states or their subdivisions in nuclear and related fields, as in its judgment may be appropriate.
12095 Any such recommendations shall be made through the appropriate state agency, with due
12096 consideration of the desirability of uniformity but shall also give appropriate weight to any
12097 special circumstances which may justify variations to meet local conditions.
12098 (k) Consider and make recommendations designed to facilitate the transportation of
12099 nuclear equipment, materials, products, by-products, wastes, and any other nuclear or related
12100 substances, in such manner and under such conditions as will make their availability or
12101 disposal practicable on an economic and efficient basis.
12102 (l) Consider and make recommendations with respect to the assumption of and
12103 protection against liability actually or potentially incurred in any phase of operations in nuclear
12104 and related fields.
12105 (m) Advise and consult with the federal government concerning the common position
12106 of the party states or assist party states with regard to individual problems where appropriate in
12107 respect to nuclear and related fields.
12108 (n) Cooperate with the Atomic Energy Commission, the National Aeronautics and
12109 Space Administration, the Office of Science and Technology, or any agencies successor
12110 thereto, and other officer or agency of the United States, and any other governmental unit or
12111 agency or officer thereof, and with any private persons or agencies in any of the fields of its
12112 interest.
12113 (o) Act as licensee, contractor or subcontractor of the United States Government or any
12114 party state with respect to the conduct of any research activity requiring such license or contract
12115 and operate such research facility or undertake any program pursuant thereto, provided that this
12116 power shall be exercised only in connection with the implementation of one or more other
12117 powers conferred upon the board by this compact.

12118 (p) Prepare, publish and distribute (with or without charge) such reports, bulletins,
12119 newsletters or other materials as it deems appropriate.
12120 (q) Ascertain from time to time such methods, practices, circumstances, and conditions
12121 as may bring about the prevention and control of nuclear incidents in the area comprising the
12122 party states, to co-ordinate the nuclear incident prevention and control plans and the work
12123 relating thereto of the appropriate agencies of the party states and to facilitate the rendering of
12124 aid by the party states to each other in coping with nuclear incidents.
12125 The board may formulate and, in accordance with need from time to time, revise a
12126 regional plan or regional plans for coping with nuclear incidents within the territory of the party
12127 states as a whole or within any subregion or subregions of the geographic area covered by this
12128 compact.
12129 Any nuclear incident plan in force pursuant to this paragraph shall designate the official
12130 or agency in each party state covered by the plan who shall co-ordinate requests for aid
12131 pursuant to Article VI of this compact and the furnishing of aid in response thereto.
12132 Unless the party states concerned expressly otherwise agree, the board shall not
12133 administer the summoning and dispatching of aid, but this function shall be undertaken directly
12134 by the designated agencies and officers of the party states.
12135 However, the plan or plans of the board in force pursuant to this paragraph shall
12136 provide for reports to the board concerning the occurrence of nuclear incidents and the requests
12137 for aid on account thereof, together with summaries of the actual working and effectiveness of
12138 mutual aid in particular instances.
12139 From time to time, the board shall analyze the information gathered from reports of aid
12140 pursuant to Article VI and such other instances of mutual aid as may have come to its attention,
12141 so that experience in the rendering of such aid may be available.
12142 (r) Prepare, maintain, and implement a regional plan or regional plans for carrying out
12143 the duties, powers, or functions conferred upon the board by this compact.
12144 (s) Undertake responsibilities imposed or necessarily involved with regional
12145 participation pursuant to such co-operative programs of the federal government as are useful in
12146 connection with the fields covered by this compact.
12147 ARTICLE VI. MUTUAL AID
12148 (a) Whenever a party state, or any state or local governmental authorities therein,

12149 request aid from any other party state pursuant to this compact in coping with a nuclear
12150 incident, it shall be the duty of the requested state to render all possible aid to the requesting
12151 state which is consonant with the maintenance of protection of its own people.
12152 (b) Whenever the officers or employees of any party state are rendering outside aid
12153 pursuant to the request of another party state under this compact, the officers or employees of
12154 such state shall, under the direction of the authorities of the state to which they are rendering
12155 aid, have the same powers, duties, rights, privileges and immunities as comparable officers and
12156 employees of the state to which they are rendering aid.
12157 (c) No party state or its officers or employees rendering outside aid pursuant to this
12158 compact shall be liable on account of any act or omission on their part while so engaged, or on
12159 account of the maintenance or use of any equipment or supplies in connection therewith.
12160 (d) All liability that may arise either under the laws of the requesting state or under the
12161 laws of the aiding state or under the laws of a third state on account of or in connection with a
12162 request for aid, shall be assumed and borne by the requesting state.
12163 (e) Any party state rendering outside aid pursuant to this compact shall be reimbursed
12164 by the party state receiving such aid for any loss or damage to, or expense incurred in the
12165 operation of any equipment answering a request for aid, and for the cost of all materials,
12166 transportation, wages, salaries and maintenance of officers, employees and equipment incurred
12167 in connection with such requests: provided that nothing herein contained shall prevent any
12168 assisting party state from assuming such loss, damage, expense or other cost or from loaning
12169 such equipment or from donating such services to the receiving party state without charge or
12170 cost.
12171 (f) Each party state shall provide for the payment of compensation and death benefits
12172 to injured officers and employees and the representatives of deceased officers and employees in
12173 case officers or employees sustain injuries or death while rendering outside aid pursuant to this
12174 compact, in the same manner and on the same terms as if the injury or death were sustained
12175 within the state by or in which the officer or employee was regularly employed.
12176 ARTICLE VII. SUPPLEMENTARY AGREEMENTS
12177 (a) To the extent that the board has not undertaken an activity or project which would
12178 be within its power under the provisions of Article V of this compact, any two or more of the
12179 party states (acting by their duly constituted administrative officials) may enter into

12180 supplementary agreements for the undertaking and continuance of such an activity or project.
12181 Any such agreement shall specify the purpose or purposes; its duration and the procedure for
12182 termination thereof or withdrawal therefrom; the method of financing and allocating the costs
12183 of the activity or project; and such other matters as may be necessary or appropriate.
12184 No such supplementary agreement entered into pursuant to this article shall become
12185 effective prior to its submission to and approval by the board. The board shall give such
12186 approval unless it finds that the supplementary agreement or activity or project contemplated
12187 thereby is inconsistent with the provisions of this compact or a program or activity conducted
12188 by or participated in by the board.
12189 (b) Unless all of the party states participate in a supplementary agreement, any cost or
12190 costs thereof shall be borne separately by the states party thereto. However, the board may
12191 administer or otherwise assist in the operation of any supplementary agreement.
12192 (c) No party to a supplementary agreement entered into pursuant to this article shall be
12193 relieved thereby of any obligation or duty assumed by said party state under or pursuant to this
12194 compact, except that timely and proper performance of such obligation or duty by means of the
12195 supplementary agreement may be offered as performance pursuant to the compact.
12196 (d) The provisions to this Article shall apply to supplementary agreements and
12197 activities thereunder, but shall not be construed to repeal or impair any authority which officers
12198 or agencies of party states may have pursuant to other laws to undertake cooperative
12199 arrangements or projects.
12200 ARTICLE VIII. OTHER LAWS AND RELATIONS
12201 Nothing in this compact shall be construed to:
12202 (a) Permit or require any person or other entity to avoid or refuse compliance with any
12203 law, rule, regulation, order or ordinance of a party state or subdivision thereof now or hereafter
12204 made, enacted or in force.
12205 (b) Limit, diminish, or otherwise impair jurisdiction exercised by the Atomic Energy
12206 Commission, any agency successor thereto, or any other federal department, agency or officer
12207 pursuant to and in conformity with any valid and operative act of Congress; nor limit, diminish,
12208 affect, or otherwise impair, jurisdiction exercised by any officer or agency of a party state,
12209 except to the extent that the provisions of this compact may provide therefor.
12210 (c) Alter the relations between and respective internal responsibilities of the

12211 government of a party state and its subdivisions.
12212 (d) Permit or authorize the board to own or operate any facility, reactor, or installation
12213 for industrial or commercial purposes.
12214 ARTICLE IX. ELIGIBLE PARTIES,
12215 ENTRY INTO FORCE AND WITHDRAWAL
12216 (a) Any or all of the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho,
12217 Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming shall be eligible to
12218 become party to this compact.
12219 (b) As to any eligible party state, this compact shall become effective when its
12220 legislature shall have enacted the same into law: provided, that it shall not become initially
12221 effective until enacted into law by five states.
12222 (c) Any party state may withdraw from this compact by enacting a statute repealing the
12223 same, but no such withdrawal shall take effect until two years after the governor of the
12224 withdrawing state has given notice in writing of the withdrawal to the governors of all other
12225 party states. No withdrawal shall affect any liability already incurred by or chargeable to a party
12226 state prior to the time of such withdrawal.
12227 (d) Guam and American Samoa, or either of them may participate in the compact to
12228 such extent as may be mutually agreed by the board and the duly constituted authorities of
12229 Guam or American Samoa, as the case may be. However, such participation shall not include
12230 the furnishing or receipt of mutual aid pursuant to Article VI, unless that Article has been
12231 enacted or otherwise adopted so as to have the full force and effect of law in the jurisdiction
12232 affected. Neither Guam nor American Samoa shall be entitled to voting participation on the
12233 board, unless it has become a full party to the compact.
12234 ARTICLE X. SEVERABILITY AND CONSTRUCTION
12235 The provisions of this compact and of any supplementary agreement entered into
12236 hereunder shall be severable and if any phrase, clause, sentence or provision of this compact or
12237 such supplementary agreement is declared to be contrary to the constitution of any participating
12238 state or of the United States or the applicability thereof to any government, agency, person, or
12239 circumstance is held invalid, the validity of the remainder of this compact or such
12240 supplementary agreement and the applicability thereof to any government, agency, person or
12241 circumstance shall not be affected thereby. If this compact or any supplementary agreement

12242 entered into hereunder shall be held contrary to the constitution of any state participating
12243 therein, the compact or such supplementary agreement shall remain in full force and effect as to
12244 the remaining states and in full force and effect as to the state affected as to all severable
12245 matters. The provisions of this compact and of any supplementary agreement entered into
12246 pursuant thereto shall be liberally construed to effectuate the purposes thereof.
12247 Section 263. Section **19-11-301**, which is renumbered from Section 63-41-4 is
12248 renumbered and amended to read:
12249 **Part 3. Utah Board Members**
12250 **[~~63-41-4~~]. 19-11-301. Utah member of board -- Designation.**
12251 The member of the board representing the state of Utah shall be designated by the
12252 governor of the state of Utah.
12253 Section 264. Section **19-11-302**, which is renumbered from Section 63-41-5 is
12254 renumbered and amended to read:
12255 **[~~63-41-5~~]. 19-11-302. Alternate member.**
12256 The alternate required pursuant to Article II(a) of the compact shall be designated by the
12257 board member representing this state and shall serve at [~~his~~] the board member's pleasure.
12258 Section 265. Section **19-11-401**, which is renumbered from Section 63-41-6 is
12259 renumbered and amended to read:
12260 **Part 4. Board Bylaws**
12261 **[~~63-41-6~~]. 19-11-401. Bylaws of board to be filed.**
12262 Pursuant to Article II(j) of the compact, the board shall file copies of its bylaws and any
12263 amendments thereto with the Division of Archives.
12264 Section 266. Section **20A-1-204** is amended to read:
12265 **20A-1-204. Date of special election -- Legal effect.**
12266 (1) (a) The governor, Legislature, or the legislative body of a local political subdivision
12267 calling a statewide special election or local special election under Section 20A-1-203 shall
12268 schedule the special election to be held on:
12269 (i) the fourth Tuesday in June; or
12270 (ii) the first Tuesday after the first Monday in November.
12271 (b) Except as provided in Subsection (1)(c), the governor, Legislature, or the legislative
12272 body of a local political subdivision calling a statewide special election or local special election

12273 under Section 20A-1-203 may not schedule a special election to be held on any other date.
12274 (c) (i) Notwithstanding the requirements of Subsection (1)(b), the legislative body of a
12275 local political subdivision may call a local special election on a date other than those specified
12276 in this section if the legislative body:
12277 (A) determines and declares that there is a disaster, as defined in Section [~~63-5-2~~]
12278 63K-3-102, requiring that a special election be held on a date other than the ones authorized in
12279 statute;
12280 (B) identifies specifically the nature of the disaster, as defined in Section [~~63-5-2~~]
12281 63K-3-102, and the reasons for holding the special election on that other date; and
12282 (C) votes unanimously to hold the special election on that other date.
12283 (ii) The legislative body of a local political subdivision may not call a local special
12284 election for the date established in Title 20A, Chapter 9, Part 8, Western States Presidential
12285 Primary, for Utah's Western States Presidential Primary.
12286 (d) Nothing in this section prohibits:
12287 (i) the governor or Legislature from submitting a matter to the voters at the regular
12288 general election if authorized by law; or
12289 (ii) a local government from submitting a matter to the voters at the regular municipal
12290 election if authorized by law.
12291 (2) (a) Two or more entities shall comply with Subsection (2)(b) if those entities hold a
12292 special election within a county on the same day as:
12293 (i) another special election;
12294 (ii) a regular general election; or
12295 (iii) a municipal general election.
12296 (b) Entities described in Subsection (2)(a) shall, to the extent practicable, coordinate:
12297 (i) polling places;
12298 (ii) ballots;
12299 (iii) election officials; and
12300 (iv) other administrative and procedural matters connected with the election.
12301 Section 267. Section **20A-2-104** is amended to read:
12302 **20A-2-104. Voter registration form -- Registered voter lists -- Fees for copies.**
12303 (1) Every person applying to be registered shall complete a registration form printed in

12304 substantially the following form:
12305 ----------
12306 UTAH ELECTION REGISTRATION FORM
12307 Are you a citizen of the United States of America? Yes No
12308 Will you be 18 years old on or before election day? Yes No
12309 If you checked "no" to either of the above two questions, do not complete this form.
12310 Name of Voter
12311 _____
12312 First Middle Last
12313 Driver License or Identification Card Number_____
12314 State of issuance of Driver License or Identification Card
12315 Date of Birth _____
12316 Street Address of Principal Place of Residence
12317 _____
12318 City County State Zip Code
12319 Telephone Number (optional) _____
12320 Last four digits of Social Security Number _____
12321 Last former address at which I was registered to vote (if
12322 known)_____
12323 _____
12324 City County State Zip Code
12325
12326 Political Party
12327
12328 (a listing of each registered political party, as defined in Section 20A-8-101 and maintained by
12329 the lieutenant governor under Section 67-1a-2, with each party's name preceded by a checkbox)
12330 □Unaffiliated (no political party preference) □Other (Please specify)_____
12331 I do swear (or affirm), subject to penalty of law for false statements, that the
12332 information contained in this form is true, and that I am a citizen of the United States and a
12333 resident of the state of Utah, residing at the above address. I will be at least 18 years old and
12334 will have resided in Utah for 30 days immediately before the next election. I am not a

12335 convicted felon currently incarcerated for commission of a felony.
12336 Signed and sworn
12337 _____
12338 Voter's Signature
12339 _____(month/day/year).
12340 CITIZENSHIP AFFIDAVIT
12341 Name:
12342 Name at birth, if different:
12343 Place of birth:
12344 Date of birth:
12345 Date and place of naturalization (if applicable):
12346 I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a
12347 citizen and that to the best of my knowledge and belief the information above is true and
12348 correct.
12349 _____
12350 Signature of Applicant
12351 In accordance with Section 20A-2-401, the penalty for willfully causing, procuring, or
12352 allowing yourself to be registered to vote if you know you are not entitled to register to vote is
12353 up to one year in jail and a fine of up to $2,500.
12354 NOTICE: IN ORDER TO BE ALLOWED TO VOTE IN A VOTING PRECINCT FOR THE
12355 FIRST TIME OR TO VOTE DURING THE EARLY VOTING PERIOD BEFORE THE
12356 DATE OF THE ELECTION, YOU MUST PRESENT VALID VOTER IDENTIFICATION
12357 TO THE POLL WORKER BEFORE VOTING AS FOLLOWS:
12358 (1) A VALID FORM OF PHOTO IDENTIFICATION THAT SHOWS YOUR NAME,
12359 PHOTOGRAPH, AND CURRENT ADDRESS; OR
12360 (2) TWO DIFFERENT FORMS OF IDENTIFICATION THAT SHOW YOUR NAME AND
12361 CURRENT ADDRESS.
12362 FOR OFFICIAL USE ONLY
12363 Type of I.D. _____
12364 Voting Precinct _____
12365 Voting I.D. Number _____

12366 ----------
12367 (2) The county clerk shall retain a copy in a permanent countywide alphabetical file,
12368 which may be electronic or some other recognized system.
12369 (3) (a) Each county clerk shall retain lists of currently registered voters.
12370 (b) The lieutenant governor shall maintain a list of registered voters in electronic form.
12371 (c) If there are any discrepancies between the two lists, the county clerk's list is the
12372 official list.
12373 (d) The lieutenant governor and the county clerks may charge the fees established
12374 under the authority of Subsection [~~63-2-203~~] 63G-2-203(10) to individuals who wish to obtain
12375 a copy of the list of registered voters.
12376 (4) When political parties not listed on the voter registration form qualify as registered
12377 political parties under Title 20A, Chapter 8, Political Party Formation and Procedures, the
12378 lieutenant governor shall inform the county clerks about the name of the new political party
12379 and direct the county clerks to ensure that the voter registration form is modified to include that
12380 political party.
12381 (5) Upon receipt of a voter registration form from an applicant, the county clerk or the
12382 clerk's designee shall:
12383 (a) review each voter registration form for completeness and accuracy; and
12384 (b) if the county clerk believes, based upon a review of the form, that a person may be
12385 seeking to register to vote who is not legally entitled to register to vote, refer the form to the
12386 county attorney for investigation and possible prosecution.
12387 Section 268. Section **20A-3-304.1** is amended to read:
12388 **20A-3-304.1. Election officer to provide voting history information and status.**
12389 (1) As used in this section:
12390 (a) "Qualified absentee ballot application" means an absentee ballot application filed
12391 under Section 20A-3-304 from a voter who the election officer determines is eligible to receive
12392 an absentee ballot.
12393 (b) "Voting history record" means the information about the existence and status of
12394 absentee ballot requests required by this section.
12395 (2) (a) Each election officer shall maintain, in the election officer's office, a voting
12396 history record of those voters that have cast a vote by:

12397 (i) absentee ballot; and
12398 (ii) early voting.
12399 (b) The voting history record is a public record under [~~Title 63, Chapter 2~~] Title 63G,
12400 Chapter 2, Government Records Access and Management Act.
12401 (3) The election officer shall ensure that the voting history record for each voting
12402 precinct contains:
12403 (a) for absentee voting:
12404 (i) the name and address of each person who has filed a qualified absentee ballot
12405 application;
12406 (ii) the date that the application was received; and
12407 (iii) the current status of each qualified absentee ballot application including
12408 specifically:
12409 (A) the date that the absentee ballot was mailed to the voter; and
12410 (B) the date that the voted absentee ballot was received by the election officer; and
12411 (b) for early voting:
12412 (i) the name and address of each person who has voted during the early voting period;
12413 and
12414 (ii) the date the person's vote was cast.
12415 (4) (a) Notwithstanding the time limits for response to a request for records under
12416 Section [~~63-2-204~~] 63G-2-204 or the time limits for a request for records established in any
12417 ordinance, the election officer shall ensure that the information required by this section is
12418 recorded and made available to the public no later than one business day after its receipt in the
12419 election officer's office.
12420 (b) Notwithstanding the fee requirements of Section [~~63-2-203~~] 63G-2-203 or the fee
12421 requirements established in any ordinance, the election officer shall make copies of the voting
12422 history record available to the public for the actual cost of production or copying.
12423 Section 269. Section **20A-3-408.5** is amended to read:
12424 **20A-3-408.5. Electronic registration and voting by military and overseas citizen**
12425 **voters in a hostile fire zone -- Procedures for accepting and processing a federal postcard**
12426 **application form -- Returned ballot.**
12427 (1) A military voter, an overseas citizen voter, or other voter covered under the federal

12428 Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) shall be allowed to
12429 transmit their federal postcard application form electronically to the county clerk in their
12430 county of residence if the voter is currently deployed in:
12431 (a) a hostile fire zone; or
12432 (b) other area where the mail service is unreliable and not sufficient to accommodate
12433 timely mail service.
12434 (2) A voter covered under Subsection (1), shall file the federal postcard application
12435 form no later than 20 days before the day of the election in accordance with Subsection
12436 20A-3-304(3)(a)(ii).
12437 (3) Upon receiving a federal postcard application form under this section a county clerk
12438 shall review the federal postcard application form to verify:
12439 (a) compliance with this section; and
12440 (b) that the form has been properly completed and signed.
12441 (4) Upon a determination of compliance under Subsection (3), a county clerk shall:
12442 (a) register the voter, unless the voter is already registered;
12443 (b) process the absentee ballot request; and
12444 (c) electronically transmit a ballot to the voter who filed the federal postcard
12445 application form.
12446 (5) A voter who receives a ballot under this section may transmit the ballot
12447 electronically to the county clerk in their county of residence if the voter:
12448 (a) agrees to waive the right to a secret ballot in accordance with this section; and
12449 (b) affirms in writing that the voter is currently deployed in:
12450 (i) a hostile fire zone; or
12451 (ii) other area where the mail service is unreliable and not sufficient to accommodate
12452 timely mail service.
12453 (6) The electronically transmitted ballot shall be accompanied by the following
12454 statements: "I understand that by electronically transmitting my voted ballot I am voluntarily
12455 waiving my right to a secret ballot. Signature of voter _____ Date _____"; and
12456 "I affirm that I am currently deployed in a hostile fire zone" or
12457 "I affirm that I am currently deployed in an area where mail service is unreliable and not
12458 sufficient to accommodate timely mail service."

12459 (7) Notwithstanding the provisions of Subsections (5) and (6), the completed ballot
12460 transmitted under this section is considered a private record under [~~Title 63, Chapter 2~~] Title
12461 63G, Chapter 2, Government Records Access and Management Act.
12462 (8) A ballot transmitted under Subsection (5) shall be:
12463 (a) transmitted no later than the date that is one day before the election day in
12464 accordance with Section 20A-3-406; and
12465 (b) received by the county clerk before the date of the official canvass in accordance
12466 with Subsection 20A-3-306(2)(b).
12467 (9) Upon the receipt of an electronically transmitted ballot under this section, a county
12468 clerk shall:
12469 (a) verify the voter's signature from the federal postcard application form and ensure
12470 that it matches the voter's signature on the return ballot;
12471 (b) duplicate the electronically transmitted ballot onto a regular ballot used by the
12472 county for resident voters; and
12473 (c) maintain the electronically transmitted ballot for 22 months in accordance with
12474 Subsection 20A-4-202(2).
12475 Section 270. Section **20A-9-206** is amended to read:
12476 **20A-9-206. Fair campaign practices -- Voluntary pledge -- Pledge is a public**
12477 **record -- Retention requirements.**
12478 (1) Each person seeking to become a candidate for any elective office that is to be
12479 filled at the next election shall be provided with a copy of the pledge of fair campaign
12480 practices.
12481 (2) The pledge shall be in the following form:
12482 "PLEDGE OF FAIR CAMPAIGN PRACTICES
12483 There are basic principles of decency, honesty, and fair play which every candidate for
12484 public office in the State of Utah has a moral obligation to observe and uphold, in order that,
12485 after vigorously contested but fairly conducted campaigns, our citizens may exercise their right
12486 to a free election, and that the will of the people may be fully and clearly expressed on the
12487 issues.
12488 THEREFORE:
12489 I SHALL conduct my campaign openly and publicly, discussing the issues as I see

12490 them, presenting my record and policies with sincerity and frankness, and criticizing, without
12491 fear or favor, the record and policies of my opponents that I believe merit criticism.
12492 I SHALL NOT use nor shall I permit the use of scurrilous attacks on any candidate or
12493 the candidate's immediate family. I shall not participate in or nor shall I permit the use of
12494 defamation, libel, or slander against any candidate or the candidate's immediate family. I shall
12495 not participate in nor shall I permit the use of any other criticism of any candidate or the
12496 candidate's immediate family that I do not believe to be truthful, provable, and relevant to my
12497 campaign.
12498 I SHALL NOT use nor shall I permit the use of any practice that tends to corrupt or
12499 undermine our American system of free elections, or that hinders or prevents the free
12500 expression of the will of the voters, including practices intended to hinder or prevent any
12501 eligible person from registering to vote or voting.
12502 I SHALL NOT coerce election help or campaign contributions for myself or for any
12503 other candidate from my employees or volunteers.
12504 I SHALL immediately and publicly repudiate support deriving from any individual or
12505 group which resorts, on behalf of my candidacy or in opposition to that of an opponent, to
12506 methods in violation of the letter or spirit of this pledge. I shall accept responsibility to take
12507 firm action against any subordinate who violates any provision of this pledge or the laws
12508 governing elections.
12509 I SHALL defend and uphold the right of every qualified American voter to full and
12510 equal participation in the electoral process.
12511 I, the undersigned, candidate for election to public office in the State of Utah, hereby
12512 voluntarily endorse, subscribe to, and solemnly pledge myself to conduct my campaign in
12513 accordance with the above principles and practices."
12514 Name: _____
12515 Signature: _____ Date: _____
12516 (3) The filing officer shall print, or cause to be printed, blank forms of the pledge to be
12517 distributed to persons filing a declaration of candidacy.
12518 (4) A pledge that is submitted for filing by a candidate is a public record under [~~Title~~
12519 ~~63, Chapter 2~~] Title 63G, Chapter 2, Government Records Access and Management Act.
12520 (5) The filing officer shall:

12521 (a) accept all signed pledges that are submitted for filing; and
12522 (b) retain each filed pledge for public inspection for 30 calendar days after the election.
12523 (6) A candidate may not be required to subscribe to, endorse, or sign the pledge of fair
12524 campaign practices.
12525 Section 271. Section **20A-12-104** is amended to read:
12526 **20A-12-104. Procedures governing meetings of judicial nominating commissions.**
12527 (1) The Judicial Council shall:
12528 (a) enact rules establishing procedures governing the meetings of the judicial
12529 nominating commissions; and
12530 (b) ensure that those procedures include:
12531 (i) a minimum recruitment period of 30 days and a procedure to extend that period for
12532 an additional 30 days if fewer than nine applications are received for a judicial vacancy;
12533 (ii) standards for maintaining the confidentiality of the applications and related
12534 documents;
12535 (iii) standards governing the release of applicant names before nomination;
12536 (iv) standards for destroying the records of the names of applicants, applications, and
12537 related documents upon completion of the nominating process;
12538 (v) an opportunity for public comment concerning the nominating process,
12539 qualifications for judicial office, and individual applicants;
12540 (vi) evaluation criteria for the selection of judicial nominees;
12541 (vii) procedures for taking summary minutes at nominating commission meetings;
12542 (viii) procedures for simultaneously forwarding the names of nominees to the
12543 governor, the president of the Senate, and the Office of Legislative Research and General
12544 Counsel; and
12545 (ix) standards governing a nominating commissioner's disqualification and inability to
12546 serve.
12547 (2) (a) (i) Except as provided in this Subsection (2)(a)(ii), if a judicial nominating
12548 commission receives 15 or more applications to fill a judicial vacancy, the nominating
12549 commission shall submit at least five names to the governor.
12550 (ii) Notwithstanding Subsection (2)(a)(i), if five applicants do not receive the required
12551 number of votes as specified in Subsection (2)(c) from the nominating commission, the

12552 commission shall submit only the names of applicants that received the required number of
12553 votes, but must submit the names of at least three applicants.
12554 (b) In determining whether or not to submit an applicant's name to the governor, a
12555 commission may not decline to consider an applicant merely because:
12556 (i) the nominating commission had declined to submit that candidate's name to the
12557 governor to fill a previous vacancy;
12558 (ii) a previous nominating commission had declined to submit that candidate's name to
12559 the governor; or
12560 (iii) that nominating commission or a previous nominating commission had submitted
12561 the applicant's name to the governor and the governor selected someone else to fill the vacancy.
12562 (c) The vote required to submit an applicant's name to the governor is as follows:
12563 (i) if all seven members of the nominating commission are present and considering
12564 applicants, a vote in favor of the applicant by four commissioners submits the candidate's name
12565 to the governor;
12566 (ii) if only six members of the nominating commission are present and considering
12567 applicants because one member is unable to attend, has recused himself or is otherwise
12568 disqualified, a vote in favor of the applicant by four commissioners submits the candidate's
12569 name to the governor;
12570 (iii) if only five members of the nominating commission are present and considering
12571 applicants because two members are unable to attend, have recused themselves, or are
12572 otherwise disqualified, a vote in favor of the applicant by three commissioners submits the
12573 candidate's name to the governor; and
12574 (iv) if only four members of the nominating commission are present and considering
12575 applicants because three members are unable to attend, have recused themselves, or are
12576 otherwise disqualified, a vote in favor of the applicant by three commissioners submits the
12577 candidate's name to the governor.
12578 (3) A judicial nominating commission may not nominate a justice or judge who was
12579 not retained by the voters for the office for which the justice or judge was defeated until after
12580 the expiration of that term of office.
12581 (4) Judicial nominating commissions are exempt from the requirements of Title 52,
12582 Chapter 4, Open and Public Meetings Act, and [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,

12583 Utah Administrative Rulemaking Act.
12584 Section 272. Section **23-14-2.1** is amended to read:
12585 **23-14-2.1. Procedures -- Adjudicative proceedings.**
12586 The Division of Wildlife Resources shall comply with the procedures and requirements
12587 of [~~Title 63, Chapter 46b,~~] Title 63G, Chapter 4, Administrative Procedures Act, in its
12588 adjudicative proceedings.
12589 Section 273. Section **23-14-18** is amended to read:
12590 **23-14-18. Establishment of seasons, locations, limits, and regulations by Wildlife**
12591 **Board.**
12592 (1) To provide an adequate and flexible system of protection, propagation,
12593 introduction, increase, control, harvest, management, and conservation of protected wildlife in
12594 this state and to provide for the use and development of protected wildlife for public recreation
12595 and food supply while maintaining a sustainable population of protected wildlife, the Wildlife
12596 Board shall determine the circumstances, time, location, means, and the amounts, and numbers
12597 of protected wildlife which may be taken.
12598 (2) The Wildlife Board shall, except as otherwise specified in this code:
12599 (a) fix seasons and shorten, extend, or close seasons on any species of protected
12600 wildlife in any locality, or in the entire state, if the board finds that the action is necessary to
12601 effectuate proper wildlife management and control;
12602 (b) close or open areas to fishing, trapping, or hunting;
12603 (c) establish refuges and preserves;
12604 (d) regulate and prescribe the means by which protected wildlife may be taken;
12605 (e) regulate the transportation and storage of protected wildlife, or their parts, within
12606 the boundaries of the state and the shipment or transportation out of the state;
12607 (f) establish or change bag limits and possession limits;
12608 (g) prescribe safety measures and establish other regulations as may be considered
12609 necessary in the interest of wildlife conservation and the safety and welfare of hunters,
12610 trappers, fishermen, landowners, and the public;
12611 (h) (i) prescribe when licenses, permits, tags, and certificates of registration shall be
12612 required and procedures for their issuance and use; and
12613 (ii) establish forms and fees for licenses, permits, tags, and certificates of registration;

12614 and
12615 (i) prescribe rules and regulations as it may consider necessary to control the use and
12616 harvest of protected wildlife by private associations, clubs, partnerships, or corporations,
12617 provided the rules and regulations do not preclude the landowner from personally controlling
12618 trespass upon the owner's properties nor from charging a fee to trespass for purposes of hunting
12619 or fishing.
12620 (3) The Wildlife Board may allow a season on protected wildlife to commence on any
12621 day of the week except Sunday.
12622 (4) The Wildlife Board shall establish fees for licenses, permits, tags, and certificates
12623 of registration in accordance with Section [~~63-38-3.2~~] 63J-1-303.
12624 Section 274. Section **23-14-21** is amended to read:
12625 **23-14-21. Transplants of big game, turkeys, wolves, or sensitive species.**
12626 (1) The division may transplant big game, turkeys, wolves, or sensitive species only in
12627 accordance with:
12628 (a) a list of sites for the transplant of a particular species that is prepared and adopted in
12629 accordance with Subsections (2) through (5);
12630 (b) a species management plan, such as a deer or elk management plan adopted under
12631 Section 23-16-7 or a recovery plan for a threatened or endangered species, provided that:
12632 (i) the plan identifies sites for the transplant of the species or the lands or waters the
12633 species are expected to occupy; and
12634 (ii) the public has had an opportunity to comment and make recommendations on the
12635 plan; or
12636 (c) a legal agreement between the state and a tribal government that identifies potential
12637 transplants; and
12638 (d) the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.
12639 (2) The division shall:
12640 (a) consult with the landowner in determining the suitability of a site for the transplant
12641 of a species;
12642 (b) prepare a list of proposed sites for the transplant of species;
12643 (c) provide notification of proposed sites for the transplant of species to:
12644 (i) local government officials having jurisdiction over areas that may be affected by a

12645 transplant; and
12646 (ii) the Resource Development Coordinating Committee created in Section
12647 [~~63-38d-501~~] 63J-4-501.
12648 (3) After receiving comments from local government officials and the Resource
12649 Development Coordinating Committee, the division shall submit the list of proposed transplant
12650 sites, or a revised list, to regional advisory councils for regions that may be affected by the
12651 transplants of species.
12652 (4) Each regional advisory council reviewing a list of proposed sites for the transplant
12653 of species may submit recommendations to the Wildlife Board.
12654 (5) The Wildlife Board shall approve, modify, or reject each proposal for the transplant
12655 of a species.
12656 (6) Each list of proposed transplant sites approved by the Wildlife Board shall have a
12657 termination date after which a transplant may not occur.
12658 Section 275. Section **23-16-3.2** is amended to read:
12659 **23-16-3.2. Mitigation review panel.**
12660 (1) A mitigation review panel may be convened to review the depredation mitigation
12661 plans.
12662 (2) Membership of the mitigation review panel shall consist of:
12663 (a) the division director or the director's designee;
12664 (b) (i) the commissioner of the Department of Agriculture and Food or the
12665 commissioner's designee; or
12666 (ii) a representative of agricultural interests appointed by the commissioner of the
12667 Department of Agriculture and Food; and
12668 (c) a representative of Utah State University Extension Service appointed by the Vice
12669 President and Dean for University Extension.
12670 (3) (a) The division director shall convene a mitigation review panel if:
12671 (i) a landowner or lessee appeals a depredation mitigation plan under Subsection
12672 23-16-3.1(2)(b)(ii); or
12673 (ii) the division director requests review of a depredation mitigation plan.
12674 (b) Within five business days of an appeal under Subsection 23-16-3.1(2)(b)(ii) or a
12675 division request for review under Subsection 23-16-3.1(3)(b), the mitigation review panel shall

12676 review the depredation mitigation plan and approve or modify the plan.
12677 (4) Judicial review of a mitigation review panel action shall be governed by [~~Title 63,~~
12678 ~~Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
12679 Section 276. Section **23-16-4** is amended to read:
12680 **23-16-4. Compensation for damage to crops, fences, or irrigation equipment --**
12681 **Limitations -- Appeals.**
12682 (1) The division may provide compensation to claimants for damage caused by big
12683 game to:
12684 (a) cultivated crops from or on cleared and planted land;
12685 (b) fences on private land; or
12686 (c) irrigation equipment on private land.
12687 (2) To be eligible to receive compensation as provided in this section, the claimant:
12688 (a) must notify the division of the damage within 72 hours after the damage is
12689 discovered; and
12690 (b) allow division personnel reasonable access to the property to verify and alleviate
12691 the depredation problem.
12692 (3) (a) The appraisal of the damage shall be made by the claimant and the division as
12693 soon after notification as possible.
12694 (b) In determining damage payment, the division and claimant shall consider:
12695 (i) the extent of damage experienced; and
12696 (ii) any revenue the landowner derives from:
12697 (A) participation in a cooperative wildlife management unit;
12698 (B) use of landowner association permits;
12699 (C) use of mitigation permits; and
12700 (D) charging for hunter access.
12701 (c) In determining how to assess and compensate for damages to cultivated crops, the
12702 division's determination shall be based on the:
12703 (i) full replacement value in the local market of the cultivated crops that actually have
12704 been or will be damaged or consumed by big game animals; and
12705 (ii) cost of delivery of a replacement crop to the location of the damaged crop or other
12706 location that is not farther from the source of the replacement crop.

12707 (d) If the claimant and the division are unable to agree on a fair and equitable damage
12708 payment, they shall designate a third party, consisting of one or more persons familiar with the
12709 crops, fences, or irrigation equipment and the type of game animals doing the damage, to
12710 appraise the damage.
12711 (4) (a) Notwithstanding Section [~~63-38-3.2~~] 63J-1-303, the total amount of
12712 compensation that may be provided by the division pursuant to this section and the total cost of
12713 fencing materials provided by the division to prevent crop damage may not exceed the
12714 legislative appropriation for fencing material and compensation for damaged crops, fences, and
12715 irrigation equipment.
12716 (b) (i) Any claim of $1,000 or less may be paid after appraisal of the damage as
12717 provided in Subsection (3), unless the claim brings the total amount of claims submitted by the
12718 claimant in the fiscal year to an amount in excess of $1,000.
12719 (ii) Any claim for damage to irrigation equipment may be paid after appraisal of the
12720 damage as provided in Subsection (3).
12721 (c) (i) Any claim in excess of $1,000, or claim that brings the total amount of claims
12722 submitted by the claimant in the fiscal year to an amount in excess of $1,000, shall be treated
12723 as follows:
12724 (A) $1,000 may be paid pursuant to the conditions of this section; and
12725 (B) the amount in excess of $1,000 may not be paid until the total amount of the
12726 approved claims of all the claimants and expenses for fencing materials for the fiscal year are
12727 determined.
12728 (ii) If the total exceeds the amount appropriated by the Legislature pursuant to
12729 Subsection (4)(a), claims in excess of $1,000, or any claim that brings the total amount of a
12730 claimant's claims in a fiscal year to an amount in excess of $1,000, shall be prorated.
12731 (5) The division may deny or limit compensation if the claimant:
12732 (a) has failed to exercise reasonable care and diligence to avoid the loss or minimize
12733 the damage; or
12734 (b) has unreasonably restricted hunting on land under the claimant's control or passage
12735 through the land to access public lands for the purpose of hunting, after receiving written
12736 notification from the division of the necessity of allowing such hunting or access to control or
12737 mitigate damage by big game.

12738 (6) (a) The Wildlife Board shall make rules specifying procedures for the appeal of
12739 division actions under this section.
12740 (b) Upon the petition of an aggrieved party to a final division action, the Wildlife
12741 Board may review the action on the record and issue an order modifying or rescinding the
12742 division action.
12743 (c) A qualified hearing examiner may be appointed for purposes of taking evidence and
12744 making recommendations for a board order. The board shall consider the recommendations of
12745 the examiner in making decisions.
12746 (d) Board review of final agency action and judicial review of final board action shall
12747 be governed by [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
12748 Section 277. Section **23-19-9** is amended to read:
12749 **23-19-9. Suspension of license or permit privileges -- Suspension of certificates of**
12750 **registration.**
12751 (1) As used in this section, "license or permit privileges" means the privilege of
12752 applying for, purchasing, and exercising the benefits conferred by a license or permit issued by
12753 the division.
12754 (2) A hearing officer, appointed by the division, may suspend a person's license or
12755 permit privileges if:
12756 (a) in a court of law, the person:
12757 (i) is convicted of:
12758 (A) violating this title or a rule of the Wildlife Board;
12759 (B) killing or injuring domestic livestock while engaged in an activity regulated under
12760 this title; or
12761 (C) violating Section 76-10-508 while engaged in an activity regulated under this title;
12762 (ii) enters into a plea in abeyance agreement, in which the person pleads guilty or no
12763 contest to an offense listed in Subsection (2)(a)(i), and the plea is held in abeyance; or
12764 (iii) is charged with committing an offense listed in Subsection (2)(a)(i), and the person
12765 enters into a diversion agreement which suspends the prosecution of the offense; and
12766 (b) the hearing officer determines the person committed the offense intentionally,
12767 knowingly, or recklessly, as defined in Section 76-2-103.
12768 (3) (a) The Wildlife Board shall make rules establishing guidelines that a hearing

12769 officer shall consider in determining:
12770 (i) the type of license or permit privileges to suspend; and
12771 (ii) the duration of the suspension.
12772 (b) The Wildlife Board shall ensure that the guidelines established under Subsection
12773 (3)(a) are consistent with Subsections (4), (5), and (6).
12774 (4) Except as provided in Subsections (5) and (6), a hearing officer may suspend a
12775 person's license or permit privileges according to Subsection (2) for a period of time not to
12776 exceed:
12777 (a) seven years for:
12778 (i) a felony conviction;
12779 (ii) a plea of guilty or no contest to an offense punishable as a felony, which plea is
12780 held in abeyance pursuant to a plea in abeyance agreement; or
12781 (iii) being charged with an offense punishable as a felony, the prosecution of which is
12782 suspended pursuant to a diversion agreement;
12783 (b) five years for:
12784 (i) a class A misdemeanor conviction;
12785 (ii) a plea of guilty or no contest to an offense punishable as a class A misdemeanor,
12786 which plea is held in abeyance pursuant to a plea in abeyance agreement; or
12787 (iii) being charged with an offense punishable as a class A misdemeanor, the
12788 prosecution of which is suspended pursuant to a diversion agreement;
12789 (c) three years for:
12790 (i) a class B misdemeanor conviction;
12791 (ii) a plea of guilty or no contest to an offense punishable as a class B misdemeanor
12792 when the plea is held in abeyance according to a plea in abeyance agreement; or
12793 (iii) being charged with an offense punishable as a class B misdemeanor, the
12794 prosecution of which is suspended pursuant to a diversion agreement; and
12795 (d) one year for:
12796 (i) a class C misdemeanor conviction;
12797 (ii) a plea of guilty or no contest to an offense punishable as a class C misdemeanor,
12798 when the plea is held in abeyance according to a plea in abeyance agreement; or
12799 (iii) being charged with an offense punishable as a class C misdemeanor, the

12800 prosecution of which is suspended according to a diversion agreement.
12801 (5) The hearing officer may double a suspension period established in Subsection (4)
12802 for offenses:
12803 (a) committed in violation of an existing suspension or revocation order issued by the
12804 courts, division, or Wildlife Board; or
12805 (b) involving the unlawful taking of a trophy animal, as defined in Section 23-13-2.
12806 (6) (a) A hearing officer may suspend, according to Subsection (2), a person's license
12807 or permit privileges for a particular license or permit only once for each single criminal
12808 episode, as defined in Section 76-1-401.
12809 (b) If a hearing officer addresses two or more single criminal episodes in a hearing, the
12810 suspension periods of any license or permit privileges of the same type suspended, according to
12811 Subsection (2), may run consecutively.
12812 (c) If a hearing officer suspends, according to Subsection (2), license or permit
12813 privileges of the type that have been previously suspended by a court, a hearing officer, or the
12814 Wildlife Board and the suspension period has not expired, the suspension periods may run
12815 consecutively.
12816 (7) (a) A hearing officer, appointed by the division, may suspend a person's privilege of
12817 applying for, purchasing, and exercising the benefits conferred by a certificate of registration if:
12818 (i) the hearing officer determines the person intentionally, knowingly, or recklessly, as
12819 defined in Section 76-2-103, violated:
12820 (A) this title;
12821 (B) a rule or order of the Wildlife Board;
12822 (C) the terms of a certificate of registration; or
12823 (D) the terms of a certificate of registration application or agreement; or
12824 (ii) the person, in a court of law:
12825 (A) is convicted of an offense that the hearing officer determines bears a reasonable
12826 relationship to the person's ability to safely and responsibly perform the activities authorized by
12827 the certificate of registration;
12828 (B) pleads guilty or no contest to an offense that the hearing officer determines bears a
12829 reasonable relationship to the person's ability to safely and responsibly perform the activities
12830 authorized by the certificate of registration, and the plea is held in abeyance in accordance with

12831 a plea in abeyance agreement; or
12832 (C) is charged with an offense that the hearing officer determines bears a reasonable
12833 relationship to the person's ability to safely and responsibly perform the activities authorized by
12834 the certificate of registration, and prosecution of the offense is suspended in accordance with a
12835 diversion agreement.
12836 (b) All certificates of registration for the harvesting of brine shrimp eggs, as defined in
12837 Section 59-23-3, shall be suspended by a hearing officer, if the hearing officer determines the
12838 holder of the certificates of registration has violated Section 59-23-5.
12839 (8) (a) The director shall appoint a qualified person as a hearing officer to perform the
12840 adjudicative functions provided in this section.
12841 (b) The director may not appoint a division employee who investigates or enforces
12842 wildlife violations.
12843 (9) (a) The courts may suspend, in criminal sentencing, a person's privilege to apply
12844 for, purchase, or exercise the benefits conferred by a license, permit, or certificate of
12845 registration.
12846 (b) The courts shall promptly notify the division of any suspension orders or
12847 recommendations entered.
12848 (c) The division, upon receiving notification of suspension from the courts, shall
12849 prohibit the person from applying for, purchasing, or exercising the benefits conferred by a
12850 license, permit, or certification of registration for the duration and of the type specified in the
12851 court order.
12852 (d) The hearing officer shall consider any recommendation made by a sentencing court
12853 concerning suspension before issuing a suspension order.
12854 (10) (a) A person may not apply for, purchase, possess, or attempt to exercise the
12855 benefits conferred by any permit, license, or certificate of registration specified in an order of
12856 suspension while that order is in effect.
12857 (b) Any license possessed or obtained in violation of the order shall be considered
12858 invalid.
12859 (c) A person who violates Subsection (10)(a) is guilty of a class B misdemeanor.
12860 (11) Before suspension under this section, a person must be:
12861 (a) given written notice of any action the division intends to take; and

12862 (b) provided with an opportunity for a hearing.
12863 (12) (a) A person may file an appeal of a hearing officer's decision with the Wildlife
12864 Board.
12865 (b) The Wildlife Board shall review the hearing officer's findings and conclusions and
12866 any written documentation submitted at the hearing.
12867 (c) The Wildlife Board may:
12868 (i) take no action;
12869 (ii) vacate or remand the decision; or
12870 (iii) amend the period or type of suspension.
12871 (13) The division shall suspend and reinstate all hunting, fishing, trapping, and
12872 falconry privileges consistent with Title 23, Chapter 25, Wildlife Violator Compact.
12873 (14) The Wildlife Board may make rules to implement this section in accordance with
12874 [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
12875 Section 278. Section **23-19-38.2** is amended to read:
12876 **23-19-38.2. Refunds for armed forces or public health or safety organization**
12877 **members -- Criteria.**
12878 (1) A member of the United States Armed Forces or public health or public safety
12879 organization who is mobilized or deployed on order in the interest of national defense or
12880 emergency and is precluded from using a purchased license, certificate, tag, or permit, may, as
12881 provided in Subsection (2):
12882 (a) receive a refund from the division; and
12883 (b) if the person has drawn a permit, have all opportunities to draw that permit in a
12884 future draw reinstated.
12885 (2) To qualify, the person or a legal representative must:
12886 (a) notify the division within a reasonable amount of time that the person is applying
12887 for a refund;
12888 (b) surrender the license, certificate, tag, or permit to the division; and
12889 (c) furnish satisfactory proof to the division that the person:
12890 (i) is a member of:
12891 (A) the United States Armed Forces;
12892 (B) a public health organization; or

12893 (C) a public safety organization; and
12894 (ii) was precluded from using the license, certificate, tag, or permit as a result of being
12895 called to active duty.
12896 (3) The Wildlife Board may adopt rules in accordance with [~~Title 63, Chapter 46a~~]
12897 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to administer this
12898 section including allowing retroactive refund to September 11, 2001.
12899 Section 279. Section **23-21-2.3** is amended to read:
12900 **23-21-2.3. Review and adoption of management plans.**
12901 (1) The division shall submit the draft management plan to the Resource Development
12902 Coordinating Committee created in Section [~~63-38d-501~~] 63J-4-501 and the Habitat Council
12903 created by the division for their review and recommendations.
12904 (2) The division shall submit the draft management plan and any recommendations
12905 received from the Resource Development Coordinating Committee and the Habitat Council to:
12906 (a) the regional advisory council for the wildlife region in which the lands covered by
12907 the management plan are located; and
12908 (b) the regional advisory council for any wildlife region that may be affected by the
12909 management plan.
12910 (3) Each regional advisory council reviewing the draft management plan may make
12911 recommendations to the division director.
12912 (4) The division director has authority to adopt the management plan, adopt the plan
12913 with amendments, or reject the plan.
12914 (5) At the request of the division director or any member of the Wildlife Board, the
12915 Wildlife Board may review a management plan to determine whether the plan is consistent
12916 with board policies.
12917 (6) The division director may amend a management plan in accordance with
12918 recommendations made by the Wildlife Board.
12919 Section 280. Section **23-24-1** is amended to read:
12920 **23-24-1. Procedure to obtain compensation for livestock damage done by bear,**
12921 **mountain lion, or eagle.**
12922 (1) As used in this section:
12923 (a) "Damage" means injury or loss to livestock.

12924 (b) "Division" means the Division of Wildlife Resources.
12925 (c) "Livestock" means cattle, sheep, goats, or turkeys.
12926 (2) (a) When livestock are damaged by a bear, mountain lion, or an eagle, the owner
12927 may receive compensation for the fair market value of the damage.
12928 (b) To obtain this compensation, the owner of the damaged livestock shall notify the
12929 division of the damage as soon as possible, but no later than four days after the damage is
12930 discovered.
12931 (c) The owner must notify the division each time any damage is discovered.
12932 (3) The livestock owner shall file a proof of loss form, provided by the division, no
12933 later than 30 days after the original notification of damage was given to the division by the
12934 owner.
12935 (4) (a) (i) The division, with the assistance of the Department of Agriculture and Food
12936 shall:
12937 (A) within 30 days after the owner files the proof of loss form, either accept or deny the
12938 claim for damages; and
12939 (B) subject to Subsections (4)(a)(ii) through (4)(a)(iv), pay all accepted claims to the
12940 extent money appropriated by the Legislature is available for this purpose.
12941 (ii) Money appropriated from the Wildlife Resources Account may be used to provide
12942 compensation for only up to 50% of the fair market value of any damaged livestock.
12943 (iii) Money appropriated from the Wildlife Resources Account may not be used to
12944 provide compensation for livestock damaged by an eagle.
12945 (iv) The division may not pay any eagle damage claim until the division has paid all
12946 accepted mountain lion and bear damage claims for the fiscal year.
12947 (b) The division may not pay mountain lion, bear, or eagle damage claims to a
12948 livestock owner unless the owner has filed a completed livestock form and the appropriate fee
12949 as outlined in Section 4-23-7 for the immediately preceding and current year.
12950 (c) (i) Unless the division denies a claim for the reason identified in Subsection (4)(b),
12951 the owner may appeal the decision to a panel consisting of one person selected by the owner,
12952 one person selected by the division, and a third person selected by the first two panel members.
12953 (ii) The panel shall decide whether the division should pay all of the claim, a portion of
12954 the claim, or none of the claim.

12955 (5) By following the procedures and requirements of [~~Title 63, Chapter 46a~~] Title 63G,
12956 Chapter 3, Utah Administrative Rulemaking Act, the Wildlife Board may make and enforce
12957 rules to administer and enforce this section.
12958 Section 281. Section **24-1-19** is amended to read:
12959 **24-1-19. Crime Reduction Assistance Program.**
12960 (1) There is created the Crime Reduction Assistance Program.
12961 (2) The program shall fund crime prevention and law enforcement activities that have
12962 the purpose of:
12963 (a) deterring crime by depriving criminals of the profits and proceeds of their illegal
12964 activities;
12965 (b) weakening criminal enterprises by removing the instrumentalities of crime;
12966 (c) reducing crimes involving substance abuse by supporting the creation,
12967 administration, or operation of drug court programs throughout the state;
12968 (d) encouraging cooperation between local, state, and multijurisdictional law
12969 enforcement agencies;
12970 (e) allowing the costs and expenses of law enforcement to be defrayed by the forfeited
12971 proceeds of crime; and
12972 (f) increasing the equitability and accountability of the use of forfeited property used to
12973 assist law enforcement in reducing and preventing crime.
12974 (3) (a) When property is forfeited under this chapter and transferred to the fund, the
12975 Commission on Criminal and Juvenile Justice shall make awards of monies from the fund to
12976 state, local, or multijurisdictional law enforcement agencies or political subdivisions of the
12977 state in compliance with this section and to further the program purposes under Subsection (2).
12978 (b) In granting the awards, the Commission on Criminal and Juvenile Justice shall
12979 ensure that the amount of each award takes into consideration:
12980 (i) the demonstrated needs of the agency;
12981 (ii) the demonstrated ability of the agency to appropriately use the award;
12982 (iii) the degree to which the agency's need is offset through the agency's participation in
12983 federal equitable sharing or through other federal and state grant programs; and
12984 (iv) the agency's cooperation with other state and local agencies and task forces.
12985 (4) Agencies or political subdivisions shall apply for program awards by completing

12986 and submitting forms specified by the Commission on Criminal and Juvenile Justice.
12987 (5) Applying agencies or political subdivisions shall demonstrate compliance with all
12988 reporting and policy requirements applicable under this chapter and under [~~Title 63, Chapter~~
12989 ~~25a~~] Title 63M, Chapter 7, Criminal Justice and Substance Abuse, in order to qualify as a
12990 potential award recipient.
12991 (6) Recipient law enforcement agencies may only use program award monies after
12992 approval or appropriation by the agency's legislative body, and the award monies are
12993 nonlapsing.
12994 (7) A recipient law enforcement agency or political subdivision shall use program
12995 awards only for law enforcement or controlled substance law enforcement purposes as
12996 described in Subsection (8), and only as these purposes are specified by the agency or political
12997 subdivision in its application for the award.
12998 (8) Permissible law enforcement purposes for which award monies may be used
12999 include:
13000 (a) controlled substance interdiction and enforcement activities;
13001 (b) drug court programs;
13002 (c) activities calculated to enhance future investigations;
13003 (d) law enforcement training that includes:
13004 (i) implementation of the Fourth Amendment of the federal constitution and Utah
13005 Constitution Article I, Section 7, and addresses the protection of the individual's rights of due
13006 process;
13007 (ii) protection of the rights of innocent property holders; and
13008 (iii) the Tenth Amendment of the federal constitution regarding states' sovereignty and
13009 the states' reserved rights;
13010 (e) law enforcement or detention facilities;
13011 (f) law enforcement operations or equipment which are not routine costs or operational
13012 expenses;
13013 (g) drug, gang, or crime prevention education programs which are sponsored in whole
13014 or in part by the law enforcement agency or its legislative body; and
13015 (h) matching funds for other state or federal law enforcement grants.
13016 (9) Law enforcement purposes for which award monies may not be granted or used

13017 include:
13018 (a) payment of salaries, retirement benefits, or bonuses to any person;
13019 (b) payment of enforcement expenses not related to law enforcement;
13020 (c) uses not specified in the agency's award application;
13021 (d) uses not approved or appropriated by the agency's legislative body;
13022 (e) payments, transfers, or pass-through funding to entities other than law enforcement
13023 agencies; or
13024 (f) uses, payments, or expenses that are not within the scope of the agency's functions.
13025 (10) For each fiscal year, any state, local, or multijurisdictional agency or political
13026 subdivision that received a program award shall prepare, and file with the Utah Commission on
13027 Criminal and Juvenile Justice and the state auditor, a report in a form specified by the Utah
13028 Commission on Criminal and Juvenile Justice. The report shall include the following
13029 regarding each award:
13030 (a) the agency's name;
13031 (b) the amount of the award;
13032 (c) the date of the award;
13033 (d) how the award has been used; and
13034 (e) a statement signed by both the agency's or political subdivision's executive officer
13035 or designee and by the agency's legal counsel, that:
13036 (i) the agency or political subdivision has complied with all inventory, policy, and
13037 reporting requirements of this chapter;
13038 (ii) all program awards were used for crime reduction or law enforcement purposes as
13039 specified in the application; and
13040 (iii) and only upon approval or appropriation by the agency's or political subdivision's
13041 legislative body.
13042 (11) The Utah Commission on Criminal and Juvenile Justice shall report in writing to
13043 the legislative Law Enforcement and Criminal Justice Interim Committee annually regarding
13044 the forfeited property transferred to the fund, awards made by the program, uses of program
13045 awards, and any equitable share of property forfeited by the federal government as reported by
13046 agencies pursuant to Subsection 24-1-15(3).
13047 Section 282. Section **26-1-4.1** is amended to read:

13048 **26-1-4.1. Department procedures -- Adjudicative proceedings.**
13049 The Department of Health shall comply with the procedures and requirements of [~~Title~~
13050 ~~63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative
13051 proceedings.
13052 Section 283. Section **26-1-5** is amended to read:
13053 **26-1-5. Rules of department.**
13054 (1) Except in areas regulated by statutory committees created by this title, the
13055 department shall have the power to adopt, amend, or rescind rules necessary to carry out the
13056 provisions of this title.
13057 (2) Rules shall have the force and effect of law and may deal with matters which
13058 materially affect the security of health or the preservation and improvement of public health in
13059 the state, and any matters as to which jurisdiction is conferred upon the department by this title.
13060 (3) Every rule adopted by the department pursuant to this section, or a committee
13061 established under Section 26-1-7 or 26-1-7.5, shall be subject to [~~Title 63, Chapter 46a~~] Title
13062 63G, Chapter 3, Utah Administrative Rulemaking Act and shall become effective at the time
13063 and in the manner provided in that act.
13064 (4) If, at the next general session of the legislature following the filing of a rule with
13065 the legislative research director, the legislature passes a bill disapproving such rule, the rule
13066 shall be null and void.
13067 (5) The department or a committee created under Section 26-1-7 or 26-1-7.5, shall not
13068 adopt a rule identical to a rule disapproved under Subsection (4) of this section, before the
13069 beginning of the next general session of the legislature following the general session at which
13070 the rule was disapproved.
13071 Section 284. Section **26-1-6** is amended to read:
13072 **26-1-6. Fee schedule adopted by department.**
13073 (1) The department may adopt a schedule of fees that may be assessed for services
13074 rendered by the department, provided that the fees are:
13075 (a) reasonable and fair; and
13076 (b) submitted to the Legislature as part of the department's annual appropriations
13077 request.
13078 (2) When the department submits a fee schedule to the Legislature, the Legislature, in

13079 accordance with Section [~~63-38-3.2~~] 63J-1-303, may:
13080 (a) approve the fee;
13081 (b) increase or decrease and approve the fee; or
13082 (c) reject any fee submitted to it.
13083 (3) Fees approved by the Legislature pursuant to this section shall be paid into the state
13084 treasury in accordance with Section [~~63-38-9~~] 63J-1-404.
13085 Section 285. Section **26-1-7.1** is amended to read:
13086 **26-1-7.1. Committee procedures -- Adjudicative proceedings.**
13087 All committees created by Section 26-1-7 shall comply with the procedures and
13088 requirements of [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act,
13089 in their adjudicative proceedings.
13090 Section 286. Section **26-1-17.5** is amended to read:
13091 **26-1-17.5. Confidential records.**
13092 (1) A record classified as confidential under this title shall remain confidential, and be
13093 released according to the provisions of this title, notwithstanding Section [~~63-2-909~~]
13094 63G-2-310.
13095 (2) In addition to those persons granted access to records described in Subsection
13096 [~~63-2-302~~] 63G-2-302(1)(b), immunization records may be shared among schools, school
13097 districts, and local and state health departments and the state Department of Human Services as
13098 necessary to assure compliance with Section 53A-11-301 and to prevent, investigate, and
13099 control the causes of epidemic, infectious, communicable, and other diseases affecting the
13100 public health.
13101 Section 287. Section **26-1-21** is amended to read:
13102 **26-1-21. Disposal of property by department.**
13103 (1) The department may dispose of any personal property owned by it or any of the
13104 entities created under Section 26-1-13, in the manner provided in [~~Title 63, Chapter 17~~] Title
13105 63A, Chapter 9, Part 8, Surplus Property Service.
13106 (2) The department may dispose of any real property owned by it or any of the entities
13107 created under Section 26-1-13, in the manner provided in Title 65A, Chapter 4.
13108 Section 288. Section **26-2-22** is amended to read:
13109 **26-2-22. Inspection of vital records.**

13110 (1) (a) The vital records shall be open to inspection, but only in compliance with the
13111 provisions of this chapter, department rules, and Section 78-30-18.
13112 (b) It is unlawful for any state or local officer or employee to disclose data contained in
13113 vital records contrary to this chapter or department rule.
13114 (c) A custodian of vital records may permit inspection of a vital record or issue a
13115 certified copy of a record or a part of a record when the custodian is satisfied that the applicant
13116 has demonstrated a direct, tangible, and legitimate interest.
13117 (2) A direct, tangible, and legitimate interest in a vital record is present only if:
13118 (a) the request is from the subject, a member of the subject's immediate family, the
13119 guardian of the subject, or a designated legal representative;
13120 (b) the request involves a personal or property right of the subject of the record;
13121 (c) the request is for official purposes of a state, local, or federal governmental agency;
13122 (d) the request is for a statistical or medical research program and prior consent has
13123 been obtained from the state registrar; or
13124 (e) the request is a certified copy of an order of a court of record specifying the record
13125 to be examined or copied.
13126 (3) For purposes of Subsection (2):
13127 (a) "immediate family member" means a spouse, child, parent, sibling, grandparent, or
13128 grandchild;
13129 (b) a designated legal representative means an attorney, physician, funeral service
13130 director, genealogist, or other agent of the subject or the subject's immediate family who has
13131 been delegated the authority to access vital records;
13132 (c) except as provided in Title 78, Chapter 30, Adoption, a parent, or the immediate
13133 family member of a parent, who does not have legal or physical custody of or visitation or
13134 parent-time rights for a child because of the termination of parental rights pursuant to Title 78,
13135 Chapter 3a, Juvenile Court Act of 1996, or by virtue of consenting to or relinquishing a child
13136 for adoption pursuant to Title 78, Chapter 30, Adoption, may not be considered as having a
13137 direct, tangible, and legitimate interest; and
13138 (d) a commercial firm or agency requesting names, addresses, or similar information
13139 may not be considered as having a direct, tangible, and legitimate interest.
13140 (4) Upon payment of a fee established in accordance with Section [~~63-38-3.2~~]

13141 63J-1-303, the following records shall be available to the public:
13142 (a) except as provided in Subsection 26-2-10(4)(b), a birth record, excluding
13143 confidential information collected for medical and health use, if 100 years or more have passed
13144 since the date of birth;
13145 (b) a death record if 50 years or more have passed since the date of death; and
13146 (c) a vital record not subject to Subsection (4)(a) or (b) if 75 years or more have passed
13147 since the date of the event upon which the record is based.
13148 Section 289. Section **26-6b-1** is amended to read:
13149 **26-6b-1. Applicability of chapter -- Administrative procedures.**
13150 (1) This chapter applies to involuntary examination, treatment, isolation, and
13151 quarantine actions applied to individuals or groups of individuals by the department or a local
13152 health department.
13153 (2) The provisions of this chapter supersede the provisions of [~~Title 63, Chapter 46b~~]
13154 Title 63G, Chapter 4, Administrative Procedures Act.
13155 (3) The Department of Health may adopt rules in accordance with [~~Title 63, Chapter~~
13156 ~~46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to administer the
13157 provisions of this chapter.
13158 Section 290. Section **26-8a-104** is amended to read:
13159 **26-8a-104. Committee powers.**
13160 The committee shall adopt rules in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
13161 Chapter 3, Utah Administrative Rulemaking Act, that:
13162 (1) establish certification and reciprocity requirements under Section 26-8a-302;
13163 (2) establish designation requirements under Section 26-8a-303;
13164 (3) promote the development of a statewide emergency medical services system under
13165 Section 26-8a-203;
13166 (4) establish insurance requirements for ambulance providers;
13167 (5) provide guidelines for requiring patient data under Section 26-8a-203;
13168 (6) establish criteria for awarding grants under Section 26-8a-207;
13169 (7) establish requirements for the coordination of emergency medical services and the
13170 medical supervision of emergency medical service providers under Section 26-8a-306; and
13171 (8) are necessary to carry out the responsibilities of the committee as specified in other

13172 sections of this chapter.
13173 Section 291. Section **26-8a-105** is amended to read:
13174 **26-8a-105. Department powers.**
13175 The department shall:
13176 (1) coordinate the emergency medical services within the state;
13177 (2) administer this chapter and the rules established pursuant to it;
13178 (3) establish a voluntary task force representing a diversity of emergency medical
13179 service providers to advise the department and the committee on rules; and
13180 (4) adopt rules in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
13181 Administrative Rulemaking Act, to:
13182 (a) license ambulance providers and paramedic providers;
13183 (b) permit ambulances and emergency response vehicles;
13184 (c) establish application, submission, and procedural requirements for licenses,
13185 designations, certificates, and permits; and
13186 (d) establish and implement the programs, plans, and responsibilities as specified in
13187 other sections of this chapter.
13188 Section 292. Section **26-8a-207** is amended to read:
13189 **26-8a-207. Emergency medical services grant program.**
13190 (1) (a) The department shall receive as dedicated credits the amount established in
13191 Section [~~63-63a-3~~] 51-9-403. That amount shall be transferred to the department by the
13192 Division of Finance from funds generated by the surcharge imposed under [~~Title 63, Chapter~~
13193 ~~63a~~] Title 51, Chapter 9, Part 4, Crime Victims Reparations Trust, Public Safety Support
13194 Funds, Substance Abuse Prevention Account, and Services for Victims of Domestic Violence
13195 Account.
13196 (b) Funds transferred to the department under this section shall be used for
13197 improvement of statewide delivery of emergency medical services and administrative costs as
13198 described in Subsection (2)(a). Appropriations to the department for the purposes enumerated
13199 in this section shall be made from those dedicated credits.
13200 (c) All funding for the program created by this section shall be nonlapsing.
13201 (2) (a) The department may use the funds transferred to it under Subsection (1):
13202 (i) to provide staff support; and

13203 (ii) for other expenses incurred in:
13204 (A) administration of grant funds; and
13205 (B) other department administrative costs under this chapter.
13206 (b) After funding staff support, administrative expenses, and trauma system
13207 development, the department and the committee shall make emergency medical services grants
13208 from the remaining funds received as dedicated credits under Subsection (1). A recipient of a
13209 grant under this Subsection (2)(b) must actively provide emergency medical services within the
13210 state.
13211 (i) The department shall distribute 42-1/2% as per capita block grants for use
13212 specifically related to the provision of emergency medical services to nonprofit prehospital
13213 emergency medical services providers that are either licensed or designated and to emergency
13214 medical services that are the primary emergency medical services for a service area. The
13215 department shall determine the grant amounts by prorating available funds on a per capita basis
13216 by county as described in department rule.
13217 (ii) The committee shall award 42-1/2% of the remaining funds as competitive grants
13218 for use specifically related to the provision of emergency medical services based upon rules
13219 established by the committee.
13220 (iii) The committee shall use 15% of the remaining funds to fund high school
13221 emergency medical training programs.
13222 Section 293. Section **26-8a-310** is amended to read:
13223 **26-8a-310. Criminal background check.**
13224 (1) At the time of application for, or renewal of, a certificate, the department shall
13225 obtain, at the applicant's expense, information from a criminal history record or warrant of
13226 arrest information maintained by the Department of Public Safety pursuant to Title 53, Chapter
13227 10, Part 2, Bureau of Criminal Identification, to determine whether the individual has been
13228 convicted of a crime that bears upon [~~his~~] the individual's fitness to be certified or to have
13229 responsibility for the safety and well-being of children, the elderly, or persons with disabilities.
13230 (2) (a) An applicant who has not had residency in the state for the last five years shall
13231 submit fingerprints and other identifying information.
13232 (b) The department shall submit fingerprints obtained under Subsection (2)(a) to the
13233 Department of Public Safety to be forwarded to the Federal Bureau of Investigation for a

13234 nationwide criminal history record check to determine whether the individual has been
13235 convicted of a crime that bears upon [~~his~~] the individual's fitness to be certified or to have
13236 responsibility for the safety and well-being of children, the elderly, or persons with disabilities.
13237 (3) The department shall have access to juvenile court records to determine whether the
13238 applicant has been adjudicated in juvenile court of committing an act which if committed by an
13239 adult would be a felony or misdemeanor and that bears upon the applicant's fitness to be
13240 certified or to have responsibility for the safety and well-being of children, the elderly, or
13241 persons with disabilities if:
13242 (a) the applicant is under the age of 28; or
13243 (b) the applicant is over the age of 28 and has been convicted, has pleaded no contest,
13244 or is currently subject to a plea in abeyance or diversion agreement for a felony or
13245 misdemeanor.
13246 (4) Information obtained pursuant to Subsections (1) through (3) may be used to:
13247 (a) withhold certification or renewal;
13248 (b) commence or substantiate disciplinary action under Section 26-8a-503;
13249 (c) enforce the provisions of this chapter; and
13250 (d) notify the individual's employer as necessary to protect the public.
13251 (5) The department shall adopt rules under [~~Title 63, Chapter 46a~~] Title 63G, Chapter
13252 3, Utah Administrative Rulemaking Act, consistent with this chapter, defining the
13253 circumstances under which an applicant who has been convicted of a criminal offense may
13254 receive a certification under this chapter.
13255 Section 294. Section **26-8a-404** is amended to read:
13256 **26-8a-404. Ground ambulance and paramedic licenses -- Application and**
13257 **department review.**
13258 (1) Except as provided in Section 26-8a-413, an applicant for a ground ambulance or
13259 paramedic license shall apply to the department for a license only by:
13260 (a) submitting a completed application;
13261 (b) providing information in the format required by the department; and
13262 (c) paying the required fees, including the cost of the hearing officer.
13263 (2) The department shall make rules establishing minimum qualifications and
13264 requirements for:

13265 (a) personnel;
13266 (b) capital reserves;
13267 (c) equipment;
13268 (d) a business plan;
13269 (e) operational procedures;
13270 (f) medical direction agreements;
13271 (g) management and control; and
13272 (h) other matters that may be relevant to an applicant's ability to provide ground
13273 ambulance or paramedic service.
13274 (3) An application for a license to provide ground ambulance service or paramedic
13275 service shall be for all ground ambulance services or paramedic services arising within the
13276 geographic service area, except that an applicant may apply for a license for less than all
13277 ground ambulance services or all paramedic services arising within an exclusive geographic
13278 area if it can demonstrate how the remainder of that area will be served.
13279 (4) (a) A ground ambulance service licensee may apply to the department for a license
13280 to provide a higher level of service as defined by department rule if:
13281 (i) the application for the license is limited to non-911 ambulance or paramedic
13282 services; and
13283 (ii) the application includes:
13284 (A) a copy of the new treatment protocols for the higher level of service approved by
13285 the off-line medical director;
13286 (B) an assessment of field performance by the applicant's off-line director; and
13287 (C) an updated plan of operation demonstrating the ability of the applicant to provide
13288 the higher level of service.
13289 (b) If the department determines that the applicant has demonstrated the ability to
13290 provide the higher level of service in accordance with Subsection (4)(a), the department shall
13291 issue a revised license reflecting the higher level of service and the requirements of Section
13292 26-8a-408 do not apply.
13293 (5) Upon receiving a completed application and the required fees, the department shall
13294 review the application and determine whether the application meets the minimum
13295 qualifications and requirements for licensure.

13296 (6) The department may deny an application if it finds that it contains any materially
13297 false or misleading information, is incomplete, or if the application demonstrates that the
13298 applicant fails to meet the minimum qualifications and requirements for licensure under
13299 Subsection (2).
13300 (7) If the department denies an application, it shall notify the applicant in writing
13301 setting forth the grounds for the denial. A denial may be appealed under [~~Title 63, Chapter~~
13302 ~~46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
13303 Section 295. Section **26-8a-405.3** is amended to read:
13304 **26-8a-405.3. Use of competitive sealed proposals -- Procedure -- Appeal rights.**
13305 (1) (a) Competitive sealed proposals for paramedic or 911 ambulance services under
13306 Section 26-8a-405.2 shall be solicited through a request for proposal and the provisions of this
13307 section.
13308 (b) The governing body of the political subdivision shall approve the request for
13309 proposal prior to the notice of the request for proposals under Subsection (1)(c).
13310 (c) Notice of the request for proposals must be published at least once a week for three
13311 consecutive weeks in a newspaper of general circulation published in the county, or if there is
13312 no such newspaper, then notice must be posted for at least 20 days in at least five public places
13313 in the county.
13314 (2) (a) Proposals shall be opened so as to avoid disclosure of contents to competing
13315 offerors during the process of negotiations.
13316 (b) (i) Subsequent to the published notice, and prior to selecting an applicant, the
13317 political subdivision must hold a presubmission conference with interested applicants for the
13318 purpose of assuring full understanding of, and responsiveness to, solicitation requirements.
13319 (ii) A political subdivision shall allow at least 90 days from the presubmission
13320 conference for the proposers to submit proposals.
13321 (c) Subsequent to the presubmission conference, the political subdivision may issue
13322 addenda to the request for proposals. An addenda to a request for proposal must be finalized
13323 and posted by the political subdivision at least 45 days prior to the date on which the proposal
13324 must be submitted.
13325 (d) Offerors to the request for proposals shall be accorded fair and equal treatment with
13326 respect to any opportunity for discussion and revisions of proposals, and revisions may be

13327 permitted after submission and before a contract is awarded for the purpose of obtaining best
13328 and final offers.
13329 (e) In conducting discussions, there shall be no disclosures of any information derived
13330 from proposals submitted by competing offerors.
13331 (3) (a) (i) A political subdivision may select an applicant approved by the department
13332 under Section 26-8a-404 to provide 911 ambulance or paramedic services by contract to the
13333 most responsible offeror as defined in Subsection [~~63-56-105~~] 63G-6-103(24).
13334 (ii) An award under Subsection (3)(a)(i) shall be made to the responsible offeror whose
13335 proposal is determined in writing to be the most advantageous to the political subdivision,
13336 taking into consideration price and the evaluation factors set forth in the request for proposal.
13337 (b) The applicants who are approved under Section 26-8a-405 and who are selected
13338 under this section may be the political subdivision issuing the request for competitive sealed
13339 proposals, or any other public entity or entities, any private person or entity, or any
13340 combination thereof.
13341 (c) A political subdivision may reject all of the competitive proposals.
13342 (4) In seeking competitive sealed proposals and awarding contracts under this section,
13343 a political subdivision:
13344 (a) shall apply the public convenience and necessity factors listed in Subsections
13345 26-8a-408(2) through (6);
13346 (b) shall require the applicant responding to the proposal to disclose how the applicant
13347 will meet performance standards in the request for proposal;
13348 (c) may not require or restrict an applicant to a certain method of meeting the
13349 performance standards, including:
13350 (i) requiring ambulance medical personnel to also be a firefighter; or
13351 (ii) mandating that offerors use fire stations or dispatch services of the political
13352 subdivision;
13353 (d) (i) shall require an applicant to submit the proposal based on full cost accounting in
13354 accordance with generally accepted accounting principals; and
13355 (ii) if the applicant is a governmental entity, in addition to the requirements of
13356 Subsection (4)(e)(i), in accordance with generally accepted government auditing standards and
13357 in compliance with the State of Utah Legal Compliance Audit Guide; and

13358 (e) shall set forth in the request for proposal:
13359 (i) the method for determining full cost accounting in accordance with generally
13360 accepted accounting principles, and require an applicant to submit the proposal based on such
13361 full cost accounting principles;
13362 (ii) guidelines established to further competition and provider accountability; and
13363 (iii) a list of the factors that will be considered by the political subdivision in the award
13364 of the contract, including by percentage, the relative weight of the factors established under this
13365 Subsection (4)(e), which may include such things as:
13366 (A) response times;
13367 (B) staging locations;
13368 (C) experience;
13369 (D) quality of care; and
13370 (E) cost, consistent with the cost accounting method in Subsection (4)(e)(i).
13371 (5) (a) Notwithstanding the provisions of Subsection [~~63-56-102~~] 63G-6-104(3), the
13372 provisions of [~~Title 63, Chapter 56~~] Title 63G, Chapter 6, Part 8, Legal and Contractual
13373 Remedies, apply to the procurement process required by this section, except as provided in
13374 Subsection (5)(c).
13375 (b) The Procurement Appeals Board created in Section [~~63-56-807~~] 63G-6-807 shall
13376 have jurisdiction to review and determine an appeal of an offeror under this section in the same
13377 manner as provided in Section [~~63-56-810~~] 63G-6-810.
13378 (c) (i) An offeror may appeal the solicitation or award as provided by the political
13379 subdivision's procedures. After all political subdivision appeal rights are exhausted, the offeror
13380 may appeal under the provisions of Subsections (5)(a) and (b).
13381 (ii) The factual determination required by Subsection [~~63-56-813~~] 63G-6-813(1) shall
13382 be based on whether the solicitation or award was made in accordance with the procedures set
13383 forth in this section and Section 26-8a-405.2.
13384 (d) The determination of an issue of fact by the appeals board shall be final and
13385 conclusive unless arbitrary and capricious or clearly erroneous as provided in Section
13386 [~~63-56-813~~] 63G-6-813.
13387 Section 296. Section **26-8a-407** is amended to read:
13388 **26-8a-407. Ground ambulance and paramedic licenses -- Proceedings.**

13389 (1) The presiding officer shall:
13390 (a) commence an informal adjudicative proceeding within 120 days of receiving a
13391 completed application;
13392 (b) meet with the applicant and objecting interested parties and provide no less than
13393 120 days for a negotiated resolution, consistent with the criteria in Section 26-8a-408;
13394 (c) set aside a separate time during the proceedings to accept public comment on the
13395 application; and
13396 (d) present a written decision to the executive director if a resolution has been reached
13397 that satisfies the criteria in Section 26-8a-408.
13398 (2) At any time during an informal adjudicative proceeding under Subsection (1), any
13399 party may request conversion of the informal adjudicative proceeding to a formal adjudicative
13400 proceeding in accordance with Section [~~63-46b-4~~] 63G-4-202.
13401 (3) Upon conversion to a formal adjudicative proceeding, a hearing officer shall be
13402 assigned to the application as provided in Section 26-8a-409. The hearing office shall:
13403 (a) set aside a separate time during the proceedings to accept public comment on the
13404 application;
13405 (b) apply the criteria established in Section 26-8a-408; and
13406 (c) present a recommended decision to the executive director in writing.
13407 (4) The executive director may, as set forth in a final written order, accept, modify,
13408 reject, or remand the decision of a presiding or hearing officer after:
13409 (a) reviewing the record;
13410 (b) giving due deference to the officer's decision; and
13411 (c) determining whether the criteria in Section 26-8a-408 have been satisfied.
13412 Section 297. Section **26-8a-414** is amended to read:
13413 **26-8a-414. Annexations.**
13414 (1) A municipality shall comply with the provisions of this section if the municipality
13415 is licensed under this chapter and desires to provide service to an area that is:
13416 (a) included in a petition for annexation under Title 10, Chapter 2, Part 4, Annexation;
13417 and
13418 (b) currently serviced by another provider licensed under this chapter.
13419 (2) (a) (i) At least 45 days prior to approving a petition for annexation, the municipality

13420 shall certify to the department that by the time of the approval of the annexation the
13421 municipality can meet or exceed the current level of service provided by the existing licensee
13422 for the annexed area by meeting the requirements of Subsections (2)(b)(ii)(A) through (D); and
13423 (ii) no later than three business days after the municipality files a petition for
13424 annexation in accordance with Section 10-2-403, provide written notice of the petition for
13425 annexation to:
13426 (A) the existing licensee providing service to the area included in the petition of
13427 annexation; and
13428 (B) the department.
13429 (b) (i) After receiving a certification under Subsection (2)(a), but prior to the
13430 municipality approving a petition for annexation, the department may audit the municipality
13431 only to verify the requirements of Subsections (2)(b)(ii)(A) through (D).
13432 (ii) If the department elects to conduct an audit, the department shall make a finding
13433 that the municipality can meet or exceed the current level of service provided by the existing
13434 licensee for the annexed area if the department finds that the municipality has or will have by
13435 the time of the approval of the annexation:
13436 (A) adequate trained personnel to deliver basic and advanced life support services;
13437 (B) adequate apparatus and equipment to deliver emergency medical services;
13438 (C) adequate funding for personnel and equipment; and
13439 (D) appropriate medical controls, such as a medical director and base hospital.
13440 (iii) The department shall submit the results of the audit in writing to the municipal
13441 legislative body.
13442 (3) (a) If the department audit finds that the municipality meets the requirements of
13443 Subsection (2)(b)(ii), the department shall issue an amended license to the municipality and all
13444 other affected licensees to reflect the municipality's new boundaries after the department
13445 receives notice of the approval of the petition for annexation from the municipality in
13446 accordance with Section 10-2-425.
13447 (b) (i) Notwithstanding the provisions of Subsection [~~63-46b-1~~] 63G-4-102(2)(k), if
13448 the department audit finds that the municipality fails to meet the requirements of Subsection
13449 (2)(b)(ii), the municipality may request an adjudicative proceeding under the provisions of
13450 [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act. The municipality

13451 may approve the petition for annexation while an adjudicative proceeding requested under this
13452 Subsection (3)(b)(i) is pending.
13453 (ii) The department shall conduct an adjudicative proceeding when requested under
13454 Subsection (3)(b)(i).
13455 (iii) Notwithstanding the provisions of Sections 26-8a-404 through 26-8a-409, in any
13456 adjudicative proceeding held under the provisions of Subsection (3)(b)(i), the department bears
13457 the burden of establishing that the municipality cannot, by the time of the approval of the
13458 annexation, meet the requirements of Subsection (2)(b)(ii).
13459 (c) If, at the time of the approval of the annexation, an adjudicative proceeding is
13460 pending under the provisions of Subsection (3)(b)(i), the department shall issue amended
13461 licenses if the municipality prevails in the adjudicative proceeding.
13462 Section 298. Section **26-8a-503** is amended to read:
13463 **26-8a-503. Discipline of emergency medical services personnel.**
13464 (1) The department may refuse to issue a certificate or renewal, or revoke, suspend,
13465 restrict, or place on probation an individual's certificate if:
13466 (a) the individual does not meet the qualifications for certification under Section
13467 26-8a-302;
13468 (b) the individual has engaged in conduct, as defined by committee rule, that:
13469 (i) is unprofessional;
13470 (ii) is adverse to the public health, safety, morals, or welfare; or
13471 (iii) would adversely affect public trust in the emergency medical service system;
13472 (c) the individual has violated Section 26-8a-502 or other provision of this chapter;
13473 (d) a court of competent jurisdiction has determined the individual to be mentally
13474 incompetent for any reason; or
13475 (e) the individual is unable to provide emergency medical services with reasonable
13476 skill and safety because of illness, drunkenness, use of drugs, narcotics, chemicals, or any other
13477 type of material, or as a result of any other mental or physical condition, when the individual's
13478 condition demonstrates a clear and unjustifiable threat or potential threat to oneself, coworkers,
13479 or the public health, safety, or welfare that cannot be reasonably mitigated.
13480 (2) (a) An action to revoke, suspend, restrict, or place a certificate on probation shall be
13481 done in accordance with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative

13482 Procedures Act.
13483 (b) Notwithstanding Subsection (2)(a), the department may issue a cease and desist
13484 order under Section 26-8a-507 to immediately suspend an individual's certificate pending an
13485 administrative proceeding to be held within 30 days if there is evidence to show that the
13486 individual poses a clear, immediate, and unjustifiable threat or potential threat to the public
13487 health, safety, or welfare.
13488 (3) An individual whose certificate has been suspended, revoked, or restricted may
13489 apply for reinstatement of the certificate at reasonable intervals and upon compliance with any
13490 conditions imposed upon the certificate by statute, committee rule, or the terms of the
13491 suspension, revocation, or restriction.
13492 (4) In addition to taking disciplinary action under Subsection (1), the department may
13493 impose sanctions in accordance with Section 26-23-6.
13494 Section 299. Section **26-8a-504** is amended to read:
13495 **26-8a-504. Discipline of designated and licensed providers.**
13496 (1) The department may refuse to issue a license or designation or a renewal, or revoke,
13497 suspend, restrict, or place on probation, an emergency medical service provider's license or
13498 designation if the provider has:
13499 (a) failed to abide by terms of the license or designation;
13500 (b) violated statute or rule;
13501 (c) failed to provide services at the level or in the exclusive geographic service area
13502 required by the license or designation;
13503 (d) failed to submit a renewal application in a timely fashion as required by department
13504 rule;
13505 (e) failed to follow operational standards established by the committee; or
13506 (f) committed an act in the performance of a professional duty that endangered the
13507 public or constituted gross negligence.
13508 (2) (a) An action to revoke, suspend, restrict, or place a license or designation on
13509 probation shall be done in accordance with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
13510 Administrative Procedures Act.
13511 (b) Notwithstanding Subsection (2)(a), the department may issue a cease and desist
13512 order under Section 26-8a-507 to immediately suspend a license or designation pending an

13513 administrative proceeding to be held within 30 days if there is evidence to show that the
13514 provider or facility poses a clear, immediate, and unjustifiable threat or potential threat to the
13515 public health, safety, or welfare.
13516 (3) In addition to taking disciplinary action under Subsection (1), the department may
13517 impose sanctions in accordance with Section 26-23-6.
13518 Section 300. Section **26-15a-102** is amended to read:
13519 **26-15a-102. Definitions.**
13520 (1) "Back country food service establishment" means a federal or state licensed back
13521 country guiding or outfitting business that:
13522 (a) provides food services; and
13523 (b) meets department recognized federal or state food service safety regulations for
13524 food handlers.
13525 (2) "Certified food safety manager" means a manager of a food service establishment
13526 who:
13527 (a) passes successfully a department-approved examination;
13528 (b) successfully completes, every three years, renewal requirements established by
13529 department rule consistent with original certification requirements; and
13530 (c) submits to the appropriate local health department the documentation required by
13531 Section 26-15a-106.
13532 (3) "Food service establishment" means any place or area within a business or
13533 organization where potentially hazardous foods are prepared and intended for individual
13534 portion service and consumption by the general public, whether the consumption is on or off
13535 the premises, and whether or not a fee is charged for the food.
13536 (4) "Local health department" means a local health department as defined in
13537 Subsection 26A-1-102(5).
13538 (5) "Potentially hazardous foods" shall be defined by the department by administrative
13539 rule adopted in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
13540 Administrative Rulemaking Act.
13541 Section 301. Section **26-15a-104** is amended to read:
13542 **26-15a-104. Food service establishment requirements -- Enforcement -- Right of**
13543 **appeal.**

13544 (1) Each food service establishment in the state shall be managed by at least one
13545 full-time certified food safety manager at each establishment site, who need not be present at
13546 the establishment site during all its hours of operation.
13547 (2) Within 60 days of the termination of a certified food safety manager's employment
13548 that results in the food service establishment no longer being in compliance with Subsection
13549 (1), the food service establishment shall:
13550 (a) employ a new certified food safety manager; or
13551 (b) designate another employee to become the establishment's certified food safety
13552 manager who shall commence a department-approved food safety manager training course.
13553 (3) Compliance with the 60-day time period provided in Subsection (2) may be
13554 extended by the local health department for reasonable cause, as determined by the department
13555 by rule.
13556 (4) (a) The local health department may determine whether a food service
13557 establishment is in compliance with this section by visiting the establishment during regular
13558 business hours and requesting information and documentation about the employment of a
13559 certified food safety manager.
13560 (b) If a violation of this section is identified, the local health department shall propose
13561 remedial action to bring the food service establishment into compliance.
13562 (c) A food service establishment receiving notice of a violation and proposed remedial
13563 action from a local health department may appeal the notice of violation and proposed remedial
13564 action pursuant to procedures established by the local health department, which shall be
13565 essentially consistent with the provisions of [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
13566 Administrative Procedures Act. Notwithstanding the provisions of Section [~~63-46b-15~~]
13567 63G-4-402, an appeal of a local health department decision to a district court shall be
13568 conducted as an original, independent proceeding, and not as a review of the proceedings
13569 conducted by the local health department. The district court shall give no deference to the
13570 findings or conclusions of the local health department.
13571 Section 302. Section **26-15a-105** is amended to read:
13572 **26-15a-105. Exemptions to food service establishment requirements.**
13573 (1) The following are not subject to the provisions of Section 26-15a-104:
13574 (a) special events sponsored by municipal or nonprofit civic organizations, including

13575 food booths at school sporting events and little league athletic events and church functions;
13576 (b) temporary event food services approved by a local health department;
13577 (c) vendors and other food service establishments that serve only commercially
13578 prepackaged foods and beverages as defined by the department by rule;
13579 (d) private homes not used as a commercial food service establishment;
13580 (e) health care facilities licensed under Chapter 21, Health Care Facility Licensing and
13581 Inspection Act;
13582 (f) bed and breakfast establishments at which the only meal served is a continental
13583 breakfast as defined by the department by rule;
13584 (g) residential child care providers;
13585 (h) child care providers and programs licensed under Chapter 39, Utah Child Care
13586 Licensing Act;
13587 (i) back country food service establishments; and
13588 (j) a lowest risk or permitted food establishment category determined by a risk
13589 assessment evaluation established by the department by administrative rule adopted in
13590 accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
13591 Rulemaking Act.
13592 (2) Nothing in this section may be construed as exempting a food service establishment
13593 described in Subsection (1) from any other applicable food safety laws of this state.
13594 Section 303. Section **26-18-3** is amended to read:
13595 **26-18-3. Administration of Medicaid program by department -- Disciplinary**
13596 **measures and sanctions -- Funds collected.**
13597 (1) The department shall be the single state agency responsible for the administration
13598 of the Medicaid program in connection with the United States Department of Health and
13599 Human Services pursuant to Title XIX of the Social Security Act.
13600 (2) (a) The department shall implement the Medicaid program through administrative
13601 rules in conformity with this chapter, [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
13602 Administrative Rulemaking Act, the requirements of Title XIX, and applicable federal
13603 regulations.
13604 (b) (i) The rules adopted under Subsection (2)(a) shall include, in addition to other
13605 rules necessary to implement the program, the standards used by the department for

13606 determining eligibility for Medicaid services, the services and benefits to be covered by the
13607 Medicaid program, and reimbursement methodologies for providers under the Medicaid
13608 program.
13609 (ii) If the department implements a change in the Medicaid State Plan, initiates a new
13610 Medicaid waiver, initiates an amendment to an existing Medicaid waiver, or initiates a rate
13611 change requiring public notice under state or federal law, the department shall, prior to
13612 adopting the change, report to either the Legislative Executive Appropriations Committee or
13613 the Legislative Health and Human Services Appropriations Subcommittee and include in the
13614 report:
13615 (A) the proposed change in services or reimbursement;
13616 (B) the effect of an increase or decrease in services or benefits on individuals and
13617 families;
13618 (C) the degree to which any proposed cut may result in cost-shifting to more expensive
13619 services in health or human service programs; and
13620 (D) the effect of any proposed increase of benefits or reimbursement on current and
13621 future appropriations from the Legislature to the department.
13622 (iii) Any rules adopted by the department under this Subsection (2) are subject to
13623 review and reauthorization by the Legislature in accordance with Section [~~63-46a-11.5~~]
13624 63G-3-502.
13625 (3) The department may, in its discretion, contract with the Department of Human
13626 Services or other qualified agencies for services in connection with the administration of the
13627 Medicaid program, including but not limited to the determination of the eligibility of
13628 individuals for the program, recovery of overpayments, and enforcement of fraud and abuse
13629 laws, consistent with Section 26-20-13, to the extent permitted by law and quality control
13630 services.
13631 (4) The department shall provide, by rule, disciplinary measures and sanctions for
13632 Medicaid providers who fail to comply with the rules and procedures of the program, provided
13633 that sanctions imposed administratively may not extend beyond:
13634 (a) termination from the program;
13635 (b) recovery of claim reimbursements incorrectly paid; and
13636 (c) those specified in Section 1919 of Title XIX of the federal Social Security Act.

13637 (5) Funds collected as a result of a sanction imposed under Section 1919 of Title XIX
13638 of the federal Social Security Act shall be deposited in the General Fund as nonlapsing
13639 dedicated credits to be used by the division in accordance with the requirements of that section.
13640 (6) (a) In determining whether an applicant or recipient is eligible for a service or
13641 benefit under this part or Chapter 40, Utah Children's Health Insurance Act, the department
13642 shall, if Subsection (6)(b) is satisfied, exclude from consideration one passenger vehicle
13643 designated by the applicant or recipient.
13644 (b) Before Subsection (6)(a) may be applied:
13645 (i) the federal government must:
13646 (A) determine that Subsection (6)(a) may be implemented within the state's existing
13647 public assistance-related waivers as of January 1, 1999;
13648 (B) extend a waiver to the state permitting the implementation of Subsection (6)(a); or
13649 (C) determine that the state's waivers that permit dual eligibility determinations for
13650 cash assistance and Medicaid are no longer valid; and
13651 (ii) the department must determine that Subsection (6)(a) can be implemented within
13652 existing funding.
13653 (7) (a) For purposes of this Subsection (7):
13654 (i) "aged, blind, or disabled" shall be defined by administrative rule; and
13655 (ii) "spend down" means an amount of income in excess of the allowable income
13656 standard that must be paid in cash to the department or incurred through the medical services
13657 not paid by Medicaid.
13658 (b) In determining whether an applicant or recipient who is aged, blind, or disabled is
13659 eligible for a service or benefit under this chapter, the department shall use 100% of the federal
13660 poverty level as:
13661 (i) the allowable income standard for eligibility for services or benefits; and
13662 (ii) the allowable income standard for eligibility as a result of spend down.
13663 Section 304. Section **26-18-103** is amended to read:
13664 **26-18-103. DUR Board -- Responsibilities.**
13665 The board shall:
13666 (1) develop rules necessary to carry out its responsibilities as defined in this part;
13667 (2) oversee the implementation of a Medicaid retrospective and prospective DUR

13668 program in accordance with this part, including responsibility for approving provisions of
13669 contractual agreements between the Medicaid program and any other entity that will process
13670 and review Medicaid drug claims and profiles for the DUR program in accordance with this
13671 part;
13672 (3) develop and apply predetermined criteria and standards to be used in retrospective
13673 and prospective DUR, ensuring that the criteria and standards are based on the compendia, and
13674 that they are developed with professional input, in a consensus fashion, with provisions for
13675 timely revision and assessment as necessary. The DUR standards developed by the board shall
13676 reflect the local practices of physicians in order to monitor:
13677 (a) therapeutic appropriateness;
13678 (b) overutilization or underutilization;
13679 (c) therapeutic duplication;
13680 (d) drug-disease contraindications;
13681 (e) drug-drug interactions;
13682 (f) incorrect drug dosage or duration of drug treatment; and
13683 (g) clinical abuse and misuse;
13684 (4) develop, select, apply, and assess interventions and remedial strategies for
13685 physicians, pharmacists, and recipients that are educational and not punitive in nature, in order
13686 to improve the quality of care;
13687 (5) disseminate information to physicians and pharmacists to ensure that they are aware
13688 of the board's duties and powers;
13689 (6) provide written, oral, or electronic reminders of patient-specific or drug-specific
13690 information, designed to ensure recipient, physician, and pharmacist confidentiality, and
13691 suggest changes in prescribing or dispensing practices designed to improve the quality of care;
13692 (7) utilize face-to-face discussions between experts in drug therapy and the prescriber
13693 or pharmacist who has been targeted for educational intervention;
13694 (8) conduct intensified reviews or monitoring of selected prescribers or pharmacists;
13695 (9) create an educational program using data provided through DUR to provide active
13696 and ongoing educational outreach programs to improve prescribing and dispensing practices,
13697 either directly or by contract with other governmental or private entities;
13698 (10) provide a timely evaluation of intervention to determine if those interventions

13699 have improved the quality of care;
13700 (11) publish an annual report, subject to public comment prior to its issuance, and
13701 submit that report to the United States Department of Health and Human Services by
13702 December 1 of each year. That report shall also be submitted to legislative leadership, the
13703 executive director, the president of the Utah Pharmaceutical Association, and the president of
13704 the Utah Medical Association by December 1 of each year. The report shall include:
13705 (a) an overview of the activities of the board and the DUR program;
13706 (b) a description of interventions used and their effectiveness, specifying whether the
13707 intervention was a result of underutilization or overutilization of drugs, without disclosing the
13708 identities of individual physicians, pharmacists, or recipients;
13709 (c) the costs of administering the DUR program;
13710 (d) any fiscal savings resulting from the DUR program;
13711 (e) an overview of the fiscal impact of the DUR program to other areas of the Medicaid
13712 program such as hospitalization or long-term care costs;
13713 (f) a quantifiable assessment of whether DUR has improved the recipient's quality of
13714 care;
13715 (g) a review of the total number of prescriptions, by drug therapeutic class;
13716 (h) an assessment of the impact of educational programs or interventions on
13717 prescribing or dispensing practices; and
13718 (i) recommendations for DUR program improvement;
13719 (12) develop a working agreement with related boards or agencies, including the State
13720 Board of Pharmacy, Physicians' Licensing Board, and SURS staff within the division, in order
13721 to clarify areas of responsibility for each, where those areas may overlap;
13722 (13) establish a grievance process for physicians and pharmacists under this part, in
13723 accordance with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act;
13724 (14) publish and disseminate educational information to physicians and pharmacists
13725 concerning the board and the DUR program, including information regarding:
13726 (a) identification and reduction of the frequency of patterns of fraud, abuse, gross
13727 overuse, inappropriate, or medically unnecessary care among physicians, pharmacists, and
13728 recipients;
13729 (b) potential or actual severe or adverse reactions to drugs;

13730 (c) therapeutic appropriateness;
13731 (d) overutilization or underutilization;
13732 (e) appropriate use of generics;
13733 (f) therapeutic duplication;
13734 (g) drug-disease contraindications;
13735 (h) drug-drug interactions;
13736 (i) incorrect drug dosage and duration of drug treatment;
13737 (j) drug allergy interactions; and
13738 (k) clinical abuse and misuse;
13739 (15) develop and publish, with the input of the State Board of Pharmacy, guidelines
13740 and standards to be used by pharmacists in counseling Medicaid recipients in accordance with
13741 this part. The guidelines shall ensure that the recipient may refuse counseling and that the
13742 refusal is to be documented by the pharmacist. Items to be discussed as part of that counseling
13743 include:
13744 (a) the name and description of the medication;
13745 (b) administration, form, and duration of therapy;
13746 (c) special directions and precautions for use;
13747 (d) common severe side effects or interactions, and therapeutic interactions, and how to
13748 avoid those occurrences;
13749 (e) techniques for self-monitoring drug therapy;
13750 (f) proper storage;
13751 (g) prescription refill information; and
13752 (h) action to be taken in the event of a missed dose; and
13753 (16) establish procedures in cooperation with the State Board of Pharmacy for
13754 pharmacists to record information to be collected under this part. The recorded information
13755 shall include:
13756 (a) the name, address, age, and gender of the recipient;
13757 (b) individual history of the recipient where significant, including disease state, known
13758 allergies and drug reactions, and a comprehensive list of medications and relevant devices;
13759 (c) the pharmacist's comments on the individual's drug therapy;
13760 (d) name of prescriber; and

13761 (e) name of drug, dose, duration of therapy, and directions for use.
13762 Section 305. Section **26-18-104** is amended to read:
13763 **26-18-104. Confidentiality of records.**
13764 (1) Information obtained under this part shall be treated as confidential or controlled
13765 information under [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records Access and
13766 Management Act.
13767 (2) The board shall establish procedures insuring that the information described in
13768 Subsection 26-18-103(16) is held confidential by the pharmacist, being provided to the
13769 physician only upon request.
13770 (3) The board shall adopt and implement procedures designed to ensure the
13771 confidentiality of all information collected, stored, retrieved, assessed, or analyzed by the
13772 board, staff to the board, or contractors to the DUR program, that identifies individual
13773 physicians, pharmacists, or recipients. The board may have access to identifying information
13774 for purposes of carrying out intervention activities, but that identifying information may not be
13775 released to anyone other than a member of the board. The board may release cumulative
13776 nonidentifying information for research purposes.
13777 Section 306. Section **26-18-304** is amended to read:
13778 **26-18-304. Process and criteria for awarding grants.**
13779 The department shall establish rules in accordance with [~~Title 63, Chapter 46a~~] Title
13780 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the application form,
13781 process, and criteria it will use in awarding grants under this chapter. In awarding grants, the
13782 department shall consider the extent to which the applicant:
13783 (1) demonstrates that the area or a population group to be served under the application
13784 has a shortage of primary health care and that the services will be located so that they will
13785 provide assistance to the greatest number of persons residing in such area or included in such
13786 population group;
13787 (2) utilizes other sources of funding, including private funding, to provide primary
13788 health care;
13789 (3) demonstrates the ability and expertise to serve traditionally medically underserved
13790 populations including persons of limited English-speaking ability, single heads of households,
13791 the elderly, persons with low incomes, and persons with chronic diseases;

13792 (4) demonstrates that it will assume financial risk for a specified number of medically
13793 underserved persons within its catchment area for a predetermined level of care on a prepaid
13794 capitation basis; and
13795 (5) meets other criteria determined by the department.
13796 Section 307. Section **26-18-504** is amended to read:
13797 **26-18-504. Appeals of division decision -- Rulemaking authority -- Application of**
13798 **act.**
13799 (1) A decision by the director under this part to deny Medicaid certification for a
13800 nursing care facility program or to deny additional bed capacity for an existing certified
13801 program is subject to review under the procedures and requirements of [~~Title 63, Chapter 46b~~]
13802 Title 63G, Chapter 4, Administrative Procedures Act.
13803 (2) The department shall make rules to administer and enforce this part in accordance
13804 with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
13805 (3) A nursing care facility may receive Medicaid certification under the rules in effect
13806 prior to July 1, 2004 if the nursing care facility, prior to May 4, 2004:
13807 (a) paid applicable fees to the department; and
13808 (b) submits construction plans to the department; or
13809 (c) is in a current phase of construction approved by the department.
13810 (4) In the event the department is at risk for a federal disallowance with regard to a
13811 Medicaid recipient being served in a nursing care facility program that is not Medicaid
13812 certified, the department may grant temporary Medicaid certification to that facility for up to 24
13813 months. The department may place conditions on the certification, such as not allowing
13814 additional admissions of Medicaid recipients to the program.
13815 Section 308. Section **26-18a-4** is amended to read:
13816 **26-18a-4. Creation of Kurt Oscarson Children's Organ Transplant Trust**
13817 **Account.**
13818 (1) There is created a restricted account within the General Fund pursuant to Section
13819 51-5-4 known as the Kurt Oscarson Children's Organ Transplant Trust Account. Private
13820 contributions received under this section and Section 59-10-550 shall be deposited into the
13821 trust account to be used only for the programs and purposes described in Section 26-18a-3.
13822 (2) Money shall be appropriated from the trust account to the committee in accordance

13823 with [~~Title 63, Chapter 38~~] Title 63J, Chapter 1, Budgetary Procedures Act.
13824 (3) In addition to funds received under Section 59-10-550, the committee may accept
13825 transfers, grants, gifts, bequests, or any money made available from any source to implement
13826 this chapter.
13827 Section 309. Section **26-21-5** is amended to read:
13828 **26-21-5. Duties of committee.**
13829 The committee shall:
13830 (1) make rules in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
13831 Administrative Rulemaking Act:
13832 (a) for the licensing of health-care facilities; and
13833 (b) requiring the submission of architectural plans and specifications for any proposed
13834 new health-care facility or renovation to the department for review;
13835 (2) approve the information for applications for licensure pursuant to Section 26-21-9;
13836 (3) advise the department as requested concerning the interpretation and enforcement
13837 of the rules established under this chapter; and
13838 (4) advise, consult, cooperate with, and provide technical assistance to other agencies
13839 of the state and federal government, and other states and affected groups or persons in carrying
13840 out the purposes of this chapter.
13841 Section 310. Section **26-21-9.5** is amended to read:
13842 **26-21-9.5. Criminal background check and Licensing Information System check.**
13843 (1) For purposes of this section:
13844 (a) "Covered health care facility" means:
13845 (i) home health care agencies;
13846 (ii) hospices;
13847 (iii) nursing care facilities;
13848 (iv) assisted-living facilities;
13849 (v) small health care facilities; and
13850 (vi) end stage renal disease facilities.
13851 (b) "Covered person" includes:
13852 (i) the following people who provide direct patient care:
13853 (A) employees;

13854 (B) volunteers; and
13855 (C) people under contract with the facility; and
13856 (ii) for residential settings, any individual residing in the home where the assisted
13857 living or small health care program is to be licensed who:
13858 (A) is 18 years of age or older; or
13859 (B) is a child between the age of 12 and 17 years of age; however, the identifying
13860 information required for a child between the age of 12 and 17 does not include fingerprints.
13861 (2) In addition to the licensing requirements of Sections 26-21-8 and 26-21-9, a
13862 covered health care facility at the time of initial application for a license and license renewal
13863 shall:
13864 (a) submit the name and other identifying information of each covered person at the
13865 covered facility who:
13866 (i) provides direct care to a patient; and
13867 (ii) has been the subject of a criminal background check within the preceding
13868 three-year period by a public or private entity recognized by the department; and
13869 (b) submit the name and other identifying information, which may include fingerprints,
13870 of each covered person at the covered facility who has not been the subject of a criminal
13871 background check in accordance with Subsection (1)(a)(ii).
13872 (3) (a) The department shall forward the information received under Subsection (2)(b)
13873 to the Criminal Investigations and Technical Services Division of the Department of Public
13874 Safety for processing to determine whether the covered individual has been convicted of any
13875 crime.
13876 (b) Except for individuals described in Subsection (1)(b)(ii)(B), if an individual has not
13877 had residency in Utah for the last five years, the individual shall submit fingerprints for an FBI
13878 national criminal history record check. The fingerprints shall be submitted to the FBI through
13879 the Criminal Investigations and Technical Services Division. The individual or licensee is
13880 responsible for the cost of the fingerprinting and national criminal history check.
13881 (4) The department may determine whether:
13882 (a) an individual whose name and other identifying information has been submitted
13883 pursuant to Subsection (2) and who provides direct care to children is listed in the Licensing
13884 Information System described in Section 62A-4a-1006 or has a substantiated finding by a court

13885 of a severe type of child abuse or neglect under Section 78-3a-320, if identification as a
13886 possible perpetrator of child abuse or neglect is relevant to the employment activities of that
13887 individual;
13888 (b) an individual whose name and other identifying information has been submitted
13889 pursuant to Subsection (2) and who provides direct care to disabled or elder adults, or who is
13890 residing in a residential home that is a facility licensed to provide direct care to disabled or
13891 elder adults has a substantiated finding of abuse, neglect, or exploitation of a disabled or elder
13892 adult by accessing in accordance with Subsection (5) the database created in Section
13893 62A-3-311.1 if identification as a possible perpetrator of disabled or elder adult abuse, neglect,
13894 or exploitation is relevant to the employment activities or residence of that person; or
13895 (c) an individual whose name or other identifying information has been submitted
13896 pursuant to Subsection (2) has been adjudicated in a juvenile court of committing an act which
13897 if committed by an adult would be a felony or a misdemeanor if:
13898 (i) the individual is under the age of 28 years; or
13899 (ii) the individual is over the age of 28 and has been convicted, has pleaded no contest,
13900 or is currently subject to a plea in abeyance or diversion agreement for any felony or
13901 misdemeanor.
13902 (5) (a) The department shall:
13903 (i) designate two persons within the department to access:
13904 (A) the Licensing Information System described in Section 62A-4a-1006;
13905 (B) court records under Subsection 78-3a-320(6);
13906 (C) the database described in Subsection (4)(b); and
13907 (D) juvenile court records as permitted by Subsection (4)(c); and
13908 (ii) adopt measures to:
13909 (A) protect the security of the Licensing Information System, the court records, and the
13910 database; and
13911 (B) strictly limit access to the Licensing Information System, the court records, and the
13912 database to those designated under Subsection (5)(a)(i).
13913 (b) Those designated under Subsection (5)(a)(i) shall receive training from the
13914 Department of Human Services with respect to:
13915 (i) accessing the Licensing Information System, the court records, and the database;

13916 (ii) maintaining strict security; and
13917 (iii) the criminal provisions in Section 62A-4a-412 for the improper release of
13918 information.
13919 (c) Those designated under Subsection (5)(a)(i):
13920 (i) are the only ones in the department with the authority to access the Licensing
13921 Information System, the court records, and database; and
13922 (ii) may only access the Licensing Information System, the court records, and the
13923 database for the purpose of licensing and in accordance with the provisions of Subsection (4).
13924 (6) Within ten days of initially hiring a covered individual, a covered health care
13925 facility shall submit the covered individual's information to the department in accordance with
13926 Subsection (2).
13927 (7) The department shall adopt rules under [~~Title 63, Chapter 46a~~] Title 63G, Chapter
13928 3, Utah Administrative Rulemaking Act, consistent with this chapter, defining the
13929 circumstances under which a person who has been convicted of a criminal offense, or a person
13930 described in Subsection (4), may provide direct care to a patient in a covered health care
13931 facility, taking into account the nature of the criminal conviction or substantiated finding and
13932 its relation to patient care.
13933 (8) The department may, in accordance with Section 26-1-6, assess reasonable fees for
13934 a criminal background check processed pursuant to this section.
13935 (9) The department may inform the covered health care facility of information
13936 discovered under Subsection (4) with respect to a covered individual.
13937 (10) A covered health care facility is not civilly liable for submitting information to the
13938 department as required by this section.
13939 Section 311. Section **26-21-23** is amended to read:
13940 **26-21-23. Licensing of non-Medicaid nursing care facility beds.**
13941 (1) Notwithstanding the provisions of Section 26-21-2, for purposes of this section
13942 "nursing care facility" and "small health care facility":
13943 (a) mean the following facilities licensed by the department under this chapter:
13944 (i) skilled nursing homes;
13945 (ii) intermediate care facilities; or
13946 (iii) small health care facilities with four to sixteen beds functioning as a skilled

13947 nursing home; and
13948 (b) does not mean:
13949 (i) an intermediate care facility for the mentally retarded;
13950 (ii) a critical access hospital that meets the criteria of 42 U.S.C. 1395i-4(c)(2) (1998);
13951 (iii) a small health care facility which is hospital based; or
13952 (iv) a small health care facility other than a skilled nursing home with 16 beds or less.
13953 (2) Except as provided in Subsection (5), a new nursing care facility shall be approved
13954 for a health facility license only if the applicant proves to the division that:
13955 (a) the facility will be Medicaid certified under the provisions of Section 26-18-503;
13956 (b) the facility will have at least 120 beds; or
13957 (c) (i) the facility's projected Medicare inpatient revenues do not exceed 49% of the
13958 facility's revenues;
13959 (ii) the facility has identified projected non-Medicare inpatient revenue sources; and
13960 (iii) the non-Medicare inpatient revenue sources identified in this Subsection (2)(c)(iii)
13961 will constitute at least 51% of the revenues as demonstrated through an independently certified
13962 feasibility study submitted and paid for by the facility and provided to the division.
13963 (3) The division may not approve the addition of licensed beds in an existing nursing
13964 care facility unless the nursing care facility satisfies the criteria established in Subsection (2).
13965 (4) The department may make rules to administer and enforce this part in accordance
13966 with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
13967 (5) The provisions of Subsection (2) do not apply to a nursing care facility that has:
13968 (a) filed an application with the department and paid all applicable fees to the
13969 department on or before February 28, 2007; and
13970 (b) submitted to the department the working drawings, as defined by the department by
13971 administrative rule, on or before July 1, 2008.
13972 Section 312. Section **26-21a-203** is amended to read:
13973 **26-21a-203. Department rulemaking authority.**
13974 The department shall make rules under [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
13975 Utah Administrative Rulemaking Act:
13976 (1) establishing quality assurance standards for all facilities performing screening or
13977 diagnostic mammography and developing mammogram x-ray films, including procedures for

13978 clinical follow-up of abnormal mammograms; and
13979 (2) providing for:
13980 (a) collection and periodic reporting of mammography examinations and clinical
13981 follow-up data to the department;
13982 (b) certification and revocation of certification of mammogram facilities;
13983 (c) inspection of mammogram facilities, including entry of agents of the department
13984 into the facilities for inspections;
13985 (d) setting fees for certification; and
13986 (e) an appeal process regarding department certification decisions.
13987 Section 313. Section **26-21a-205** is amended to read:
13988 **26-21a-205. Department duties.**
13989 The department shall:
13990 (1) enforce rules established under this part;
13991 (2) authorize qualified department agents to conduct inspections of mammogram
13992 facilities under department rules;
13993 (3) collect and credit fees for certification under Section [~~63-38-3.2~~] 63J-1-303; and
13994 (4) provide necessary administrative and staff support to the committee.
13995 Section 314. Section **26-23-2** is amended to read:
13996 **26-23-2. Administrative review of actions of department or director.**
13997 Any person aggrieved by any action or inaction of the department or its executive
13998 director may request an adjudicative proceeding by following the procedures and requirements
13999 of [~~Title 63, Chapter 46b, the~~] Title 63G, Chapter 4, Administrative Procedures Act.
14000 Section 315. Section **26-23b-110** is amended to read:
14001 **26-23b-110. Information sharing with public safety authorities.**
14002 (1) For purposes of this section, "public safety authority" means a local, state, or
14003 federal law enforcement authority including the Division of Homeland Security, emergency
14004 medical services personnel, and firefighters.
14005 (2) Notwithstanding the provisions of [~~Title 63, Chapter 2~~] Title 63G, Chapter 2,
14006 Government Records Access and Management Act:
14007 (a) whenever a public safety authority suspects a case of a reportable illness or
14008 condition under the provisions of this chapter, it shall immediately notify the department;

14009 (b) whenever the department learns of a case of a reportable illness or condition under
14010 this chapter that it reasonably believes has the potential to be caused by one of the factors listed
14011 in Subsection 26-23b-103(1), it shall immediately notify the appropriate public safety
14012 authority; and
14013 (c) sharing of information reportable under the provisions of this chapter between
14014 persons authorized by this chapter shall be limited to information necessary for the treatment,
14015 control, investigation, and prevention of a public health emergency.
14016 (3) Except to the extent inconsistent with this chapter, Sections 26-6-27 and 26-6-28
14017 apply to this chapter.
14018 Section 316. Section **26-25-2** is amended to read:
14019 **26-25-2. Restrictions on use of data.**
14020 (1) The information described in Subsection 26-25-1(1) that is provided to the entities
14021 described in Subsection 26-25-1(2) shall:
14022 (a) be used and disclosed by the entities described in Subsection 26-25-1(2) in
14023 accordance with this chapter; and
14024 (b) is not subject to [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records
14025 Access and Management Act.
14026 (2) The Division of Substance Abuse and Mental Health within the Department of
14027 Human Services, scientific and health care research organizations affiliated with institutions of
14028 higher education, the Utah Medical Association or any of its allied medical societies, peer
14029 review committees, professional review organizations, professional societies and associations,
14030 or any health facility's in-house staff committee may only use or publish the information or
14031 material received or gathered under Section 26-25-1 for the purpose of study and advancing
14032 medical research or medical education in the interest of reducing the incidence of disease,
14033 morbidity, or mortality, except that a summary of studies conducted in accordance with Section
14034 26-25-1 may be released by those groups for general publication.
14035 Section 317. Section **26-33a-104** is amended to read:
14036 **26-33a-104. Purpose, powers, and duties of the committee.**
14037 (1) The purpose of the committee is to direct a statewide effort to collect, analyze, and
14038 distribute health care data to facilitate the promotion and accessibility of quality and
14039 cost-effective health care and also to facilitate interaction among those with concern for health

14040 care issues.
14041 (2) The committee shall:
14042 (a) develop and adopt by rule, following public hearing and comment, a health data
14043 plan that shall among its elements:
14044 (i) identify the key health care issues, questions, and problems amenable to resolution
14045 or improvement through better data, more extensive or careful analysis, or improved
14046 dissemination of health data;
14047 (ii) document existing health data activities in the state to collect, organize, or make
14048 available types of data pertinent to the needs identified in Subsection (2)(a)(i);
14049 (iii) describe and prioritize the actions suitable for the committee to take in response to
14050 the needs identified in Subsection (2)(a)(i) in order to obtain or to facilitate the obtaining of
14051 needed data, and to encourage improvements in existing data collection, interpretation, and
14052 reporting activities, and indicate how those actions relate to the activities identified under
14053 Subsection (2)(a)(ii);
14054 (iv) detail the types of data needed for the committee's work, the intended data
14055 suppliers, and the form in which such data are to be supplied, noting the consideration given to
14056 the potential alternative sources and forms of such data and to the estimated cost to the
14057 individual suppliers as well as to the department of acquiring these data in the proposed
14058 manner; the plan shall reasonably demonstrate that the committee has attempted to maximize
14059 cost-effectiveness in the data acquisition approaches selected;
14060 (v) describe the types and methods of validation to be performed to assure data validity
14061 and reliability;
14062 (vi) explain the intended uses of and expected benefits to be derived from the data
14063 specified in Subsection (2)(a)(iv), including the contemplated tabulation formats and analysis
14064 methods; the benefits described must demonstrably relate to one or more of the following:
14065 promoting quality health care, managing health care costs, or improving access to health care
14066 services;
14067 (vii) describe the expected processes for interpretation and analysis of the data flowing
14068 to the committee; noting specifically the types of expertise and participation to be sought in
14069 those processes; and
14070 (viii) describe the types of reports to be made available by the committee and the

14071 intended audiences and uses;
14072 (b) have the authority to collect, validate, analyze, and present health data in
14073 accordance with the plan while protecting individual privacy through the use of a control
14074 number as the health data identifier;
14075 (c) evaluate existing identification coding methods and, if necessary, require by rule
14076 that health data suppliers use a uniform system for identification of patients, health care
14077 facilities, and health care providers on health data they submit under this chapter;
14078 (d) report biennially to the governor and the Legislature on how the committee is
14079 meeting its responsibilities under this chapter; and
14080 (e) advise, consult, contract, and cooperate with any corporation, association, or other
14081 entity for the collection, analysis, processing, or reporting of health data identified by control
14082 number only in accordance with the plan.
14083 (3) The committee may adopt rules to carry out the provisions of this chapter in
14084 accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
14085 Rulemaking Act.
14086 (4) Except for data collection, analysis, and validation functions described in this
14087 section, nothing in this chapter shall be construed to authorize or permit the committee to
14088 perform regulatory functions which are delegated by law to other agencies of the state or
14089 federal governments or to perform quality assurance or medical record audit functions that
14090 health care facilities, health care providers, or third party payors are required to conduct to
14091 comply with federal or state law. The committee shall not recommend or determine whether a
14092 health care provider, health care facility, third party payor, or self-funded employer is in
14093 compliance with federal or state laws including but not limited to federal or state licensure,
14094 insurance, reimbursement, tax, malpractice, or quality assurance statutes or common law.
14095 (5) Nothing in this chapter shall be construed to require a data supplier to supply health
14096 data identifying a patient by name or describing detail on a patient beyond that needed to
14097 achieve the approved purposes included in the plan.
14098 (6) No request for health data shall be made of health care providers and other data
14099 suppliers until a plan for the use of such health data has been adopted.
14100 (7) If a proposed request for health data imposes unreasonable costs on a data supplier,
14101 due consideration shall be given by the committee to altering the request. If the request is not

14102 altered, the committee shall pay the costs incurred by the data supplier associated with
14103 satisfying the request that are demonstrated by the data supplier to be unreasonable.
14104 (8) After a plan is adopted as provided in Section 26-33a-106.1, the committee may
14105 require any data supplier to submit fee schedules, maximum allowable costs, area prevailing
14106 costs, terms of contracts, discounts, fixed reimbursement arrangements, capitations, or other
14107 specific arrangements for reimbursement to a health care provider.
14108 (9) The committee shall not publish any health data collected under Subsection (8)
14109 which would disclose specific terms of contracts, discounts, or fixed reimbursement
14110 arrangements, or other specific reimbursement arrangements between an individual provider
14111 and a specific payer.
14112 (10) Nothing in Subsection (8) shall prevent the committee from requiring the
14113 submission of health data on the reimbursements actually made to health care providers from
14114 any source of payment, including consumers.
14115 Section 318. Section **26-35a-106** is amended to read:
14116 **26-35a-106. Restricted account -- Creation -- Deposits.**
14117 (1) (a) There is created a restricted account in the General Fund known as the "Nursing
14118 Care Facilities Account" consisting of:
14119 (i) proceeds from the assessment imposed by Section 26-35a-104 which shall be
14120 deposited in the restricted account to be used for the purpose described in Subsection (1)(b);
14121 (ii) money appropriated or otherwise made available by the Legislature; and
14122 (iii) any interest earned on the account.
14123 (b) (i) Money in the account shall only be used:
14124 (A) to the extent authorized by federal law, to obtain federal financial participation in
14125 the Medicaid program; and
14126 (B) in the manner described in Subsection (1)(b)(ii).
14127 (ii) The money appropriated from the restricted account to the department:
14128 (A) shall be used only to increase the rates paid prior to the effective date of this act to
14129 nursing care facilities for providing services pursuant to the Medicaid program and for
14130 administrative expenses as described in Subsection (1)(b)(ii)(C);
14131 (B) may not be used to replace existing state expenditures paid to nursing care facilities
14132 for providing services pursuant to the Medicaid program; and

14133 (C) may be used for administrative expenses for implementation of this act, if the
14134 administrative expenses for the fiscal year do not exceed 3% of the money deposited into the
14135 restricted account during the fiscal year.
14136 (2) Money shall be appropriated from the restricted account to the department for the
14137 purposes described in Subsection (1)(b) in accordance with [~~Title 63, Chapter 38~~] Title 63J,
14138 Chapter 1, Budgetary Procedures Act.
14139 Section 319. Section **26-38-9** is amended to read:
14140 **26-38-9. Enforcement of chapter.**
14141 (1) The state Department of Health and local health departments shall:
14142 (a) enforce this chapter and shall coordinate their efforts to promote the most effective
14143 enforcement of this chapter; and
14144 (b) impose the penalties under Subsection 26-38-8 in accordance with this section.
14145 (2) When enforcing this chapter, the state Department of Health and the local health
14146 departments shall notify persons of alleged violations of this chapter, conduct hearings, and
14147 impose penalties in accordance with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
14148 Administrative Procedures Act.
14149 (3) Civil penalties collected under this section by:
14150 (a) a local health department shall be paid to the treasurer of the county in which the
14151 violation was committed; and
14152 (b) the state Department of Health shall be deposited in the General Fund.
14153 Section 320. Section **26-39-108** is amended to read:
14154 **26-39-108. License violations -- Penalties.**
14155 (1) The department may deny or revoke a license and otherwise invoke disciplinary
14156 penalties if it finds:
14157 (a) evidence of committing or of aiding, abetting, or permitting the commission of any
14158 illegal act on the premises of the child care facility;
14159 (b) a failure to meet the qualifications for licensure; or
14160 (c) conduct adverse to the public health, morals, welfare, and safety of children under
14161 its care.
14162 (2) The department may also place a department representative as a monitor in a
14163 facility, and may assess the cost of that monitoring to the facility, until the licensee has

14164 remedied the deficiencies that brought about the department action.
14165 (3) The department may impose civil monetary penalties in accordance with [~~Title 63,~~
14166 ~~Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, if there has been a failure
14167 to comply with the provisions of this chapter, or rules promulgated pursuant to this chapter, as
14168 follows:
14169 (a) if significant problems exist that are likely to lead to the harm of a child, the
14170 department may impose a civil penalty of $50 to $1,000 per day; and
14171 (b) if significant problems exist that result in actual harm to a child, the department
14172 may impose a civil penalty of $1,050 to $5,000 per day.
14173 Section 321. Section **26-39-109** is amended to read:
14174 **26-39-109. Investigations -- Records.**
14175 (1) The department may conduct investigations necessary to enforce the provisions of
14176 this chapter.
14177 (2) For purposes of this section:
14178 (a) "Anonymous complainant" means a complainant for whom the department does not
14179 have the minimum personal identifying information necessary, including the complainant's full
14180 name, to attempt to communicate with the complainant after a complaint has been made.
14181 (b) "Confidential complainant" means a complainant for whom the department has the
14182 minimum personal identifying information necessary, including the complainant's full name, to
14183 attempt to communicate with the complainant after a complaint has been made, but who elects
14184 under Subsection (3)(c) not to be identified to the subject of the complaint.
14185 (c) "Subject of the complaint" means the licensee or certificate holder about whom the
14186 complainant is informing the department.
14187 (3) (a) If the department receives a complaint about a child care program or residential
14188 child care, the department shall:
14189 (i) solicit information from the complainant to determine whether the complaint
14190 suggests actions or conditions which could pose a serious risk to the safety or well-being of a
14191 child;
14192 (ii) as necessary:
14193 (A) encourage the complainant to disclose the minimum personal identifying
14194 information necessary, including the complainant's full name, for the department to attempt to

14195 subsequently communicate with the complainant;
14196 (B) inform the complainant that the department may not investigate an anonymous
14197 complaint;
14198 (C) inform the complainant that the identity of a confidential complainant may be
14199 withheld from the subject of a complaint only as provided in Subsection (3)(c)(ii); and
14200 (D) inform the complainant that the department may be limited in its use of
14201 information provided by a confidential complainant, as provided in Subsection (3)(c)(ii)(B);
14202 and
14203 (iii) inform the complainant that a person is guilty of a class B misdemeanor under
14204 Section 76-8-506 if the person gives false information to the department with a purpose of
14205 inducing a change in that person's or another person's licensing or certification status.
14206 (b) If the complainant elects to be an anonymous complainant, or if the complaint
14207 concerns events which occurred more than six weeks before the complainant contacted the
14208 department:
14209 (i) shall refer the information in the complaint to the Division of Child and Family
14210 Services within the Department of Human Services, law enforcement, or any other appropriate
14211 agency, if the complaint suggests actions or conditions which could pose a serious risk to the
14212 safety or well-being of a child;
14213 (ii) may not investigate or substantiate the complaint; and
14214 (iii) may, during a regularly scheduled annual survey, inform the licensee or certificate
14215 holder who is the subject of the complaint of allegations or concerns raised by:
14216 (A) the anonymous complainant; or
14217 (B) the complainant who reported events more than six weeks after the events
14218 occurred.
14219 (c) (i) If the complainant elects to be a confidential complainant, the department shall
14220 determine whether the complainant wishes to remain confidential:
14221 (A) only until the investigation of the complaint has been completed; or
14222 (B) indefinitely.
14223 (ii) (A) If the complainant elects to remain confidential only until the investigation of
14224 the complaint has been completed, the department shall disclose the name of the complainant
14225 to the subject of the complaint at the completion of the investigation, but no sooner.

14226 (B) If the complainant elects to remain confidential indefinitely, the department:
14227 (I) notwithstanding Subsection [~~63-2-201~~] 63G-2-201(5)(b), may not disclose the name
14228 of the complainant, including to the subject of the complaint; and
14229 (II) may not use information provided by the complainant to substantiate an alleged
14230 violation of state law or department rule unless the department independently corroborates the
14231 information.
14232 (4) (a) Prior to conducting an investigation of a child care program or residential child
14233 care in response to a complaint, a department investigator shall review the complaint with the
14234 investigator's supervisor.
14235 (b) The investigator may proceed with the investigation only if:
14236 (i) the supervisor determines the complaint is credible;
14237 (ii) the complaint is not from an anonymous complainant; and
14238 (iii) prior to the investigation, the investigator informs the subject of the complaint of:
14239 (A) except as provided in Subsection (3)(c), the name of the complainant; and
14240 (B) except as provided in Subsection (4)(c), the substance of the complaint.
14241 (c) An investigator is not required to inform the subject of a complaint of the substance
14242 of the complaint prior to an investigation if doing so would jeopardize the investigation.
14243 However, the investigator shall inform the subject of the complaint of the substance of the
14244 complaint as soon as doing so will no longer jeopardize the investigation.
14245 (5) If the department is unable to substantiate a complaint, any record related to the
14246 complaint or the investigation of the complaint:
14247 (a) shall be classified under [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government
14248 Records Access and Management Act, as:
14249 (i) a private or controlled record if appropriate under Section [~~63-2-302~~] 63G-2-302 or
14250 [~~63-2-303~~] 63G-2-304; or
14251 (ii) a protected record under Section [~~63-2-304~~] 63G-2-305; and
14252 (b) if disclosed in accordance with Subsection [~~63-2-201~~] 63G-2-201(5)(b), may not
14253 identify an individual child care program, licensee, certificate holder, or complainant.
14254 (6) Any record of the department related to a complaint by an anonymous complainant
14255 is a protected record under [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records
14256 Access and Management Act, and, notwithstanding Subsection [~~63-2-201~~] 63G-2-201(5)(b),

14257 may not be disclosed in a manner that identifies an individual child care program, licensee,
14258 certificate holder, or complainant.
14259 Section 322. Section **26-40-103** is amended to read:
14260 **26-40-103. Creation and administration of the Utah Children's Health Insurance**
14261 **Program.**
14262 (1) There is created the Utah Children's Health Insurance Program to be administered
14263 by the department in accordance with the provisions of:
14264 (a) this chapter; and
14265 (b) the State Children's Health Insurance Program, 42 U.S.C. Sec. 1397aa et seq.
14266 (2) The department shall:
14267 (a) prepare and submit the state's children's health insurance plan before May 1, 1998,
14268 and any amendments to the federal Department of Health and Human Services in accordance
14269 with 42 U.S.C. Sec. 1397ff; and
14270 (b) make rules in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
14271 Administrative Rulemaking Act regarding:
14272 (i) eligibility requirements consistent with Subsection 26-18-3(6);
14273 (ii) program benefits;
14274 (iii) the level of coverage for each program benefit;
14275 (iv) cost-sharing requirements for enrollees, which may not:
14276 (A) exceed the guidelines set forth in 42 U.S.C. Sec. 1397ee; or
14277 (B) impose deductible, copayment, or coinsurance requirements on an enrollee for
14278 well-child, well-baby, and immunizations; and
14279 (v) the administration of the program.
14280 Section 323. Section **26-40-110** is amended to read:
14281 **26-40-110. Managed care -- Contracting for services.**
14282 (1) Services provided to enrollees under the program shall be delivered in a managed
14283 care system if services are available within 30 paved road miles of where the enrollee lives or
14284 resides. Otherwise, the program may provide services to enrollees through fee for service
14285 plans.
14286 (2) Before awarding a contract to a managed care system or fee for service plan to
14287 provide services under Subsection (1) or determining that no bid or proposal received in

14288 response to such a request is acceptable, the executive director shall report that information to
14289 and seek recommendations from the Health Advisory Council created in Section 26-1-7.5.
14290 (3) If after seeking the recommendation of the Health Advisory Council under
14291 Subsection (2), the executive director determines that no bid or proposal received in response
14292 to such a request is acceptable or if no bid or proposal has been received in response to such a
14293 request, the department may contract with the Group Insurance Division within the Utah State
14294 Retirement Office to provide services under Subsection (1).
14295 (4) [~~Title 63, Chapter 56~~] Title 63G, Chapter 6, Utah Procurement Code, shall apply to
14296 this section.
14297 Section 324. Section **26-41-104** is amended to read:
14298 **26-41-104. Training in use of epinephrine auto-injector.**
14299 (1) Each primary and secondary school in the state, both public and private, may
14300 designate one or more school personnel who volunteers to receive initial and annual refresher
14301 training from the school nurse or other qualified person designated by the school district
14302 physician, the medical director of the local health department, or the local emergency medical
14303 services director regarding the storage and emergency use of an epinephrine auto-injector.
14304 (2) A person who provides training under Subsection (1) or (6) shall include in the
14305 training:
14306 (a) techniques for recognizing symptoms of anaphylaxis;
14307 (b) standards and procedures for the storage and emergency use of epinephrine
14308 auto-injectors;
14309 (c) emergency follow-up procedures, including calling the emergency 911 number and
14310 contacting, if possible, the student's parent and physician; and
14311 (d) written materials covering the information required under this Subsection (2).
14312 (3) A designated person shall retain for reference the written materials prepared in
14313 accordance with Subsection (2)(d).
14314 (4) A public school shall permit a student to possess an epinephrine auto-injector or
14315 possess and self-administer an epinephrine auto-injector if:
14316 (a) the student's parent or guardian signs a statement:
14317 (i) authorizing the student to possess or possess and self-administer an epinephrine
14318 auto-injector; and

14319 (ii) acknowledging that the student is responsible for, and capable of, possessing or
14320 possessing and self-administering an epinephrine auto-injector; and
14321 (b) the student's health care provider provides a written statement that states that it is
14322 medically appropriate for the student to possess or possess and self-administer an epinephrine
14323 auto-injector and the student should be in possession of the epinephrine auto-injector at all
14324 times.
14325 (5) The Utah Department of Health, in cooperation with the state superintendent of
14326 public instruction, shall design forms to be used by public schools for the parental and health
14327 care providers statements described in Subsection (6).
14328 (6) (a) The department:
14329 (i) shall approve educational programs conducted by other persons, to train people
14330 under Subsection (6)(b) of this section, regarding the use and storage of emergency epinephrine
14331 auto-injectors; and
14332 (ii) may, as funding is available, conduct educational programs to train people
14333 regarding the use of and storage of emergency epinephrine auto-injectors.
14334 (b) A person designated to receive training to administer an epinephrine auto-injector
14335 under the provisions of this Subsection (6) must demonstrate a need for the training to the
14336 department, which may be based upon occupational, volunteer, or family circumstances, and
14337 shall include:
14338 (i) camp counselors;
14339 (ii) scout leaders;
14340 (iii) forest rangers;
14341 (iv) tour guides; and
14342 (v) other persons who have or reasonably expect to have responsibility for at least one
14343 other person as a result of the person's occupational or volunteer status.
14344 (7) The department shall adopt rules in accordance with [~~Title 63, Chapter 46a~~] Title
14345 63G, Chapter 3, Utah Administrative Rulemaking Act, to:
14346 (a) establish and approve training programs in accordance with this section; and
14347 (b) establish a procedure for determining the need for training under Subsection
14348 (6)(b)(v).
14349 Section 325. Section **26-42-104** is amended to read:

14350 **26-42-104. Enforcement by state and local health departments.**
14351 The state Department of Health and the local health departments shall enforce this
14352 chapter under the procedures of [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
14353 Procedures Act, as an informal adjudicative proceeding, including:
14354 (1) notifying licensees of alleged violations of Section 26-42-103;
14355 (2) conducting hearings;
14356 (3) determining violations of this chapter; and
14357 (4) imposing civil monetary administrative penalties.
14358 Section 326. Section **26-43-103** is amended to read:
14359 **26-43-103. Disclosure of information.**
14360 Information obtained by the department under this chapter is a public record and may
14361 be disclosed in accordance with Section [~~63-2-201~~] 63G-2-201 and disseminated generally by
14362 the department.
14363 Section 327. Section **26-46-102** is amended to read:
14364 **26-46-102. Creation of program -- Duties of department.**
14365 (1) There is created within the department the Utah Health Care Workforce Financial
14366 Assistance Program to provide professional education scholarships and loan repayment
14367 assistance to health care professionals who locate or continue to practice in underserved areas.
14368 (2) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
14369 Administrative Rulemaking Act, the department shall make rules governing the administration
14370 of the program, including rules that address:
14371 (a) application procedures;
14372 (b) eligibility criteria;
14373 (c) selection criteria;
14374 (d) service conditions, which at a minimum shall include professional service in an
14375 underserved area for a minimum period of time by any person receiving a scholarship or loan
14376 repayment assistance;
14377 (e) penalties for failure to comply with service conditions or other terms of a
14378 scholarship or loan repayment contract;
14379 (f) criteria for modifying or waiving service conditions or penalties in case of extreme
14380 hardship or other good cause; and

14381 (g) administration of contracts entered into before the effective date of this act,
14382 between the department and scholarship or loan repayment recipients under Title 26, Chapter 9,
14383 Part 2, Physicians and Physician Assistants Grant and Scholarship Program, Title 26, Chapter
14384 9d, Nurse Education Financial Assistance, or Title 26, Chapter 9e, Special Population Health
14385 Care Provider Financial Assistance and Retention Act.
14386 (3) The department shall seek and consider the recommendations of the Utah Health
14387 Care Workforce Financial Assistance Program Advisory Committee created under Section
14388 26-46-103 as it develops and modifies rules to administer the program.
14389 (4) Funding for the program shall be a line item within the appropriations act, shall be
14390 nonlapsing unless designated otherwise, and may be used to cover administrative costs of the
14391 program, including reimbursement expenses of the Utah Health Care Workforce Financial
14392 Assistance Program Advisory Committee created under Section 26-46-103.
14393 (5) Loan repayments and payments resulting from breach of contract are dedicated
14394 credits to the program.
14395 (6) The department shall prepare an annual report on the revenues, expenditures, and
14396 outcomes of the program.
14397 Section 328. Section **26-47-103** is amended to read:
14398 **26-47-103. Department to award grants for assistance to persons with bleeding**
14399 **disorders.**
14400 (1) For purposes of this section:
14401 (a) "Hemophilia services" means a program for medical care, including the costs of
14402 blood transfusions, and the use of blood derivatives and blood clotting factors.
14403 (b) "Person with a bleeding disorder" means a person:
14404 (i) who is medically diagnosed with hemophilia or a bleeding disorder;
14405 (ii) who is not eligible for Medicaid or the Children's Health Insurance Program; and
14406 (iii) who has either:
14407 (A) insurance coverage that excludes coverage for hemophilia services;
14408 (B) exceeded [~~his~~] the person's insurance plan's annual maximum benefits;
14409 (C) exceeded [~~his~~] the person's annual or lifetime maximum benefits payable under
14410 Title 31A, Chapter 29, Comprehensive Health Insurance Pool Act; or
14411 (D) insurance coverage available under either private health insurance, Title 31A,

14412 Chapter 29, Comprehensive Health Insurance Pool Act, Utah mini COBRA coverage under
14413 Section 31A-22-722, or federal COBRA coverage, but the premiums for that coverage are
14414 greater than a percentage of the person's annual adjusted gross income as established by the
14415 department by administrative rule.
14416 (2) (a) Within appropriations specified by the Legislature for this purpose, the
14417 department shall make grants to public and nonprofit entities who assist persons with bleeding
14418 disorders with the cost of obtaining hemophilia services or the cost of insurance premiums for
14419 coverage of hemophilia services.
14420 (b) Applicants for grants under this section:
14421 (i) must be submitted to the department in writing; and
14422 (ii) must comply with Subsection (3).
14423 (3) Applications for grants under this section shall include:
14424 (a) a statement of specific, measurable objectives, and the methods to be used to assess
14425 the achievement of those objectives;
14426 (b) a description of the personnel responsible for carrying out the activities of the grant
14427 along with a statement justifying the use of any grant funds for the personnel;
14428 (c) letters and other forms of evidence showing that efforts have been made to secure
14429 financial and professional assistance and support for the services to be provided under the
14430 grant;
14431 (d) a list of services to be provided by the applicant;
14432 (e) the schedule of fees to be charged by the applicant; and
14433 (f) other provisions as determined by the department.
14434 (4) The department may accept grants, gifts, and donations of money or property for
14435 use by the grant program.
14436 (5) (a) The department shall establish rules in accordance with [~~Title 63, Chapter 46a~~]
14437 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the application form,
14438 process, and criteria it will use in awarding grants under this section.
14439 (b) The department shall report to the Health and Human Services Interim Committee
14440 and to the Legislative Executive Appropriations Committee by November 1, 2006, and every
14441 year thereafter on the implementation of the grant program.
14442 Section 329. Section **26-48-102** is amended to read:

14443 **26-48-102. Cat and Dog Community Spay and Neuter Program Restricted**
14444 **Account -- Interest -- Use of contributions and interest.**
14445 (1) There is created within the General Fund the Cat and Dog Community Spay and
14446 Neuter Program Restricted Account.
14447 (2) The account shall be funded by contributions deposited into the Cat and Dog
14448 Community Spay and Neuter Program Restricted Account in accordance with Section
14449 59-10-550.2.
14450 (3) (a) The Cat and Dog Community Spay and Neuter Program Restricted Account
14451 shall earn interest.
14452 (b) Interest earned on the Cat and Dog Community Spay and Neuter Program
14453 Restricted Account shall be deposited into the Cat and Dog Community Spay and Neuter
14454 Program Restricted Account.
14455 (4) The department shall distribute contributions and interest deposited into the Cat and
14456 Dog Community Spay and Neuter Program Restricted Account to one or more organizations
14457 that:
14458 (a) are exempt from federal income taxation under Section 501(c)(3), Internal Revenue
14459 Code;
14460 (b) operate a mobile spay and neuter clinic for cats and dogs;
14461 (c) provide annual spay and neuter services at the mobile spay and neuter clinic
14462 described in Subsection (4)(b):
14463 (i) to one or more communities in at least 20 counties in the state; and
14464 (ii) by veterinarians who are licensed by Title 58, Chapter 28, Veterinary Practice Act;
14465 and
14466 (d) (i) spay and neuter cats and dogs owned by persons having low incomes; and
14467 (ii) have established written guidelines for determining what constitutes a person
14468 having a low income in accordance with any rules made by the department as authorized by
14469 Subsection (5)(c).
14470 (5) (a) An organization described in Subsection (4) may apply to the department to
14471 receive a distribution in accordance with Subsection (4).
14472 (b) An organization that receives a distribution from the department in accordance with
14473 Subsection (4):

14474 (i) shall expend the distribution only to spay or neuter dogs and cats:
14475 (A) owned by persons having low incomes;
14476 (B) by veterinarians who are licensed by Title 58, Chapter 28, Veterinary Practice Act;
14477 (C) through a statewide voucher program; and
14478 (D) at a location that:
14479 (I) is not a mobile spay and neuter clinic; and
14480 (II) does not receive any funding from a governmental entity; and
14481 (ii) may not expend the distribution for any administrative cost relating to an
14482 expenditure authorized by Subsection (5)(b)(i).
14483 (c) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
14484 Administrative Rulemaking Act, the department may make rules:
14485 (i) providing procedures and requirements for an organization to apply to the
14486 department to receive a distribution in accordance with Subsection (4); and
14487 (ii) to define what constitutes a person having a low income.
14488 Section 330. Section **26A-1-108.7** is amended to read:
14489 **26A-1-108.7. Procurement -- Use of recycled goods.**
14490 The procurement officer or other person responsible for purchasing supplies for each
14491 local health department shall:
14492 (1) maintain for reference a copy of the current listing of recycled items available on
14493 state contract as issued by the chief procurement officer under Section [~~63-56-204~~] 63G-6-204;
14494 and
14495 (2) give recycled items consideration when inviting bids and purchasing supplies, in
14496 compliance with Section 11-37-101.
14497 Section 331. Section **30-2-11** is amended to read:
14498 **30-2-11. Action for consortium due to personal injury.**
14499 (1) For purposes of this section:
14500 (a) "injury" or "injured" means a significant permanent injury to a person that
14501 substantially changes that person's lifestyle and includes the following:
14502 (i) a partial or complete paralysis of one or more of the extremities;
14503 (ii) significant disfigurement; or
14504 (iii) incapability of the person of performing the types of jobs the person performed

14505 before the injury; and
14506 (b) "spouse" means the legal relationship:
14507 (i) established between a man and a woman as recognized by the laws of this state; and
14508 (ii) existing at the time of the person's injury.
14509 (2) The spouse of a person injured by a third party on or after May 4, 1997, may
14510 maintain an action against the third party to recover for loss of consortium.
14511 (3) A claim for loss of consortium begins on the date of injury to the spouse. The
14512 statute of limitations applicable to the injured person shall also apply to the spouse's claim of
14513 loss of consortium.
14514 (4) A claim for the spouse's loss of consortium shall be:
14515 (a) made at the time the claim of the injured person is made and joinder of actions shall
14516 be compulsory; and
14517 (b) subject to the same defenses, limitations, immunities, and provisions applicable to
14518 the claims of the injured person.
14519 (5) The spouse's action for loss of consortium:
14520 (a) shall be derivative from the cause of action existing in behalf of the injured person;
14521 and
14522 (b) may not exist in cases where the injured person would not have a cause of action.
14523 (6) Fault of the spouse of the injured person, as well as fault of the injured person, shall
14524 be compared with the fault of all other parties, pursuant to Sections 78-27-37 through
14525 78-27-43, for purposes of reducing or barring any recovery by the spouse for loss of
14526 consortium.
14527 (7) Damages awarded for loss of consortium, when combined with any award to the
14528 injured person for general damages, may not exceed any applicable statutory limit on
14529 noneconomic damages, including Section 78-14-7.1.
14530 (8) Damages awarded for loss of consortium which a governmental entity is required to
14531 pay, when combined with any award to the injured person which a governmental entity is
14532 required to pay, may not exceed the liability limit for one person in any one occurrence under
14533 [~~Title 63, Chapter 30d~~] Title 63G, Chapter 7, Governmental Immunity Act of Utah.
14534 Section 332. Section **30-3-11.3** is amended to read:
14535 **30-3-11.3. Mandatory educational course for divorcing parents -- Purpose --**

14536 **Curriculum -- Exceptions.**
14537 (1) There is established a mandatory course for divorcing parents as a pilot program in
14538 the third and fourth judicial districts to be administered by the Administrative Office of the
14539 Courts from July 1, 1992, to June 30, 1994. On July 1, 1994, an approved course shall be
14540 implemented in all judicial districts. The mandatory course is designed to educate and
14541 sensitize divorcing parties to their children's needs both during and after the divorce process.
14542 (2) The Judicial Council shall adopt rules to implement and administer this program.
14543 (3) As a prerequisite to receiving a divorce decree, both parties are required to attend a
14544 mandatory course on their children's needs after filing a complaint for divorce and receiving a
14545 docket number, unless waived under Section 30-3-4. If that requirement is waived, the court
14546 may permit the divorce action to proceed.
14547 (4) The court may require unmarried parents to attend this educational course when
14548 those parents are involved in a visitation or custody proceeding before the court.
14549 (5) The mandatory course shall instruct both parties about divorce and its impacts on:
14550 (a) their child or children;
14551 (b) their family relationship;
14552 (c) their financial responsibilities for their child or children; and
14553 (d) that domestic violence has a harmful effect on children and family relationships.
14554 (6) The Administrative Office of the Courts shall administer the course pursuant to
14555 [~~Title 63, Chapter 56~~] Title 63G, Chapter 6, Utah Procurement Code, through private or public
14556 contracts and organize the program in each of Utah's judicial districts. The contracts shall
14557 provide for the recoupment of administrative expenses through the costs charged to individual
14558 parties, pursuant to Subsection (8).
14559 (7) A certificate of completion constitutes evidence to the court of course completion
14560 by the parties.
14561 (8) (a) Each party shall pay the costs of the course to the independent contractor
14562 providing the course at the time and place of the course. A fee of $8 shall be collected, as part
14563 of the course fee paid by each participant, and deposited in the Children's Legal Defense
14564 Account, described in Section [~~63-63a-8~~] 51-9-408.
14565 (b) Each party who is unable to pay the costs of the course may attend the course
14566 without payment upon a prima facie showing of impecuniosity as evidenced by an affidavit of

14567 impecuniosity filed in the district court. In those situations, the independent contractor shall be
14568 reimbursed for its costs from the appropriation to the Administrative Office of the Courts for
14569 "Mandatory Educational Course for Divorcing Parents Program." Before a decree of divorce
14570 may be entered, the court shall make a final review and determination of impecuniosity and
14571 may order the payment of the costs if so determined.
14572 (9) Appropriations from the General Fund to the Administrative Office of the Courts
14573 for the "Mandatory Educational Course for Divorcing Parents Program" shall be used to pay
14574 the costs of an indigent parent who makes a showing as provided in Subsection (8)(b).
14575 (10) The Administrative Office of the Courts shall adopt a program to evaluate the
14576 effectiveness of the mandatory educational course. Progress reports shall be provided annually
14577 to the Judiciary Interim Committee.
14578 Section 333. Section **30-3-11.4** is amended to read:
14579 **30-3-11.4. Mandatory orientation course for divorcing parties -- Purpose --**
14580 **Curriculum -- Exceptions.**
14581 (1) There is established a mandatory divorce orientation course for all parties with
14582 minor children who file a petition for temporary separation or for a divorce. A couple with no
14583 minor children are not required, but may choose to attend the course. The purpose of the
14584 course shall be to educate parties about the divorce process and reasonable alternatives.
14585 (2) A petitioner shall attend a divorce orientation course no more than 60 days after
14586 filing a petition for divorce.
14587 (3) The respondent shall attend the divorce orientation course no more than 30 days
14588 after being served with a petition for divorce.
14589 (4) The clerk of the court shall provide notice to a petitioner of the requirement for the
14590 course, and information regarding the course shall be included with the petition or motion,
14591 when served on the respondent.
14592 (5) The divorce orientation course shall be neutral, unbiased, at least one hour in
14593 duration, and include:
14594 (a) options available as alternatives to divorce;
14595 (b) resources available from courts and administrative agencies for resolving custody
14596 and support issues without filing for divorce;
14597 (c) resources available to improve or strengthen the marriage;

14598 (d) a discussion of the positive and negative consequences of divorce;
14599 (e) a discussion of the process of divorce;
14600 (f) options available for proceeding with a divorce, including:
14601 (i) mediation;
14602 (ii) collaborative law; and
14603 (iii) litigation; and
14604 (g) a discussion of post-divorce resources.
14605 (6) The course may be provided in conjunction with the mandatory course for
14606 divorcing parents required by Section 30-3-11.3.
14607 (7) The Administrative Office of the Courts shall administer the course pursuant to
14608 [~~Title 63, Chapter 56~~] Title 63G, Chapter 6, Utah Procurement Code, through private or public
14609 contracts.
14610 (8) Each participant shall pay the costs of the course, which may not exceed $20, to the
14611 independent contractor providing the course at the time and place of the course.
14612 (a) A fee of $5 shall be collected, as part of the course fee paid by each participant, and
14613 deposited in the Children's Legal Defense Account described in Section [~~63-63a-8~~] 51-9-408.
14614 (b) A participant who is unable to pay the costs of the course may attend without
14615 payment and request an Affidavit of Impecuniosity from the provider to be filed with the
14616 petition or motion. The provider shall be reimbursed for its costs by the Administrative Office
14617 of the Courts. A petitioner who is later determined not to meet the qualifications for
14618 impecuniosity may be ordered to pay the costs of the course.
14619 (9) Appropriations from the General Fund to the Administrative Office of the Courts
14620 for the divorce orientation course shall be used to pay the costs of an indigent petitioner who is
14621 determined to be impecunious as provided in Subsection (8)(b).
14622 (10) The Online Court Assistance Program shall include instructions with the forms for
14623 divorce which inform the petitioner of the requirement of this section.
14624 (11) Both parties shall attend a divorce orientation course before a divorce decree may
14625 be entered, unless waived by the court. A certificate of completion constitutes evidence to the
14626 court of course completion by the parties.
14627 (12) It shall be an affirmative defense in all divorce actions that the divorce orientation
14628 requirement was not complied with, and the action may not continue until a party has

14629 complied.
14630 (13) The Administrative Office of the Courts shall adopt a program to evaluate the
14631 effectiveness of the mandatory educational course. Progress reports shall be provided annually
14632 to the Judiciary Interim Committee.
14633 Section 334. Section **30-3-38** is amended to read:
14634 **30-3-38. Pilot Program for Expedited Parent-time Enforcement.**
14635 (1) There is established an Expedited Parent-time Enforcement Pilot Program in the
14636 third judicial district to be administered by the Administrative Office of the Courts from July 1,
14637 2003, to July 1, 2007.
14638 (2) As used in this section:
14639 (a) "Mediator" means a person who:
14640 (i) is qualified to mediate parent-time disputes under criteria established by the
14641 Administrative Office of the Courts; and
14642 (ii) agrees to follow billing guidelines established by the Administrative Office of the
14643 Courts and this section.
14644 (b) "Services to facilitate parent-time" or "services" means services designed to assist
14645 families in resolving parent-time problems through:
14646 (i) counseling;
14647 (ii) supervised parent-time;
14648 (iii) neutral drop-off and pick-up;
14649 (iv) educational classes; and
14650 (v) other related activities.
14651 (3) (a) Under this pilot program, if a parent files a motion in the third district court
14652 alleging that court-ordered parent-time rights are being violated, the clerk of the court, after
14653 assigning the case to a judge, shall refer the case to the administrator of this pilot program for
14654 assignment to a mediator.
14655 (b) Upon receipt of a case, the mediator shall:
14656 (i) meet with the parents to address parent-time issues within 15 days of the motion
14657 being filed;
14658 (ii) assess the situation;
14659 (iii) facilitate an agreement on parent-time between the parents; and

14660 (iv) determine whether a referral to a service provider under Subsection (3)(c) is
14661 warranted.
14662 (c) While a case is in mediation, a mediator may refer the parents to a service provider
14663 designated by the Department of Human Services for services to facilitate parent-time if:
14664 (i) the services may be of significant benefit to the parents; or
14665 (ii) (A) a mediated agreement between the parents is unlikely; and
14666 (B) the services may facilitate an agreement.
14667 (d) At any time during mediation, a mediator shall terminate mediation and transfer the
14668 case to the administrator of the pilot program for referral to the judge or court commissioner to
14669 whom the case was assigned under Subsection (3)(a) if:
14670 (i) a written agreement between the parents is reached; or
14671 (ii) the parents are unable to reach an agreement through mediation and:
14672 (A) the parents have received services to facilitate parent-time;
14673 (B) both parents object to receiving services to facilitate parent-time; or
14674 (C) the parents are unlikely to benefit from receiving services to facilitate parent-time.
14675 (e) Upon receiving a case from the administrator of the pilot program, a judge or court
14676 commissioner may:
14677 (i) review the agreement of the parents and, if acceptable, sign it as an order;
14678 (ii) order the parents to receive services to facilitate parent-time;
14679 (iii) proceed with the case; or
14680 (iv) take other appropriate action.
14681 (4) (a) If a parent makes a particularized allegation of physical or sexual abuse of a
14682 child who is the subject of a parent-time order against the other parent or a member of the other
14683 parent's household to a mediator or service provider, the mediator or service provider shall
14684 immediately report that information to:
14685 (i) the judge assigned to the case who may immediately issue orders and take other
14686 appropriate action to resolve the allegation and protect the child; and
14687 (ii) the Division of Child and Family Services within the Department of Human
14688 Services in the manner required by Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect
14689 Reporting Requirements.
14690 (b) If an allegation under Subsection (4)(a) is made against a parent with parent-time

14691 rights or a member of that parent's household, parent-time by that parent shall, pursuant to an
14692 order of the court, be supervised until:
14693 (i) the allegation has been resolved; or
14694 (ii) a court orders otherwise.
14695 (c) Notwithstanding an allegation under Subsection (4)(a), a mediator may continue to
14696 mediate parent-time problems and a service provider may continue to provide services to
14697 facilitate parent-time unless otherwise ordered by a court.
14698 (5) (a) The Department of Human Services may contract with one or more entities in
14699 accordance with [~~Title 63, Chapter 56~~] Title 63G, Chapter 6, Utah Procurement Code, to
14700 provide:
14701 (i) services to facilitate parent-time;
14702 (ii) case management services; and
14703 (iii) administrative services.
14704 (b) An entity who contracts with the Department of Human Services under Subsection
14705 (5)(a) shall:
14706 (i) be qualified to provide one or more of the services listed in Subsection (5)(a); and
14707 (ii) agree to follow billing guidelines established by the Department of Human Services
14708 and this section.
14709 (6) (a) Except as provided in Subsection (6)(b), the cost of mediation shall be:
14710 (i) reduced to a sum certain;
14711 (ii) divided equally between the parents; and
14712 (iii) charged against each parent taking into account the ability of that parent to pay
14713 under billing guidelines adopted in accordance with this section.
14714 (b) A judge may order a parent to pay an amount in excess of that provided for in
14715 Subsection (6)(a) if the parent:
14716 (i) failed to participate in good faith in mediation or services to facilitate parent-time;
14717 or
14718 (ii) made an unfounded assertion or claim of physical or sexual abuse of a child.
14719 (c) (i) The cost of mediation and services to facilitate parent-time may be charged to
14720 parents at periodic intervals.
14721 (ii) Mediation and services to facilitate parent-time may only be terminated on the

14722 ground of nonpayment if both parents are delinquent.
14723 (7) If a parent fails to cooperate in good faith in mediation or services to facilitate
14724 parent-time, a court may order, in subsequent proceedings, a temporary change in custody or
14725 parent-time.
14726 (8) (a) The Judicial Council may make rules to implement and administer the
14727 provisions of this pilot program related to mediation.
14728 (b) The Department of Human Services may make rules to implement and administer
14729 the provisions of this pilot program related to services to facilitate parent-time.
14730 (9) (a) The Administrative Office of the Courts shall adopt outcome measures to
14731 evaluate the effectiveness of the mediation component of this pilot program. Progress reports
14732 shall be provided to the Judiciary Interim Committee as requested by the committee. At least
14733 once during this pilot program, the Administrative Office of the Courts shall present to the
14734 committee the results of a survey that measures the effectiveness of the program in terms of
14735 increased compliance with parent-time orders and the responses of interested persons.
14736 (b) The Department of Human Services shall adopt outcome measures to evaluate the
14737 effectiveness of the services component of this pilot program. Progress reports shall be
14738 provided to the Judiciary Interim Committee as requested by the committee.
14739 (c) The Administrative Office of the Courts and the Department of Human Services
14740 may adopt joint outcome measures and file joint reports to satisfy the requirements of
14741 Subsections (8)(a) and (b).
14742 (10) (a) The Department of Human Services shall, by following the procedures and
14743 requirements of [~~Title 63, Chapter 38e~~] Title 63J, Chapter 5, Federal Funds Procedures, apply
14744 for federal funds as available.
14745 (b) This pilot program shall be funded through funds received under Subsection
14746 (10)(a).
14747 Section 335. Section **31A-1-103** is amended to read:
14748 **31A-1-103. Scope and applicability of title.**
14749 (1) This title does not apply to:
14750 (a) a retainer contract made by an attorney-at-law:
14751 (i) with an individual client; and
14752 (ii) under which fees are based on estimates of the nature and amount of services to be

14753 provided to the specific client;
14754 (b) a contract similar to a contract described in Subsection (1)(a) made with a group of
14755 clients involved in the same or closely related legal matters;
14756 (c) an arrangement for providing benefits that do not exceed a limited amount of
14757 consultations, advice on simple legal matters, either alone or in combination with referral
14758 services, or the promise of fee discounts for handling other legal matters;
14759 (d) limited legal assistance on an informal basis involving neither an express
14760 contractual obligation nor reasonable expectations, in the context of an employment,
14761 membership, educational, or similar relationship;
14762 (e) legal assistance by employee organizations to their members in matters relating to
14763 employment; or
14764 (f) death, accident, health, or disability benefits provided to a person by an organization
14765 or its affiliate if:
14766 (i) the organization is tax exempt under Section 501(c)(3) of the Internal Revenue
14767 Code and has had its principal place of business in Utah for at least five years;
14768 (ii) the person is not an employee of the organization; and
14769 (iii) (A) substantially all the person's time in the organization is spent providing
14770 voluntary services:
14771 (I) in furtherance of the organization's purposes;
14772 (II) for a designated period of time; and
14773 (III) for which no compensation, other than expenses, is paid; or
14774 (B) the time since the service under Subsection (1)(f)(iii)(A) was completed is no more
14775 than 18 months.
14776 (2) (a) This title restricts otherwise legitimate business activity.
14777 (b) What this title does not prohibit is permitted unless contrary to other provisions of
14778 Utah law.
14779 (3) Except as otherwise expressly provided, this title does not apply to:
14780 (a) those activities of an insurer where state jurisdiction is preempted by Section 514 of
14781 the federal Employee Retirement Income Security Act of 1974, as amended;
14782 (b) ocean marine insurance;
14783 (c) death, accident, health, or disability benefits provided by an organization if the

14784 organization:
14785 (i) has as its principal purpose to achieve charitable, educational, social, or religious
14786 objectives rather than to provide death, accident, health, or disability benefits;
14787 (ii) does not incur a legal obligation to pay a specified amount; and
14788 (iii) does not create reasonable expectations of receiving a specified amount on the part
14789 of an insured person;
14790 (d) other business specified in rules adopted by the commissioner on a finding that:
14791 (i) the transaction of the business in this state does not require regulation for the
14792 protection of the interests of the residents of this state; or
14793 (ii) it would be impracticable to require compliance with this title;
14794 (e) except as provided in Subsection (4), a transaction independently procured through
14795 negotiations under Section 31A-15-104;
14796 (f) self-insurance;
14797 (g) reinsurance;
14798 (h) subject to Subsection (5), employee and labor union group or blanket insurance
14799 covering risks in this state if:
14800 (i) the policyholder exists primarily for purposes other than to procure insurance;
14801 (ii) the policyholder:
14802 (A) is not a resident of this state;
14803 (B) is not a domestic corporation; or
14804 (C) does not have its principal office in this state;
14805 (iii) no more than 25% of the certificate holders or insureds are residents of this state;
14806 (iv) on request of the commissioner, the insurer files with the department a copy of the
14807 policy and a copy of each form or certificate; and
14808 (v) (A) the insurer agrees to pay premium taxes on the Utah portion of its business, as
14809 if it were authorized to do business in this state; and
14810 (B) the insurer provides the commissioner with the security the commissioner
14811 considers necessary for the payment of premium taxes under Title 59, Chapter 9, Taxation of
14812 Admitted Insurers;
14813 (i) to the extent provided in Subsection (6):
14814 (i) a manufacturer's or seller's warranty; and

14815 (ii) a manufacturer's or seller's service contract; or
14816 (j) except to the extent provided in Subsection (7), a public agency insurance mutual.
14817 (4) A transaction described in Subsection (3)(e) is subject to taxation under Section
14818 31A-3-301.
14819 (5) (a) After a hearing, the commissioner may order an insurer of certain group or
14820 blanket contracts to transfer the Utah portion of the business otherwise exempted under
14821 Subsection (3)(h) to an authorized insurer if the contracts have been written by an unauthorized
14822 insurer.
14823 (b) If the commissioner finds that the conditions required for the exemption of a group
14824 or blanket insurer are not satisfied or that adequate protection to residents of this state is not
14825 provided, the commissioner may require:
14826 (i) the insurer to be authorized to do business in this state; or
14827 (ii) that any of the insurer's transactions be subject to this title.
14828 (6) (a) As used in Subsection (3)(i) and this Subsection (6):
14829 (i) "manufacturer's or seller's service contract" means a service contract:
14830 (A) made available by:
14831 (I) a manufacturer of a product;
14832 (II) a seller of a product; or
14833 (III) an affiliate of a manufacturer or seller of a product;
14834 (B) made available:
14835 (I) on one or more specific products; or
14836 (II) on products that are components of a system; and
14837 (C) under which the person described in Subsection (6)(a)(i)(A) is liable for services to
14838 be provided under the service contract including, if the manufacturer's or seller's service
14839 contract designates, providing parts and labor;
14840 (ii) "manufacturer's or seller's warranty" means the guaranty of:
14841 (A) (I) the manufacturer of a product;
14842 (II) a seller of a product; or
14843 (III) an affiliate of a manufacturer or seller of a product;
14844 (B) (I) on one or more specific products; or
14845 (II) on products that are components of a system; and

14846 (C) under which the person described in Subsection (6)(a)(ii)(A) is liable for services
14847 to be provided under the warranty, including, if the manufacturer's or seller's warranty
14848 designates, providing parts and labor; and
14849 (iii) "service contract" is as defined in Section 31A-6a-101.
14850 (b) A manufacturer's or seller's warranty may be designated as:
14851 (i) a warranty;
14852 (ii) a guaranty; or
14853 (iii) a term similar to a term described in Subsection (6)(b)(i) or (ii).
14854 (c) This title does not apply to:
14855 (i) a manufacturer's or seller's warranty;
14856 (ii) a manufacturer's or seller's service contract paid for with consideration that is in
14857 addition to the consideration paid for the product itself; and
14858 (iii) a service contract that is not a manufacturer's or seller's warranty or manufacturer's
14859 or seller's service contract if:
14860 (A) the service contract is paid for with consideration that is in addition to the
14861 consideration paid for the product itself;
14862 (B) the service contract is for the repair or maintenance of goods;
14863 (C) the cost of the product is equal to an amount determined in accordance with
14864 Subsection (6)(e); and
14865 (D) the product is not a motor vehicle.
14866 (d) This title does not apply to a manufacturer's or seller's warranty or service contract
14867 paid for with consideration that is in addition to the consideration paid for the product itself
14868 regardless of whether the manufacturer's or seller's warranty or service contract is sold:
14869 (i) at the time of the purchase of the product; or
14870 (ii) at a time other than the time of the purchase of the product.
14871 (e) (i) For fiscal year 2001-02, the amount described in Subsection (6)(c)(iii)(C) shall
14872 be equal to $3,700 or less.
14873 (ii) For each fiscal year after fiscal year 2001-02, the commissioner shall annually
14874 determine whether the amount described in Subsection (6)(c)(iii)(C) should be adjusted in
14875 accordance with changes in the Consumer Price Index published by the United States Bureau
14876 of Labor Statistics selected by the commissioner by rule, between:

14877 (A) the Consumer Price Index for the February immediately preceding the adjustment;
14878 and
14879 (B) the Consumer Price Index for February 2001.
14880 (iii) If under Subsection (6)(e)(ii) the commissioner determines that an adjustment
14881 should be made, the commissioner shall make the adjustment by rule.
14882 (7) (a) For purposes of this Subsection (7), "public agency insurance mutual" means an
14883 entity formed by two or more political subdivisions or public agencies of the state:
14884 (i) under Title 11, Chapter 13, Interlocal Cooperation Act; and
14885 (ii) for the purpose of providing for the political subdivisions or public agencies:
14886 (A) subject to Subsection (7)(b), insurance coverage; or
14887 (B) risk management.
14888 (b) Notwithstanding Subsection (7)(a)(ii)(A), a public agency insurance mutual may
14889 not provide health insurance unless the public agency insurance mutual provides the health
14890 insurance using:
14891 (i) a third party administrator licensed under Chapter 25, Third Party Administrators;
14892 (ii) an admitted insurer; or
14893 (iii) a program authorized by Title 49, Chapter 20, Public Employees' Benefit and
14894 Insurance Program Act.
14895 (c) Except for this Subsection (7), a public agency insurance mutual is exempt from
14896 this title.
14897 (d) A public agency insurance mutual is considered to be a governmental entity and
14898 political subdivision of the state with all of the rights, privileges, and immunities of a
14899 governmental entity or political subdivision of the state including all the rights and benefits of
14900 [~~Title 63, Chapter 30d~~] Title 63G, Chapter 7, Governmental Immunity Act of Utah.
14901 Section 336. Section **31A-1-301** is amended to read:
14902 **31A-1-301. Definitions.**
14903 As used in this title, unless otherwise specified:
14904 (1) (a) "Accident and health insurance" means insurance to provide protection against
14905 economic losses resulting from:
14906 (i) a medical condition including:
14907 (A) medical care expenses; or

14908 (B) the risk of disability;
14909 (ii) accident; or
14910 (iii) sickness.
14911 (b) "Accident and health insurance":
14912 (i) includes a contract with disability contingencies including:
14913 (A) an income replacement contract;
14914 (B) a health care contract;
14915 (C) an expense reimbursement contract;
14916 (D) a credit accident and health contract;
14917 (E) a continuing care contract; and
14918 (F) a long-term care contract; and
14919 (ii) may provide:
14920 (A) hospital coverage;
14921 (B) surgical coverage;
14922 (C) medical coverage; or
14923 (D) loss of income coverage.
14924 (c) "Accident and health insurance" does not include workers' compensation insurance.
14925 (2) "Actuary" is as defined by the commissioner by rule, made in accordance with
14926 [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
14927 (3) "Administrator" is defined in Subsection (157).
14928 (4) "Adult" means a natural person who has attained the age of at least 18 years.
14929 (5) "Affiliate" means any person who controls, is controlled by, or is under common
14930 control with, another person. A corporation is an affiliate of another corporation, regardless of
14931 ownership, if substantially the same group of natural persons manages the corporations.
14932 (6) "Agency" means:
14933 (a) a person other than an individual, including a sole proprietorship by which a natural
14934 person does business under an assumed name; and
14935 (b) an insurance organization licensed or required to be licensed under Section
14936 31A-23a-301.
14937 (7) "Alien insurer" means an insurer domiciled outside the United States.
14938 (8) "Amendment" means an endorsement to an insurance policy or certificate.

14939 (9) "Annuity" means an agreement to make periodical payments for a period certain or
14940 over the lifetime of one or more natural persons if the making or continuance of all or some of
14941 the series of the payments, or the amount of the payment, is dependent upon the continuance of
14942 human life.
14943 (10) "Application" means a document:
14944 (a) (i) completed by an applicant to provide information about the risk to be insured;
14945 and
14946 (ii) that contains information that is used by the insurer to evaluate risk and decide
14947 whether to:
14948 (A) insure the risk under:
14949 (I) the coverages as originally offered; or
14950 (II) a modification of the coverage as originally offered; or
14951 (B) decline to insure the risk; or
14952 (b) used by the insurer to gather information from the applicant before issuance of an
14953 annuity contract.
14954 (11) "Articles" or "articles of incorporation" means the original articles, special laws,
14955 charters, amendments, restated articles, articles of merger or consolidation, trust instruments,
14956 and other constitutive documents for trusts and other entities that are not corporations, and
14957 amendments to any of these.
14958 (12) "Bail bond insurance" means a guarantee that a person will attend court when
14959 required, up to and including surrender of the person in execution of any sentence imposed
14960 under Subsection 77-20-7(1), as a condition to the release of that person from confinement.
14961 (13) "Binder" is defined in Section 31A-21-102.
14962 (14) "Blanket insurance policy" means a group policy covering classes of persons
14963 without individual underwriting, where the persons insured are determined by definition of the
14964 class with or without designating the persons covered.
14965 (15) "Board," "board of trustees," or "board of directors" means the group of persons
14966 with responsibility over, or management of, a corporation, however designated.
14967 (16) "Business entity" means a corporation, association, partnership, limited liability
14968 company, limited liability partnership, or other legal entity.
14969 (17) "Business of insurance" is defined in Subsection (84).

14970 (18) "Business plan" means the information required to be supplied to the
14971 commissioner under Subsections 31A-5-204(2)(i) and (j), including the information required
14972 when these subsections are applicable by reference under:
14973 (a) Section 31A-7-201;
14974 (b) Section 31A-8-205; or
14975 (c) Subsection 31A-9-205(2).
14976 (19) "Bylaws" means the rules adopted for the regulation or management of a
14977 corporation's affairs, however designated and includes comparable rules for trusts and other
14978 entities that are not corporations.
14979 (20) "Captive insurance company" means:
14980 (a) an insurance company:
14981 (i) owned by another organization; and
14982 (ii) whose exclusive purpose is to insure risks of the parent organization and affiliated
14983 companies; or
14984 (b) in the case of groups and associations, an insurance organization:
14985 (i) owned by the insureds; and
14986 (ii) whose exclusive purpose is to insure risks of:
14987 (A) member organizations;
14988 (B) group members; and
14989 (C) affiliates of:
14990 (I) member organizations; or
14991 (II) group members.
14992 (21) "Casualty insurance" means liability insurance as defined in Subsection (96).
14993 (22) "Certificate" means evidence of insurance given to:
14994 (a) an insured under a group insurance policy; or
14995 (b) a third party.
14996 (23) "Certificate of authority" is included within the term "license."
14997 (24) "Claim," unless the context otherwise requires, means a request or demand on an
14998 insurer for payment of benefits according to the terms of an insurance policy.
14999 (25) "Claims-made coverage" means an insurance contract or provision limiting
15000 coverage under a policy insuring against legal liability to claims that are first made against the

15001 insured while the policy is in force.
15002 (26) (a) "Commissioner" or "commissioner of insurance" means Utah's insurance
15003 commissioner.
15004 (b) When appropriate, the terms listed in Subsection (26)(a) apply to the equivalent
15005 supervisory official of another jurisdiction.
15006 (27) (a) "Continuing care insurance" means insurance that:
15007 (i) provides board and lodging;
15008 (ii) provides one or more of the following services:
15009 (A) personal services;
15010 (B) nursing services;
15011 (C) medical services; or
15012 (D) other health-related services; and
15013 (iii) provides the coverage described in Subsection (27)(a)(i) under an agreement
15014 effective:
15015 (A) for the life of the insured; or
15016 (B) for a period in excess of one year.
15017 (b) Insurance is continuing care insurance regardless of whether or not the board and
15018 lodging are provided at the same location as the services described in Subsection (27)(a)(ii).
15019 (28) (a) "Control," "controlling," "controlled," or "under common control" means the
15020 direct or indirect possession of the power to direct or cause the direction of the management
15021 and policies of a person. This control may be:
15022 (i) by contract;
15023 (ii) by common management;
15024 (iii) through the ownership of voting securities; or
15025 (iv) by a means other than those described in Subsections (28)(a)(i) through (iii).
15026 (b) There is no presumption that an individual holding an official position with another
15027 person controls that person solely by reason of the position.
15028 (c) A person having a contract or arrangement giving control is considered to have
15029 control despite the illegality or invalidity of the contract or arrangement.
15030 (d) There is a rebuttable presumption of control in a person who directly or indirectly
15031 owns, controls, holds with the power to vote, or holds proxies to vote 10% or more of the

15032 voting securities of another person.
15033 (29) "Controlled insurer" means a licensed insurer that is either directly or indirectly
15034 controlled by a producer.
15035 (30) "Controlling person" means any person that directly or indirectly has the power to
15036 direct or cause to be directed, the management, control, or activities of a reinsurance
15037 intermediary.
15038 (31) "Controlling producer" means a producer who directly or indirectly controls an
15039 insurer.
15040 (32) (a) "Corporation" means an insurance corporation, except when referring to:
15041 (i) a corporation doing business:
15042 (A) as:
15043 (I) an insurance producer;
15044 (II) a limited line producer;
15045 (III) a consultant;
15046 (IV) a managing general agent;
15047 (V) a reinsurance intermediary;
15048 (VI) a third party administrator; or
15049 (VII) an adjuster; and
15050 (B) under:
15051 (I) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and
15052 Reinsurance Intermediaries;
15053 (II) Chapter 25, Third Party Administrators; or
15054 (III) Chapter 26, Insurance Adjusters; or
15055 (ii) a noninsurer that is part of a holding company system under Chapter 16, Insurance
15056 Holding Companies.
15057 (b) "Stock corporation" means a stock insurance corporation.
15058 (c) "Mutual" or "mutual corporation" means a mutual insurance corporation.
15059 (33) "Creditable coverage" has the same meaning as provided in federal regulations
15060 adopted pursuant to the Health Insurance Portability and Accountability Act of 1996, Pub. L.
15061 104-191, 110 Stat. 1936.
15062 (34) "Credit accident and health insurance" means insurance on a debtor to provide

15063 indemnity for payments coming due on a specific loan or other credit transaction while the
15064 debtor is disabled.
15065 (35) (a) "Credit insurance" means insurance offered in connection with an extension of
15066 credit that is limited to partially or wholly extinguishing that credit obligation.
15067 (b) "Credit insurance" includes:
15068 (i) credit accident and health insurance;
15069 (ii) credit life insurance;
15070 (iii) credit property insurance;
15071 (iv) credit unemployment insurance;
15072 (v) guaranteed automobile protection insurance;
15073 (vi) involuntary unemployment insurance;
15074 (vii) mortgage accident and health insurance;
15075 (viii) mortgage guaranty insurance; and
15076 (ix) mortgage life insurance.
15077 (36) "Credit life insurance" means insurance on the life of a debtor in connection with
15078 an extension of credit that pays a person if the debtor dies.
15079 (37) "Credit property insurance" means insurance:
15080 (a) offered in connection with an extension of credit; and
15081 (b) that protects the property until the debt is paid.
15082 (38) "Credit unemployment insurance" means insurance:
15083 (a) offered in connection with an extension of credit; and
15084 (b) that provides indemnity if the debtor is unemployed for payments coming due on a:
15085 (i) specific loan; or
15086 (ii) credit transaction.
15087 (39) "Creditor" means a person, including an insured, having any claim, whether:
15088 (a) matured;
15089 (b) unmatured;
15090 (c) liquidated;
15091 (d) unliquidated;
15092 (e) secured;
15093 (f) unsecured;

15094 (g) absolute;
15095 (h) fixed; or
15096 (i) contingent.
15097 (40) (a) "Customer service representative" means a person that provides insurance
15098 services and insurance product information:
15099 (i) for the customer service representative's:
15100 (A) producer; or
15101 (B) consultant employer; and
15102 (ii) to the customer service representative's employer's:
15103 (A) customer;
15104 (B) client; or
15105 (C) organization.
15106 (b) A customer service representative may only operate within the scope of authority of
15107 the customer service representative's producer or consultant employer.
15108 (41) "Deadline" means the final date or time:
15109 (a) imposed by:
15110 (i) statute;
15111 (ii) rule; or
15112 (iii) order; and
15113 (b) by which a required filing or payment must be received by the department.
15114 (42) "Deemer clause" means a provision under this title under which upon the
15115 occurrence of a condition precedent, the commissioner is deemed to have taken a specific
15116 action. If the statute so provides, the condition precedent may be the commissioner's failure to
15117 take a specific action.
15118 (43) "Degree of relationship" means the number of steps between two persons
15119 determined by counting the generations separating one person from a common ancestor and
15120 then counting the generations to the other person.
15121 (44) "Department" means the Insurance Department.
15122 (45) "Director" means a member of the board of directors of a corporation.
15123 (46) "Disability" means a physiological or psychological condition that partially or
15124 totally limits an individual's ability to:

15125 (a) perform the duties of:
15126 (i) that individual's occupation; or
15127 (ii) any occupation for which the individual is reasonably suited by education, training,
15128 or experience; or
15129 (b) perform two or more of the following basic activities of daily living:
15130 (i) eating;
15131 (ii) toileting;
15132 (iii) transferring;
15133 (iv) bathing; or
15134 (v) dressing.
15135 (47) "Disability income insurance" is defined in Subsection (75).
15136 (48) "Domestic insurer" means an insurer organized under the laws of this state.
15137 (49) "Domiciliary state" means the state in which an insurer:
15138 (a) is incorporated;
15139 (b) is organized; or
15140 (c) in the case of an alien insurer, enters into the United States.
15141 (50) (a) "Eligible employee" means:
15142 (i) an employee who:
15143 (A) works on a full-time basis; and
15144 (B) has a normal work week of 30 or more hours; or
15145 (ii) a person described in Subsection (50)(b).
15146 (b) "Eligible employee" includes, if the individual is included under a health benefit
15147 plan of a small employer:
15148 (i) a sole proprietor;
15149 (ii) a partner in a partnership; or
15150 (iii) an independent contractor.
15151 (c) "Eligible employee" does not include, unless eligible under Subsection (50)(b):
15152 (i) an individual who works on a temporary or substitute basis for a small employer;
15153 (ii) an employer's spouse; or
15154 (iii) a dependent of an employer.
15155 (51) "Employee" means any individual employed by an employer.

15156 (52) "Employee benefits" means one or more benefits or services provided to:
15157 (a) employees; or
15158 (b) dependents of employees.
15159 (53) (a) "Employee welfare fund" means a fund:
15160 (i) established or maintained, whether directly or through trustees, by:
15161 (A) one or more employers;
15162 (B) one or more labor organizations; or
15163 (C) a combination of employers and labor organizations; and
15164 (ii) that provides employee benefits paid or contracted to be paid, other than income
15165 from investments of the fund, by or on behalf of an employer doing business in this state or for
15166 the benefit of any person employed in this state.
15167 (b) "Employee welfare fund" includes a plan funded or subsidized by user fees or tax
15168 revenues.
15169 (54) "Endorsement" means a written agreement attached to a policy or certificate to
15170 modify one or more of the provisions of the policy or certificate.
15171 (55) "Enrollment date," with respect to a health benefit plan, means the first day of
15172 coverage or, if there is a waiting period, the first day of the waiting period.
15173 (56) (a) "Escrow" means:
15174 (i) a real estate settlement or real estate closing conducted by a third party pursuant to
15175 the requirements of a written agreement between the parties in a real estate transaction; or
15176 (ii) a settlement or closing involving:
15177 (A) a mobile home;
15178 (B) a grazing right;
15179 (C) a water right; or
15180 (D) other personal property authorized by the commissioner.
15181 (b) "Escrow" includes the act of conducting a:
15182 (i) real estate settlement; or
15183 (ii) real estate closing.
15184 (57) "Escrow agent" means:
15185 (a) an insurance producer with:
15186 (i) a title insurance line of authority; and

15187 (ii) an escrow subline of authority; or
15188 (b) a person defined as an escrow agent in Section 7-22-101.
15189 (58) "Excludes" is not exhaustive and does not mean that other things are not also
15190 excluded. The items listed are representative examples for use in interpretation of this title.
15191 (59) "Expense reimbursement insurance" means insurance:
15192 (a) written to provide payments for expenses relating to hospital confinements resulting
15193 from illness or injury; and
15194 (b) written:
15195 (i) as a daily limit for a specific number of days in a hospital; and
15196 (ii) to have a one or two day waiting period following a hospitalization.
15197 (60) "Fidelity insurance" means insurance guaranteeing the fidelity of persons holding
15198 positions of public or private trust.
15199 (61) (a) "Filed" means that a filing is:
15200 (i) submitted to the department as required by and in accordance with any applicable
15201 statute, rule, or filing order;
15202 (ii) received by the department within the time period provided in the applicable
15203 statute, rule, or filing order; and
15204 (iii) accompanied by the appropriate fee in accordance with:
15205 (A) Section 31A-3-103; or
15206 (B) rule.
15207 (b) "Filed" does not include a filing that is rejected by the department because it is not
15208 submitted in accordance with Subsection (61)(a).
15209 (62) "Filing," when used as a noun, means an item required to be filed with the
15210 department including:
15211 (a) a policy;
15212 (b) a rate;
15213 (c) a form;
15214 (d) a document;
15215 (e) a plan;
15216 (f) a manual;
15217 (g) an application;

15218 (h) a report;
15219 (i) a certificate;
15220 (j) an endorsement;
15221 (k) an actuarial certification;
15222 (l) a licensee annual statement;
15223 (m) a licensee renewal application; or
15224 (n) an advertisement.
15225 (63) "First party insurance" means an insurance policy or contract in which the insurer
15226 agrees to pay claims submitted to it by the insured for the insured's losses.
15227 (64) "Foreign insurer" means an insurer domiciled outside of this state, including an
15228 alien insurer.
15229 (65) (a) "Form" means one of the following prepared for general use:
15230 (i) a policy;
15231 (ii) a certificate;
15232 (iii) an application; or
15233 (iv) an outline of coverage.
15234 (b) "Form" does not include a document specially prepared for use in an individual
15235 case.
15236 (66) "Franchise insurance" means individual insurance policies provided through a
15237 mass marketing arrangement involving a defined class of persons related in some way other
15238 than through the purchase of insurance.
15239 (67) "General lines of authority" include:
15240 (a) the general lines of insurance in Subsection (68);
15241 (b) title insurance under one of the following sublines of authority:
15242 (i) search, including authority to act as a title marketing representative;
15243 (ii) escrow, including authority to act as a title marketing representative;
15244 (iii) search and escrow, including authority to act as a title marketing representative;
15245 and
15246 (iv) title marketing representative only;
15247 (c) surplus lines;
15248 (d) workers' compensation; and

15249 (e) any other line of insurance that the commissioner considers necessary to recognize
15250 in the public interest.
15251 (68) "General lines of insurance" include:
15252 (a) accident and health;
15253 (b) casualty;
15254 (c) life;
15255 (d) personal lines;
15256 (e) property; and
15257 (f) variable contracts, including variable life and annuity.
15258 (69) "Group health plan" means an employee welfare benefit plan to the extent that the
15259 plan provides medical care:
15260 (a) (i) to employees; or
15261 (ii) to a dependent of an employee; and
15262 (b) (i) directly;
15263 (ii) through insurance reimbursement; or
15264 (iii) through any other method.
15265 (70) (a) "Group insurance policy" means a policy covering a group of persons that is
15266 issued:
15267 (i) to a policyholder on behalf of the group; and
15268 (ii) for the benefit of group members who are selected under procedures defined in:
15269 (A) the policy; or
15270 (B) agreements which are collateral to the policy.
15271 (b) A group insurance policy may include members of the policyholder's family or
15272 dependents.
15273 (71) "Guaranteed automobile protection insurance" means insurance offered in
15274 connection with an extension of credit that pays the difference in amount between the
15275 insurance settlement and the balance of the loan if the insured automobile is a total loss.
15276 (72) (a) Except as provided in Subsection (72)(b), "health benefit plan" means a policy
15277 or certificate that:
15278 (i) provides health care insurance;
15279 (ii) provides major medical expense insurance; or

15280 (iii) is offered as a substitute for hospital or medical expense insurance such as:
15281 (A) a hospital confinement indemnity; or
15282 (B) a limited benefit plan.
15283 (b) "Health benefit plan" does not include a policy or certificate that:
15284 (i) provides benefits solely for:
15285 (A) accident;
15286 (B) dental;
15287 (C) income replacement;
15288 (D) long-term care;
15289 (E) a Medicare supplement;
15290 (F) a specified disease;
15291 (G) vision; or
15292 (H) a short-term limited duration; or
15293 (ii) is offered and marketed as supplemental health insurance.
15294 (73) "Health care" means any of the following intended for use in the diagnosis,
15295 treatment, mitigation, or prevention of a human ailment or impairment:
15296 (a) professional services;
15297 (b) personal services;
15298 (c) facilities;
15299 (d) equipment;
15300 (e) devices;
15301 (f) supplies; or
15302 (g) medicine.
15303 (74) (a) "Health care insurance" or "health insurance" means insurance providing:
15304 (i) health care benefits; or
15305 (ii) payment of incurred health care expenses.
15306 (b) "Health care insurance" or "health insurance" does not include accident and health
15307 insurance providing benefits for:
15308 (i) replacement of income;
15309 (ii) short-term accident;
15310 (iii) fixed indemnity;

15311 (iv) credit accident and health;
15312 (v) supplements to liability;
15313 (vi) workers' compensation;
15314 (vii) automobile medical payment;
15315 (viii) no-fault automobile;
15316 (ix) equivalent self-insurance; or
15317 (x) any type of accident and health insurance coverage that is a part of or attached to
15318 another type of policy.
15319 (75) "Income replacement insurance" or "disability income insurance" means insurance
15320 written to provide payments to replace income lost from accident or sickness.
15321 (76) "Indemnity" means the payment of an amount to offset all or part of an insured
15322 loss.
15323 (77) "Independent adjuster" means an insurance adjuster required to be licensed under
15324 Section 31A-26-201 who engages in insurance adjusting as a representative of insurers.
15325 (78) "Independently procured insurance" means insurance procured under Section
15326 31A-15-104.
15327 (79) "Individual" means a natural person.
15328 (80) "Inland marine insurance" includes insurance covering:
15329 (a) property in transit on or over land;
15330 (b) property in transit over water by means other than boat or ship;
15331 (c) bailee liability;
15332 (d) fixed transportation property such as bridges, electric transmission systems, radio
15333 and television transmission towers and tunnels; and
15334 (e) personal and commercial property floaters.
15335 (81) "Insolvency" means that:
15336 (a) an insurer is unable to pay its debts or meet its obligations as they mature;
15337 (b) an insurer's total adjusted capital is less than the insurer's mandatory control level
15338 RBC under Subsection 31A-17-601(8)(c); or
15339 (c) an insurer is determined to be hazardous under this title.
15340 (82) (a) "Insurance" means:
15341 (i) an arrangement, contract, or plan for the transfer of a risk or risks from one or more

15342 persons to one or more other persons; or
15343 (ii) an arrangement, contract, or plan for the distribution of a risk or risks among a
15344 group of persons that includes the person seeking to distribute that person's risk.
15345 (b) "Insurance" includes:
15346 (i) risk distributing arrangements providing for compensation or replacement for
15347 damages or loss through the provision of services or benefits in kind;
15348 (ii) contracts of guaranty or suretyship entered into by the guarantor or surety as a
15349 business and not as merely incidental to a business transaction; and
15350 (iii) plans in which the risk does not rest upon the person who makes the arrangements,
15351 but with a class of persons who have agreed to share it.
15352 (83) "Insurance adjuster" means a person who directs the investigation, negotiation, or
15353 settlement of a claim under an insurance policy other than life insurance or an annuity, on
15354 behalf of an insurer, policyholder, or a claimant under an insurance policy.
15355 (84) "Insurance business" or "business of insurance" includes:
15356 (a) providing health care insurance, as defined in Subsection (74), by organizations that
15357 are or should be licensed under this title;
15358 (b) providing benefits to employees in the event of contingencies not within the control
15359 of the employees, in which the employees are entitled to the benefits as a right, which benefits
15360 may be provided either:
15361 (i) by single employers or by multiple employer groups; or
15362 (ii) through trusts, associations, or other entities;
15363 (c) providing annuities, including those issued in return for gifts, except those provided
15364 by persons specified in Subsections 31A-22-1305(2) and (3);
15365 (d) providing the characteristic services of motor clubs as outlined in Subsection (112);
15366 (e) providing other persons with insurance as defined in Subsection (82);
15367 (f) making as insurer, guarantor, or surety, or proposing to make as insurer, guarantor,
15368 or surety, any contract or policy of title insurance;
15369 (g) transacting or proposing to transact any phase of title insurance, including:
15370 (i) solicitation;
15371 (ii) negotiation preliminary to execution;
15372 (iii) execution of a contract of title insurance;

15373 (iv) insuring; and
15374 (v) transacting matters subsequent to the execution of the contract and arising out of
15375 the contract, including reinsurance; and
15376 (h) doing, or proposing to do, any business in substance equivalent to Subsections
15377 (84)(a) through (g) in a manner designed to evade the provisions of this title.
15378 (85) "Insurance consultant" or "consultant" means a person who:
15379 (a) advises other persons about insurance needs and coverages;
15380 (b) is compensated by the person advised on a basis not directly related to the insurance
15381 placed; and
15382 (c) except as provided in Section 31A-23a-501, is not compensated directly or
15383 indirectly by an insurer or producer for advice given.
15384 (86) "Insurance holding company system" means a group of two or more affiliated
15385 persons, at least one of whom is an insurer.
15386 (87) (a) "Insurance producer" or "producer" means a person licensed or required to be
15387 licensed under the laws of this state to sell, solicit, or negotiate insurance.
15388 (b) With regards to the selling, soliciting, or negotiating of an insurance product to an
15389 insurance customer or an insured:
15390 (i) "producer for the insurer" means a producer who is compensated directly or
15391 indirectly by an insurer for selling, soliciting, or negotiating any product of that insurer; and
15392 (ii) "producer for the insured" means a producer who:
15393 (A) is compensated directly and only by an insurance customer or an insured; and
15394 (B) receives no compensation directly or indirectly from an insurer for selling,
15395 soliciting, or negotiating any product of that insurer to an insurance customer or insured.
15396 (88) (a) "Insured" means a person to whom or for whose benefit an insurer makes a
15397 promise in an insurance policy and includes:
15398 (i) policyholders;
15399 (ii) subscribers;
15400 (iii) members; and
15401 (iv) beneficiaries.
15402 (b) The definition in Subsection (88)(a):
15403 (i) applies only to this title; and

15404 (ii) does not define the meaning of this word as used in insurance policies or
15405 certificates.
15406 (89) (a) (i) "Insurer" means any person doing an insurance business as a principal
15407 including:
15408 (A) fraternal benefit societies;
15409 (B) issuers of gift annuities other than those specified in Subsections 31A-22-1305(2)
15410 and (3);
15411 (C) motor clubs;
15412 (D) employee welfare plans; and
15413 (E) any person purporting or intending to do an insurance business as a principal on
15414 that person's own account.
15415 (ii) "Insurer" does not include a governmental entity to the extent it is engaged in the
15416 activities described in Section 31A-12-107.
15417 (b) "Admitted insurer" is defined in Subsection (161)(b).
15418 (c) "Alien insurer" is defined in Subsection (7).
15419 (d) "Authorized insurer" is defined in Subsection (161)(b).
15420 (e) "Domestic insurer" is defined in Subsection (48).
15421 (f) "Foreign insurer" is defined in Subsection (64).
15422 (g) "Nonadmitted insurer" is defined in Subsection (161)(a).
15423 (h) "Unauthorized insurer" is defined in Subsection (161)(a).
15424 (90) "Interinsurance exchange" is defined in Subsection (141).
15425 (91) "Involuntary unemployment insurance" means insurance:
15426 (a) offered in connection with an extension of credit;
15427 (b) that provides indemnity if the debtor is involuntarily unemployed for payments
15428 coming due on a:
15429 (i) specific loan; or
15430 (ii) credit transaction.
15431 (92) "Large employer," in connection with a health benefit plan, means an employer
15432 who, with respect to a calendar year and to a plan year:
15433 (a) employed an average of at least 51 eligible employees on each business day during
15434 the preceding calendar year; and

15435 (b) employs at least two employees on the first day of the plan year.
15436 (93) "Late enrollee," with respect to an employer health benefit plan, means an
15437 individual whose enrollment is a late enrollment.
15438 (94) "Late enrollment," with respect to an employer health benefit plan, means
15439 enrollment of an individual other than:
15440 (a) on the earliest date on which coverage can become effective for the individual
15441 under the terms of the plan; or
15442 (b) through special enrollment.
15443 (95) (a) Except for a retainer contract or legal assistance described in Section
15444 31A-1-103, "legal expense insurance" means insurance written to indemnify or pay for
15445 specified legal expenses.
15446 (b) "Legal expense insurance" includes arrangements that create reasonable
15447 expectations of enforceable rights.
15448 (c) "Legal expense insurance" does not include the provision of, or reimbursement for,
15449 legal services incidental to other insurance coverages.
15450 (96) (a) "Liability insurance" means insurance against liability:
15451 (i) for death, injury, or disability of any human being, or for damage to property,
15452 exclusive of the coverages under:
15453 (A) Subsection (106) for medical malpractice insurance;
15454 (B) Subsection (133) for professional liability insurance; and
15455 (C) Subsection (166) for workers' compensation insurance;
15456 (ii) for medical, hospital, surgical, and funeral benefits to persons other than the
15457 insured who are injured, irrespective of legal liability of the insured, when issued with or
15458 supplemental to insurance against legal liability for the death, injury, or disability of human
15459 beings, exclusive of the coverages under:
15460 (A) Subsection (106) for medical malpractice insurance;
15461 (B) Subsection (133) for professional liability insurance; and
15462 (C) Subsection (166) for workers' compensation insurance;
15463 (iii) for loss or damage to property resulting from accidents to or explosions of boilers,
15464 pipes, pressure containers, machinery, or apparatus;
15465 (iv) for loss or damage to any property caused by the breakage or leakage of sprinklers,

15466 water pipes and containers, or by water entering through leaks or openings in buildings; or
15467 (v) for other loss or damage properly the subject of insurance not within any other kind
15468 or kinds of insurance as defined in this chapter, if such insurance is not contrary to law or
15469 public policy.
15470 (b) "Liability insurance" includes:
15471 (i) vehicle liability insurance as defined in Subsection (163);
15472 (ii) residential dwelling liability insurance as defined in Subsection (144); and
15473 (iii) making inspection of, and issuing certificates of inspection upon, elevators,
15474 boilers, machinery, and apparatus of any kind when done in connection with insurance on
15475 them.
15476 (97) (a) "License" means the authorization issued by the commissioner to engage in
15477 some activity that is part of or related to the insurance business.
15478 (b) "License" includes certificates of authority issued to insurers.
15479 (98) (a) "Life insurance" means insurance on human lives and insurances pertaining to
15480 or connected with human life.
15481 (b) The business of life insurance includes:
15482 (i) granting death benefits;
15483 (ii) granting annuity benefits;
15484 (iii) granting endowment benefits;
15485 (iv) granting additional benefits in the event of death by accident;
15486 (v) granting additional benefits to safeguard the policy against lapse; and
15487 (vi) providing optional methods of settlement of proceeds.
15488 (99) "Limited license" means a license that:
15489 (a) is issued for a specific product of insurance; and
15490 (b) limits an individual or agency to transact only for that product or insurance.
15491 (100) "Limited line credit insurance" includes the following forms of insurance:
15492 (a) credit life;
15493 (b) credit accident and health;
15494 (c) credit property;
15495 (d) credit unemployment;
15496 (e) involuntary unemployment;

15497 (f) mortgage life;
15498 (g) mortgage guaranty;
15499 (h) mortgage accident and health;
15500 (i) guaranteed automobile protection; and
15501 (j) any other form of insurance offered in connection with an extension of credit that:
15502 (i) is limited to partially or wholly extinguishing the credit obligation; and
15503 (ii) the commissioner determines by rule should be designated as a form of limited line
15504 credit insurance.
15505 (101) "Limited line credit insurance producer" means a person who sells, solicits, or
15506 negotiates one or more forms of limited line credit insurance coverage to individuals through a
15507 master, corporate, group, or individual policy.
15508 (102) "Limited line insurance" includes:
15509 (a) bail bond;
15510 (b) limited line credit insurance;
15511 (c) legal expense insurance;
15512 (d) motor club insurance;
15513 (e) rental car-related insurance;
15514 (f) travel insurance; and
15515 (g) any other form of limited insurance that the commissioner determines by rule
15516 should be designated a form of limited line insurance.
15517 (103) "Limited lines authority" includes:
15518 (a) the lines of insurance listed in Subsection (102); and
15519 (b) a customer service representative.
15520 (104) "Limited lines producer" means a person who sells, solicits, or negotiates limited
15521 lines insurance.
15522 (105) (a) "Long-term care insurance" means an insurance policy or rider advertised,
15523 marketed, offered, or designated to provide coverage:
15524 (i) in a setting other than an acute care unit of a hospital;
15525 (ii) for not less than 12 consecutive months for each covered person on the basis of:
15526 (A) expenses incurred;
15527 (B) indemnity;

15528 (C) prepayment; or
15529 (D) another method;
15530 (iii) for one or more necessary or medically necessary services that are:
15531 (A) diagnostic;
15532 (B) preventative;
15533 (C) therapeutic;
15534 (D) rehabilitative;
15535 (E) maintenance; or
15536 (F) personal care; and
15537 (iv) that may be issued by:
15538 (A) an insurer;
15539 (B) a fraternal benefit society;
15540 (C) (I) a nonprofit health hospital; and
15541 (II) a medical service corporation;
15542 (D) a prepaid health plan;
15543 (E) a health maintenance organization; or
15544 (F) an entity similar to the entities described in Subsections (105)(a)(iv)(A) through (E)
15545 to the extent that the entity is otherwise authorized to issue life or health care insurance.
15546 (b) "Long-term care insurance" includes:
15547 (i) any of the following that provide directly or supplement long-term care insurance:
15548 (A) a group or individual annuity or rider; or
15549 (B) a life insurance policy or rider;
15550 (ii) a policy or rider that provides for payment of benefits based on:
15551 (A) cognitive impairment; or
15552 (B) functional capacity; or
15553 (iii) a qualified long-term care insurance contract.
15554 (c) "Long-term care insurance" does not include:
15555 (i) a policy that is offered primarily to provide basic Medicare supplement coverage;
15556 (ii) basic hospital expense coverage;
15557 (iii) basic medical/surgical expense coverage;
15558 (iv) hospital confinement indemnity coverage;

15559 (v) major medical expense coverage;
15560 (vi) income replacement or related asset-protection coverage;
15561 (vii) accident only coverage;
15562 (viii) coverage for a specified:
15563 (A) disease; or
15564 (B) accident;
15565 (ix) limited benefit health coverage; or
15566 (x) a life insurance policy that accelerates the death benefit to provide the option of a
15567 lump sum payment:
15568 (A) if the following are not conditioned on the receipt of long-term care:
15569 (I) benefits; or
15570 (II) eligibility; and
15571 (B) the coverage is for one or more the following qualifying events:
15572 (I) terminal illness;
15573 (II) medical conditions requiring extraordinary medical intervention; or
15574 (III) permanent institutional confinement.
15575 (106) "Medical malpractice insurance" means insurance against legal liability incident
15576 to the practice and provision of medical services other than the practice and provision of dental
15577 services.
15578 (107) "Member" means a person having membership rights in an insurance
15579 corporation.
15580 (108) "Minimum capital" or "minimum required capital" means the capital that must be
15581 constantly maintained by a stock insurance corporation as required by statute.
15582 (109) "Mortgage accident and health insurance" means insurance offered in connection
15583 with an extension of credit that provides indemnity for payments coming due on a mortgage
15584 while the debtor is disabled.
15585 (110) "Mortgage guaranty insurance" means surety insurance under which mortgagees
15586 and other creditors are indemnified against losses caused by the default of debtors.
15587 (111) "Mortgage life insurance" means insurance on the life of a debtor in connection
15588 with an extension of credit that pays if the debtor dies.
15589 (112) "Motor club" means a person:

15590 (a) licensed under:
15591 (i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;
15592 (ii) Chapter 11, Motor Clubs; or
15593 (iii) Chapter 14, Foreign Insurers; and
15594 (b) that promises for an advance consideration to provide for a stated period of time:
15595 (i) legal services under Subsection 31A-11-102(1)(b);
15596 (ii) bail services under Subsection 31A-11-102(1)(c); or
15597 (iii) (A) trip reimbursement;
15598 (B) towing services;
15599 (C) emergency road services;
15600 (D) stolen automobile services;
15601 (E) a combination of the services listed in Subsections (112)(b)(iii)(A) through (D); or
15602 (F) any other services given in Subsections 31A-11-102(1)(b) through (f).
15603 (113) "Mutual" means a mutual insurance corporation.
15604 (114) "Network plan" means health care insurance:
15605 (a) that is issued by an insurer; and
15606 (b) under which the financing and delivery of medical care is provided, in whole or in
15607 part, through a defined set of providers under contract with the insurer, including the financing
15608 and delivery of items paid for as medical care.
15609 (115) "Nonparticipating" means a plan of insurance under which the insured is not
15610 entitled to receive dividends representing shares of the surplus of the insurer.
15611 (116) "Ocean marine insurance" means insurance against loss of or damage to:
15612 (a) ships or hulls of ships;
15613 (b) goods, freight, cargoes, merchandise, effects, disbursements, profits, moneys,
15614 securities, choses in action, evidences of debt, valuable papers, bottomry, respondentia
15615 interests, or other cargoes in or awaiting transit over the oceans or inland waterways;
15616 (c) earnings such as freight, passage money, commissions, or profits derived from
15617 transporting goods or people upon or across the oceans or inland waterways; or
15618 (d) a vessel owner or operator as a result of liability to employees, passengers, bailors,
15619 owners of other vessels, owners of fixed objects, customs or other authorities, or other persons
15620 in connection with maritime activity.

15621 (117) "Order" means an order of the commissioner.
15622 (118) "Outline of coverage" means a summary that explains an accident and health
15623 insurance policy.
15624 (119) "Participating" means a plan of insurance under which the insured is entitled to
15625 receive dividends representing shares of the surplus of the insurer.
15626 (120) "Participation," as used in a health benefit plan, means a requirement relating to
15627 the minimum percentage of eligible employees that must be enrolled in relation to the total
15628 number of eligible employees of an employer reduced by each eligible employee who
15629 voluntarily declines coverage under the plan because the employee has other group health care
15630 insurance coverage.
15631 (121) "Person" includes an individual, partnership, corporation, incorporated or
15632 unincorporated association, joint stock company, trust, limited liability company, reciprocal,
15633 syndicate, or any similar entity or combination of entities acting in concert.
15634 (122) "Personal lines insurance" means property and casualty insurance coverage sold
15635 for primarily noncommercial purposes to:
15636 (a) individuals; and
15637 (b) families.
15638 (123) "Plan sponsor" is as defined in 29 U.S.C. Sec. 1002(16)(B).
15639 (124) "Plan year" means:
15640 (a) the year that is designated as the plan year in:
15641 (i) the plan document of a group health plan; or
15642 (ii) a summary plan description of a group health plan;
15643 (b) if the plan document or summary plan description does not designate a plan year or
15644 there is no plan document or summary plan description:
15645 (i) the year used to determine deductibles or limits;
15646 (ii) the policy year, if the plan does not impose deductibles or limits on a yearly basis;
15647 or
15648 (iii) the employer's taxable year if:
15649 (A) the plan does not impose deductibles or limits on a yearly basis; and
15650 (B) (I) the plan is not insured; or
15651 (II) the insurance policy is not renewed on an annual basis; or

15652 (c) in a case not described in Subsection (124)(a) or (b), the calendar year.
15653 (125) (a) "Policy" means any document, including attached endorsements and riders,
15654 purporting to be an enforceable contract, which memorializes in writing some or all of the
15655 terms of an insurance contract.
15656 (b) "Policy" includes a service contract issued by:
15657 (i) a motor club under Chapter 11, Motor Clubs;
15658 (ii) a service contract provided under Chapter 6a, Service Contracts; and
15659 (iii) a corporation licensed under:
15660 (A) Chapter 7, Nonprofit Health Service Insurance Corporations; or
15661 (B) Chapter 8, Health Maintenance Organizations and Limited Health Plans.
15662 (c) "Policy" does not include:
15663 (i) a certificate under a group insurance contract; or
15664 (ii) a document that does not purport to have legal effect.
15665 (126) "Policyholder" means the person who controls a policy, binder, or oral contract
15666 by ownership, premium payment, or otherwise.
15667 (127) "Policy illustration" means a presentation or depiction that includes
15668 nonguaranteed elements of a policy of life insurance over a period of years.
15669 (128) "Policy summary" means a synopsis describing the elements of a life insurance
15670 policy.
15671 (129) "Preexisting condition," with respect to a health benefit plan:
15672 (a) means a condition that was present before the effective date of coverage, whether or
15673 not any medical advice, diagnosis, care, or treatment was recommended or received before that
15674 day; and
15675 (b) does not include a condition indicated by genetic information unless an actual
15676 diagnosis of the condition by a physician has been made.
15677 (130) (a) "Premium" means the monetary consideration for an insurance policy.
15678 (b) "Premium" includes, however designated:
15679 (i) assessments;
15680 (ii) membership fees;
15681 (iii) required contributions; or
15682 (iv) monetary consideration.

15683 (c) (i) Consideration paid to third party administrators for their services is not
15684 "premium."
15685 (ii) Amounts paid by third party administrators to insurers for insurance on the risks
15686 administered by the third party administrators are "premium."
15687 (131) "Principal officers" of a corporation means the officers designated under
15688 Subsection 31A-5-203(3).
15689 (132) "Proceedings" includes actions and special statutory proceedings.
15690 (133) "Professional liability insurance" means insurance against legal liability incident
15691 to the practice of a profession and provision of any professional services.
15692 (134) (a) Except as provided in Subsection (134)(b), "property insurance" means
15693 insurance against loss or damage to real or personal property of every kind and any interest in
15694 that property:
15695 (i) from all hazards or causes; and
15696 (ii) against loss consequential upon the loss or damage including vehicle
15697 comprehensive and vehicle physical damage coverages.
15698 (b) "Property insurance" does not include:
15699 (i) inland marine insurance as defined in Subsection (80); and
15700 (ii) ocean marine insurance as defined under Subsection (116).
15701 (135) "Qualified long-term care insurance contract" or "federally tax qualified
15702 long-term care insurance contract" means:
15703 (a) an individual or group insurance contract that meets the requirements of Section
15704 7702B(b), Internal Revenue Code; or
15705 (b) the portion of a life insurance contract that provides long-term care insurance:
15706 (i) (A) by rider; or
15707 (B) as a part of the contract; and
15708 (ii) that satisfies the requirements of Sections 7702B(b) and (e), Internal Revenue
15709 Code.
15710 (136) "Qualified United States financial institution" means an institution that:
15711 (a) is:
15712 (i) organized under the laws of the United States or any state; or
15713 (ii) in the case of a United States office of a foreign banking organization, licensed

15714 under the laws of the United States or any state;
15715 (b) is regulated, supervised, and examined by United States federal or state authorities
15716 having regulatory authority over banks and trust companies; and
15717 (c) meets the standards of financial condition and standing that are considered
15718 necessary and appropriate to regulate the quality of financial institutions whose letters of credit
15719 will be acceptable to the commissioner as determined by:
15720 (i) the commissioner by rule; or
15721 (ii) the Securities Valuation Office of the National Association of Insurance
15722 Commissioners.
15723 (137) (a) "Rate" means:
15724 (i) the cost of a given unit of insurance; or
15725 (ii) for property-casualty insurance, that cost of insurance per exposure unit either
15726 expressed as:
15727 (A) a single number; or
15728 (B) a pure premium rate, adjusted before any application of individual risk variations
15729 based on loss or expense considerations to account for the treatment of:
15730 (I) expenses;
15731 (II) profit; and
15732 (III) individual insurer variation in loss experience.
15733 (b) "Rate" does not include a minimum premium.
15734 (138) (a) Except as provided in Subsection (138)(b), "rate service organization" means
15735 any person who assists insurers in rate making or filing by:
15736 (i) collecting, compiling, and furnishing loss or expense statistics;
15737 (ii) recommending, making, or filing rates or supplementary rate information; or
15738 (iii) advising about rate questions, except as an attorney giving legal advice.
15739 (b) "Rate service organization" does not mean:
15740 (i) an employee of an insurer;
15741 (ii) a single insurer or group of insurers under common control;
15742 (iii) a joint underwriting group; or
15743 (iv) a natural person serving as an actuarial or legal consultant.
15744 (139) "Rating manual" means any of the following used to determine initial and

15745 renewal policy premiums:
15746 (a) a manual of rates;
15747 (b) classifications;
15748 (c) rate-related underwriting rules; and
15749 (d) rating formulas that describe steps, policies, and procedures for determining initial
15750 and renewal policy premiums.
15751 (140) "Received by the department" means:
15752 (a) except as provided in Subsection (140)(b), the date delivered to and stamped
15753 received by the department, whether delivered:
15754 (i) in person; or
15755 (ii) electronically; and
15756 (b) if delivered to the department by a delivery service, the delivery service's postmark
15757 date or pick-up date unless otherwise stated in:
15758 (i) statute;
15759 (ii) rule; or
15760 (iii) a specific filing order.
15761 (141) "Reciprocal" or "interinsurance exchange" means any unincorporated association
15762 of persons:
15763 (a) operating through an attorney-in-fact common to all of them; and
15764 (b) exchanging insurance contracts with one another that provide insurance coverage
15765 on each other.
15766 (142) "Reinsurance" means an insurance transaction where an insurer, for
15767 consideration, transfers any portion of the risk it has assumed to another insurer. In referring to
15768 reinsurance transactions, this title sometimes refers to:
15769 (a) the insurer transferring the risk as the "ceding insurer"; and
15770 (b) the insurer assuming the risk as the:
15771 (i) "assuming insurer"; or
15772 (ii) "assuming reinsurer."
15773 (143) "Reinsurer" means any person licensed in this state as an insurer with the
15774 authority to assume reinsurance.
15775 (144) "Residential dwelling liability insurance" means insurance against liability

15776 resulting from or incident to the ownership, maintenance, or use of a residential dwelling that is
15777 a detached single family residence or multifamily residence up to four units.
15778 (145) "Retrocession" means reinsurance with another insurer of a liability assumed
15779 under a reinsurance contract. A reinsurer "retrocedes" when it reinsures with another insurer
15780 part of a liability assumed under a reinsurance contract.
15781 (146) "Rider" means an endorsement to:
15782 (a) an insurance policy; or
15783 (b) an insurance certificate.
15784 (147) (a) "Security" means any:
15785 (i) note;
15786 (ii) stock;
15787 (iii) bond;
15788 (iv) debenture;
15789 (v) evidence of indebtedness;
15790 (vi) certificate of interest or participation in any profit-sharing agreement;
15791 (vii) collateral-trust certificate;
15792 (viii) preorganization certificate or subscription;
15793 (ix) transferable share;
15794 (x) investment contract;
15795 (xi) voting trust certificate;
15796 (xii) certificate of deposit for a security;
15797 (xiii) certificate of interest of participation in an oil, gas, or mining title or lease or in
15798 payments out of production under such a title or lease;
15799 (xiv) commodity contract or commodity option;
15800 (xv) certificate of interest or participation in, temporary or interim certificate for, receipt
15801 for, guarantee of, or warrant or right to subscribe to or purchase any of the items listed in
15802 Subsections (147)(a)(i) through (xiv); or
15803 (xvi) other interest or instrument commonly known as a security.
15804 (b) "Security" does not include:
15805 (i) any of the following under which an insurance company promises to pay money in a
15806 specific lump sum or periodically for life or some other specified period:

15807 (A) insurance;
15808 (B) endowment policy; or
15809 (C) annuity contract; or
15810 (ii) a burial certificate or burial contract.
15811 (148) "Self-insurance" means any arrangement under which a person provides for
15812 spreading its own risks by a systematic plan.
15813 (a) Except as provided in this Subsection (148), "self-insurance" does not include an
15814 arrangement under which a number of persons spread their risks among themselves.
15815 (b) "Self-insurance" includes:
15816 (i) an arrangement by which a governmental entity undertakes to indemnify its
15817 employees for liability arising out of the employees' employment; and
15818 (ii) an arrangement by which a person with a managed program of self-insurance and
15819 risk management undertakes to indemnify its affiliates, subsidiaries, directors, officers, or
15820 employees for liability or risk which is related to the relationship or employment.
15821 (c) "Self-insurance" does not include any arrangement with independent contractors.
15822 (149) "Sell" means to exchange a contract of insurance:
15823 (a) by any means;
15824 (b) for money or its equivalent; and
15825 (c) on behalf of an insurance company.
15826 (150) "Short-term care insurance" means any insurance policy or rider advertised,
15827 marketed, offered, or designed to provide coverage that is similar to long-term care insurance
15828 but that provides coverage for less than 12 consecutive months for each covered person.
15829 (151) "Significant break in coverage" means a period of 63 consecutive days during
15830 each of which an individual does not have any creditable coverage.
15831 (152) "Small employer," in connection with a health benefit plan, means an employer
15832 who, with respect to a calendar year and to a plan year:
15833 (a) employed an average of at least two employees but not more than 50 eligible
15834 employees on each business day during the preceding calendar year; and
15835 (b) employs at least two employees on the first day of the plan year.
15836 (153) "Special enrollment period," in connection with a health benefit plan, has the
15837 same meaning as provided in federal regulations adopted pursuant to the Health Insurance

15838 Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936.
15839 (154) (a) "Subsidiary" of a person means an affiliate controlled by that person either
15840 directly or indirectly through one or more affiliates or intermediaries.
15841 (b) "Wholly owned subsidiary" of a person is a subsidiary of which all of the voting
15842 shares are owned by that person either alone or with its affiliates, except for the minimum
15843 number of shares the law of the subsidiary's domicile requires to be owned by directors or
15844 others.
15845 (155) Subject to Subsection (82)(b), "surety insurance" includes:
15846 (a) a guarantee against loss or damage resulting from failure of principals to pay or
15847 perform their obligations to a creditor or other obligee;
15848 (b) bail bond insurance; and
15849 (c) fidelity insurance.
15850 (156) (a) "Surplus" means the excess of assets over the sum of paid-in capital and
15851 liabilities.
15852 (b) (i) "Permanent surplus" means the surplus of a mutual insurer that has been
15853 designated by the insurer as permanent.
15854 (ii) Sections 31A-5-211, 31A-7-201, 31A-8-209, 31A-9-209, and 31A-14-209 require
15855 that mutuals doing business in this state maintain specified minimum levels of permanent
15856 surplus.
15857 (iii) Except for assessable mutuals, the minimum permanent surplus requirement is
15858 essentially the same as the minimum required capital requirement that applies to stock insurers.
15859 (c) "Excess surplus" means:
15860 (i) for life or accident and health insurers, health organizations, and property and
15861 casualty insurers as defined in Section 31A-17-601, the lesser of:
15862 (A) that amount of an insurer's or health organization's total adjusted capital, as defined
15863 in Subsection (159), that exceeds the product of:
15864 (I) 2.5; and
15865 (II) the sum of the insurer's or health organization's minimum capital or permanent
15866 surplus required under Section 31A-5-211, 31A-9-209, or 31A-14-205; or
15867 (B) that amount of an insurer's or health organization's total adjusted capital, as defined
15868 in Subsection (159), that exceeds the product of:

15869 (I) 3.0; and
15870 (II) the authorized control level RBC as defined in Subsection 31A-17-601(8)(a); and
15871 (ii) for monoline mortgage guaranty insurers, financial guaranty insurers, and title
15872 insurers, that amount of an insurer's paid-in-capital and surplus that exceeds the product of:
15873 (A) 1.5; and
15874 (B) the insurer's total adjusted capital required by Subsection 31A-17-609(1).
15875 (157) "Third party administrator" or "administrator" means any person who collects
15876 charges or premiums from, or who, for consideration, adjusts or settles claims of residents of
15877 the state in connection with insurance coverage, annuities, or service insurance coverage,
15878 except:
15879 (a) a union on behalf of its members;
15880 (b) a person administering any:
15881 (i) pension plan subject to the federal Employee Retirement Income Security Act of
15882 1974;
15883 (ii) governmental plan as defined in Section 414(d), Internal Revenue Code; or
15884 (iii) nonelecting church plan as described in Section 410(d), Internal Revenue Code;
15885 (c) an employer on behalf of the employer's employees or the employees of one or
15886 more of the subsidiary or affiliated corporations of the employer;
15887 (d) an insurer licensed under Chapter 5, 7, 8, 9, or 14, but only for a line of insurance
15888 for which the insurer holds a license in this state; or
15889 (e) a person:
15890 (i) licensed or exempt from licensing under:
15891 (A) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and
15892 Reinsurance Intermediaries; or
15893 (B) Chapter 26, Insurance Adjusters; and
15894 (ii) whose activities are limited to those authorized under the license the person holds
15895 or for which the person is exempt.
15896 (158) "Title insurance" means the insuring, guaranteeing, or indemnifying of owners of
15897 real or personal property or the holders of liens or encumbrances on that property, or others
15898 interested in the property against loss or damage suffered by reason of liens or encumbrances
15899 upon, defects in, or the unmarketability of the title to the property, or invalidity or

15900 unenforceability of any liens or encumbrances on the property.
15901 (159) "Total adjusted capital" means the sum of an insurer's or health organization's
15902 statutory capital and surplus as determined in accordance with:
15903 (a) the statutory accounting applicable to the annual financial statements required to be
15904 filed under Section 31A-4-113; and
15905 (b) any other items provided by the RBC instructions, as RBC instructions is defined in
15906 Section 31A-17-601.
15907 (160) (a) "Trustee" means "director" when referring to the board of directors of a
15908 corporation.
15909 (b) "Trustee," when used in reference to an employee welfare fund, means an
15910 individual, firm, association, organization, joint stock company, or corporation, whether acting
15911 individually or jointly and whether designated by that name or any other, that is charged with
15912 or has the overall management of an employee welfare fund.
15913 (161) (a) "Unauthorized insurer," "unadmitted insurer," or "nonadmitted insurer"
15914 means an insurer:
15915 (i) not holding a valid certificate of authority to do an insurance business in this state;
15916 or
15917 (ii) transacting business not authorized by a valid certificate.
15918 (b) "Admitted insurer" or "authorized insurer" means an insurer:
15919 (i) holding a valid certificate of authority to do an insurance business in this state; and
15920 (ii) transacting business as authorized by a valid certificate.
15921 (162) "Underwrite" means the authority to accept or reject risk on behalf of the insurer.
15922 (163) "Vehicle liability insurance" means insurance against liability resulting from or
15923 incident to ownership, maintenance, or use of any land vehicle or aircraft, exclusive of vehicle
15924 comprehensive and vehicle physical damage coverages under Subsection (134).
15925 (164) "Voting security" means a security with voting rights, and includes any security
15926 convertible into a security with a voting right associated with the security.
15927 (165) "Waiting period" for a health benefit plan means the period that must pass before
15928 coverage for an individual, who is otherwise eligible to enroll under the terms of the health
15929 benefit plan, can become effective.
15930 (166) "Workers' compensation insurance" means:

15931 (a) insurance for indemnification of employers against liability for compensation based
15932 on:
15933 (i) compensable accidental injuries; and
15934 (ii) occupational disease disability;
15935 (b) employer's liability insurance incidental to workers' compensation insurance and
15936 written in connection with workers' compensation insurance; and
15937 (c) insurance assuring to the persons entitled to workers' compensation benefits the
15938 compensation provided by law.
15939 Section 337. Section **31A-2-201** is amended to read:
15940 **31A-2-201. General duties and powers.**
15941 (1) The commissioner shall administer and enforce this title.
15942 (2) The commissioner has all powers specifically granted, and all further powers that
15943 are reasonable and necessary to enable the commissioner to perform the duties imposed by this
15944 title.
15945 (3) (a) The commissioner may make rules to implement the provisions of this title
15946 according to the procedures and requirements of [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
15947 Utah Administrative Rulemaking Act.
15948 (b) In addition to the notice requirements of Section [~~63-46a-4~~] 63G-3-301, the
15949 commissioner shall provide notice under Section 31A-2-303 of hearings concerning insurance
15950 department rules.
15951 (4) (a) The commissioner shall issue prohibitory, mandatory, and other orders as
15952 necessary to secure compliance with this title. An order by the commissioner is not effective
15953 unless the order:
15954 (i) is in writing; and
15955 (ii) is signed by the commissioner or under the commissioner's authority.
15956 (b) On request of any person who would be affected by an order under Subsection
15957 (4)(a), the commissioner may issue a declaratory order to clarify the person's rights or duties.
15958 (5) (a) The commissioner may hold informal adjudicative proceedings and public
15959 meetings, for the purpose of:
15960 (i) investigation;
15961 (ii) ascertainment of public sentiment; or

15962 (iii) informing the public.
15963 (b) An effective rule or order may not result from informal hearings and meetings
15964 unless the requirement of a hearing under this section is satisfied.
15965 (6) The commissioner shall inquire into violations of this title and may conduct any
15966 examinations and investigations of insurance matters, in addition to examinations and
15967 investigations expressly authorized, that the commissioner considers proper to determine:
15968 (a) whether or not any person has violated any provision of this title; or
15969 (b) to secure information useful in the lawful administration of this title.
15970 (7) (a) Each year, the commissioner shall:
15971 (i) conduct an evaluation of the state's health insurance market;
15972 (ii) report the findings of the evaluation to the Health and Human Services Interim
15973 Committee before October 1; and
15974 (iii) publish the findings of the evaluation on the department website.
15975 (b) The evaluation required by Subsection (7)(a) shall:
15976 (i) analyze the effectiveness of the insurance regulations and statutes in promoting a
15977 healthy, competitive health insurance market that meets the needs of Utahns by assessing such
15978 things as:
15979 (A) the availability and marketing of individual and group products;
15980 (B) rate charges;
15981 (C) coverage and demographic changes;
15982 (D) benefit trends;
15983 (E) market share changes; and
15984 (F) accessibility;
15985 (ii) assess complaint ratios and trends within the health insurance market, which
15986 assessment shall integrate complaint data from the Office of Consumer Health Assistance
15987 within the department;
15988 (iii) contain recommendations for action to improve the overall effectiveness of the
15989 health insurance market, administrative rules, and statutes; and
15990 (iv) include claims loss ratio data for each insurance company doing business in the
15991 state.
15992 (c) When preparing the evaluation required by this Subsection (7), the commissioner

15993 may seek the input of insurers, employers, insured persons, providers, and others with an
15994 interest in the health insurance market.
15995 Section 338. Section **31A-2-201.1** is amended to read:
15996 **31A-2-201.1. General filing requirements.**
15997 Except as otherwise provided in this title, the commissioner may set by rule made in
15998 accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
15999 Rulemaking Act, specific requirements for filing any of the following required by this title:
16000 (1) a form;
16001 (2) a rate; or
16002 (3) a report.
16003 Section 339. Section **31A-2-203** is amended to read:
16004 **31A-2-203. Examinations and alternatives.**
16005 (1) (a) Whenever the commissioner considers it necessary in order to inform the
16006 commissioner about any matter related to the enforcement of this title, the commissioner may
16007 examine the affairs and condition of:
16008 (i) a licensee under this title;
16009 (ii) an applicant for a license under this title;
16010 (iii) a person or organization of persons doing or in process of organizing to do an
16011 insurance business in this state; or
16012 (iv) a person who is not, but should be, licensed under this title.
16013 (b) When reasonably necessary for an examination under Subsection (1)(a), the
16014 commissioner may examine:
16015 (i) so far as they relate to the examinee, the accounts, records, documents, or evidences
16016 of transactions of:
16017 (A) the insurer or other licensee;
16018 (B) any officer or other person who has executive authority over or is in charge of any
16019 segment of the examinee's affairs; or
16020 (C) any affiliate of the examinee; or
16021 (ii) any third party model or product used by the examinee.
16022 (c) (i) On demand, each examinee under Subsection (1)(a) shall make available to the
16023 commissioner for examination:

16024 (A) any of the examinee's own accounts, records, files, documents, or evidences of
16025 transactions; and
16026 (B) to the extent reasonably necessary for an examination, the accounts, records, files,
16027 documents, or evidences of transactions of any persons under Subsection (1)(b).
16028 (ii) Except as provided in Subsection (1)(c)(iii), failure to make the documents
16029 described in Subsection (1)(c)(i) available is concealment of records under Subsection
16030 31A-27a-207(1)(e).
16031 (iii) If the examinee is unable to obtain accounts, records, files, documents, or
16032 evidences of transactions from persons under Subsection (1)(b), that failure is not concealment
16033 of records if the examinee immediately terminates the relationship with the other person.
16034 (d) (i) Neither the commissioner nor an examiner may remove any account, record, file,
16035 document, evidence of transaction, or other property of the examinee from the examinee's
16036 offices unless:
16037 (A) the examinee consents in writing; or
16038 (B) a court grants permission.
16039 (ii) The commissioner may make and remove copies or abstracts of the following
16040 described in Subsection (1)(d)(i):
16041 (A) an account;
16042 (B) a record;
16043 (C) a file;
16044 (D) a document;
16045 (E) evidence of transaction; or
16046 (F) other property.
16047 (2) (a) Subject to the other provisions of this section, the commissioner shall examine
16048 as needed and as otherwise provided by law:
16049 (i) every insurer, both domestic and nondomestic;
16050 (ii) every licensed rate service organization; and
16051 (iii) any other licensee.
16052 (b) The commissioner shall examine insurers, both domestic and nondomestic, no less
16053 frequently than once every five years, but the commissioner may use in lieu examinations
16054 under Subsection (4) to satisfy this requirement.

16055 (c) The commissioner shall revoke the certificate of authority of an insurer or the
16056 license of a rate service organization that has not been examined, or submitted an acceptable in
16057 lieu report under Subsection (4), within the past five years.
16058 (d) (i) Any 25 persons who are policyholders, shareholders, or creditors of a domestic
16059 insurer may by verified petition demand a hearing under Section 31A-2-301 to determine
16060 whether the commissioner should conduct an unscheduled examination of the insurer.
16061 (ii) Persons demanding the hearing under this Subsection (2)(d) shall be given an
16062 opportunity in the hearing to present evidence that an examination of the insurer is necessary.
16063 (iii) If the evidence justifies an examination, the commissioner shall order an
16064 examination.
16065 (e) (i) When the board of directors of a domestic insurer requests that the
16066 commissioner examine the insurer, the commissioner shall examine the insurer as soon as
16067 reasonably possible.
16068 (ii) If the examination requested under this Subsection (2)(e) is conducted within two
16069 years after completion of a comprehensive examination by the commissioner, costs of the
16070 requested examination may not be deducted from premium taxes under Section 59-9-102
16071 unless the commissioner's order specifically provides for the deduction.
16072 (f) Bail bond surety companies as defined in Section 31A-35-102 are exempted from:
16073 (i) the five-year examination requirement in Subsection (2)(b);
16074 (ii) the revocation under Subsection (2)(c); and
16075 (iii) Subsections (2)(d) and (2)(e).
16076 (3) (a) The commissioner may order an independent audit or examination by technical
16077 experts, including certified public accountants and actuaries:
16078 (i) in lieu of all or part of an examination under Subsection (1) or (2); or
16079 (ii) in addition to an examination under Subsection (1) or (2).
16080 (b) Any audit or evaluation under this Subsection (3) is subject to Subsection (5),
16081 Section 31A-2-204, and Subsection 31A-2-205(4).
16082 (4) (a) In lieu of all or any part of an examination under this section, the commissioner
16083 may accept the report of an examination made by:
16084 (i) the insurance department of another state; or
16085 (ii) another government agency in:

16086 (A) this state;
16087 (B) the federal government; or
16088 (C) another state.
16089 (b) An examination by the commissioner under Subsection (1) or (2) or accepted by the
16090 commissioner under this Subsection (4) may use:
16091 (i) an audit already made by a certified public accountant; or
16092 (ii) an actuarial evaluation made by an actuary approved by the commissioner.
16093 (5) (a) An examination may be comprehensive or limited with respect to the
16094 examinee's affairs and condition. The commissioner shall determine the nature and scope of
16095 each examination, taking into account all relevant factors, including:
16096 (i) the length of time the examinee has been licensed in this state;
16097 (ii) the nature of the business being examined;
16098 (iii) the nature of the accounting or other records available;
16099 (iv) reports from:
16100 (A) independent auditors; and
16101 (B) self-certification entities; and
16102 (v) the nature of examinations performed elsewhere.
16103 (b) The examination of an alien insurer shall be limited to insurance transactions and
16104 assets in the United States, unless the commissioner orders otherwise after finding that
16105 extraordinary circumstances necessitate a broader examination.
16106 (6) To effectively administer this section, the commissioner:
16107 (a) shall:
16108 (i) maintain effective financial condition and market regulation surveillance systems
16109 including:
16110 (A) financial and market analysis; and
16111 (B) review of insurance regulatory information system reports;
16112 (ii) employ a priority scheduling method that focuses on insurers and other licensees
16113 most in need of examination; and
16114 (iii) use examination management techniques similar to those outlined in the Financial
16115 Condition Examination Handbook of the National Association of Insurance Commissioners;
16116 and

16117 (b) in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
16118 Administrative Rulemaking Act, may make rules pertaining to the financial condition and
16119 market regulation surveillance systems.
16120 Section 340. Section **31A-2-203.5** is amended to read:
16121 **31A-2-203.5. Procedures -- Adjudicative proceedings.**
16122 The commissioner of insurance shall comply with the procedures and requirements of
16123 [~~Title 63, Chapter 46b,~~] Title 63G, Chapter 4, Administrative Procedures Act, in its
16124 adjudicative proceedings.
16125 Section 341. Section **31A-2-204** is amended to read:
16126 **31A-2-204. Conducting examinations.**
16127 (1) (a) For each examination under Section 31A-2-203, the commissioner shall issue an
16128 order:
16129 (i) stating the scope of the examination; and
16130 (ii) designating the examiner in charge.
16131 (b) The commissioner need not give advance notice of an examination to an examinee.
16132 (c) The examiner in charge shall give the examinee a copy of the order issued under
16133 this Subsection (1).
16134 (d) (i) The commissioner may alter the scope or nature of an examination at any time
16135 without advance notice to the examinee.
16136 (ii) If the commissioner amends an order described in this Subsection (1), the
16137 commissioner shall provide a copy of any amended order to the examinee.
16138 (e) Statements in the commissioner's examination order concerning examination scope
16139 are for the examiner's guidance only.
16140 (f) Examining relevant matters not mentioned in an order issued under this Subsection
16141 (1) is not a violation of this title.
16142 (2) The commissioner shall, whenever practicable, cooperate with the insurance
16143 regulators of other states by conducting joint examinations of:
16144 (a) multistate insurers doing business in this state; or
16145 (b) other multistate licensees doing business in this state.
16146 (3) An examiner authorized by the commissioner shall, when necessary to the purposes
16147 of the examination, have access at all reasonable hours to the premises and to any books,

16148 records, files, securities, documents, or property of:
16149 (a) the examinee; and
16150 (b) any of the following if the premises, books, records, files, securities, documents, or
16151 property relate to the affairs of the examinee:
16152 (i) an officer of the examinee;
16153 (ii) any other person who:
16154 (A) has executive authority over the examinee; or
16155 (B) is in charge of any segment of the examinee's affairs; or
16156 (iii) any affiliate of the examinee under Subsection 31A-2-203(1)(b).
16157 (4) (a) The officers, employees, and agents of the examinee and of persons under
16158 Subsection 31A-2-203(1)(b) shall comply with every reasonable request of the examiners for
16159 assistance in any matter relating to the examination.
16160 (b) A person may not obstruct or interfere with the examination except by legal
16161 process.
16162 (5) If the commissioner finds the accounts or records to be inadequate for proper
16163 examination of the condition and affairs of the examinee or improperly kept or posted, the
16164 commissioner may employ experts to rewrite, post, or balance the accounts or records at the
16165 expense of the examinee.
16166 (6) (a) The examiner in charge of an examination shall make a report of the
16167 examination no later than 60 days after the completion of the examination that shall include:
16168 (i) the information and analysis ordered under Subsection (1); and
16169 (ii) the examiner's recommendations.
16170 (b) At the option of the examiner in charge, preparation of the report may include
16171 conferences with the examinee or representatives of the examinee.
16172 (c) The report is confidential until the report becomes a public document under
16173 Subsection (7), except the commissioner may use information from the report as a basis for
16174 action under Chapter 27a, Insurer Receivership Act.
16175 (7) (a) The commissioner shall serve a copy of the examination report described in
16176 Subsection (6) upon the examinee.
16177 (b) Within 20 days after service, the examinee shall:
16178 (i) accept the examination report as written; or

16179 (ii) request agency action to modify the examination report.
16180 (c) The report is considered accepted under this Subsection (7) if the examinee does
16181 not file a request for agency action to modify the report within 20 days after service of the
16182 report.
16183 (d) If the examination report is accepted:
16184 (i) the examination report immediately becomes a public document; and
16185 (ii) the commissioner shall distribute the examination report to all jurisdictions in
16186 which the examinee is authorized to do business.
16187 (e) (i) Any adjudicative proceeding held as a result of the examinee's request for
16188 agency action shall, upon the examinee's demand, be closed to the public, except that the
16189 commissioner need not exclude any participating examiner from this closed hearing.
16190 (ii) Within 20 days after the hearing held under this Subsection (7)(e), the
16191 commissioner shall:
16192 (A) adopt the examination report with any necessary modifications; and
16193 (B) serve a copy of the adopted report upon the examinee.
16194 (iii) Unless the examinee seeks judicial relief, the adopted examination report:
16195 (A) shall become a public document ten days after service; and
16196 (B) may be distributed as described in this section.
16197 (f) Notwithstanding [~~Title 63, Chapter 46b,~~] Title 63G, Chapter 4, Administrative
16198 Procedures Act, to the extent that this section is in conflict with [~~Title 63, Chapter 46b~~] Title
16199 63G, Chapter 4, Administrative Procedures Act, this section governs:
16200 (i) a request for agency action under this section; or
16201 (ii) adjudicative proceeding under this section.
16202 (8) The examinee shall promptly furnish copies of the adopted examination report
16203 described in Subsection (7) to each member of the examinee's board.
16204 (9) After an examination report becomes a public document under Subsection (7), the
16205 commissioner may furnish, without cost or at a reasonable price set under Section 31A-3-103,
16206 a copy of the examination report to interested persons, including:
16207 (a) a member of the board of the examinee; or
16208 (b) one or more newspapers in this state.
16209 (10) (a) In a proceeding by or against the examinee, or any officer or agent of the

16210 examinee, the examination report as adopted by the commissioner is admissible as evidence of
16211 the facts stated in the report.
16212 (b) In any proceeding commenced under Chapter 27a, Insurer Receivership Act, the
16213 examination report, whether adopted by the commissioner or not, is admissible as evidence of
16214 the facts stated in the examination report.
16215 Section 342. Section **31A-2-207** is amended to read:
16216 **31A-2-207. Commissioner's records and reports -- Protection from disclosure of**
16217 **certain records.**
16218 (1) The commissioner shall maintain all department records that are:
16219 (a) required by law;
16220 (b) necessary for the effective operation of the department; or
16221 (c) necessary to maintain a full record of department activities.
16222 (2) The records of the department may be preserved, managed, stored, and made
16223 available for review consistent with:
16224 (a) another Utah statute;
16225 (b) the rules made under Section [~~63-2-904~~] 63A-12-104;
16226 (c) the decisions of the State Records Committee made under [~~Title 63, Chapter 2~~]
16227 Title 63G, Chapter 2, Government Records Access and Management Act; or
16228 (d) the needs of the public.
16229 (3) A department record may not be destroyed, damaged, or disposed of without:
16230 (a) authorization of the commissioner; and
16231 (b) compliance with all other applicable laws.
16232 (4) The commissioner shall maintain a permanent record of the commissioner's
16233 proceedings and important activities, including:
16234 (a) a concise statement of the condition of each insurer examined by the commissioner;
16235 and
16236 (b) a record of all certificates of authority and licenses issued by the commissioner.
16237 (5) (a) Prior to October 1 of each year, the commissioner shall prepare an annual report
16238 to the governor which shall include, for the preceding calendar year, the information
16239 concerning the department and the insurance industry which the commissioner believes will be
16240 useful to the governor and the public.

16241 (b) The report required by this Subsection (5) shall include the information required
16242 under Chapter 27a, Insurer Receivership Act, and Subsections 31A-2-106(2), 31A-2-205(3),
16243 and 31A-2-208(3).
16244 (c) The commissioner shall make the report required by this Subsection (5) available to
16245 the public and industry in electronic format.
16246 (6) All department records and reports are open to public inspection unless specifically
16247 provided otherwise by statute or by [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government
16248 Records Access and Management Act.
16249 (7) On request, the commissioner shall provide to any person certified or uncertified
16250 copies of any record in the department that is open to public inspection.
16251 (8) Notwithstanding Subsection (6) and [~~Title 63, Chapter 2~~] Title 63G, Chapter 2,
16252 Government Records Access and Management Act, the commissioner shall protect from
16253 disclosure any record, as defined in Section [~~63-2-103~~] 63G-2-103, or other document received
16254 from an insurance regulator of another jurisdiction:
16255 (a) at least to the same extent the record or document is protected from disclosure
16256 under the laws applicable to the insurance regulator providing the record or document; or
16257 (b) under the same terms and conditions of confidentiality as the National Association
16258 of Insurance Commissioners requires as a condition of participating in any of the National
16259 Association of Insurance Commissioners' programs.
16260 Section 343. Section **31A-2-209** is amended to read:
16261 **31A-2-209. Access to state records.**
16262 Subject to [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records Access and
16263 Management Act, the commissioner shall have access to the records of any agency of the state
16264 government or of any political subdivision of the state which [~~he~~] the commissioner may
16265 consult in discharging [~~his~~] the commissioner's duties.
16266 Section 344. Section **31A-2-217** is amended to read:
16267 **31A-2-217. Coordination with other states.**
16268 (1) (a) Subject to Subsection (1)(b), the commissioner, by rule, may adopt one or more
16269 agreements with another governmental regulatory agency, within and outside of this state, or
16270 with the National Association of Insurance Commissioners to address:
16271 (i) licensing of insurance companies;

16272 (ii) licensing of agents;
16273 (iii) regulation of premium rates and policy forms; and
16274 (iv) regulation of insurer insolvency and insurance receiverships.
16275 (b) An agreement described in Subsection (1)(a), may authorize the commissioner to
16276 modify a requirement of this title if the commissioner determines that the requirements under
16277 the agreement provide protections similar to or greater than the requirements under this title.
16278 (2) (a) The commissioner may negotiate an interstate compact that addresses issuing
16279 certificates of authority, if the commissioner determines that:
16280 (i) each state participating in the compact has requirements for issuing certificates of
16281 authority that provide protections similar to or greater than the requirements of this title; or
16282 (ii) the interstate compact contains requirements for issuing certificates of authority
16283 that provide protections similar to or greater than the requirements of this title.
16284 (b) If an interstate compact described in Subsection (2)(a) is adopted by the
16285 Legislature, the commissioner may issue certificates of authority to insurers in accordance with
16286 the terms of the interstate compact.
16287 (3) If any provision of this title conflicts with a provision of the annual statement
16288 instructions or the National Association of Insurance Commissioners Accounting Practices and
16289 Procedures Manual, the commissioner may, by rule, resolve the conflict in favor of the annual
16290 statement instructions or the National Association of Insurance Commissioners Accounting
16291 Practices and Procedures Manual.
16292 (4) The commissioner may, by rule, accept the information prescribed by the National
16293 Association of Insurance Commissioners instead of the documents required to be filed with an
16294 application for a certificate of authority under:
16295 (a) Section 31A-4-103, 31A-5-204, 31A-8-205, or 31A-14-201; or
16296 (b) rules made by the commissioner.
16297 (5) Before November 30, 2001, the commissioner shall report to the Business and
16298 Labor Interim Committee regarding the status of:
16299 (a) any agreements entered into under Subsection (1);
16300 (b) any interstate compact entered into under Subsection (2); and
16301 (c) any rule made under Subsections (3) and (4).
16302 (6) This section shall be repealed in accordance with Section [~~63-55-231~~] 63I-1-231.

16303 Section 345. Section **31A-2-302** is amended to read:
16304 **31A-2-302. Commissioner's disapproval.**
16305 (1) When the law requires the commissioner's approval for a certain action without a
16306 deemer clause, that approval must be express. The commissioner's disapproval of an action is
16307 assumed if the commissioner does not act within 60 days after receiving the application for
16308 approval or give notice of [~~his~~] the comissioner's reasonable extension of that time period with
16309 [~~his~~] the commissioner's reasons for the extension. Assumed disapproval under this subsection
16310 entitles the aggrieved person to request agency action under Section [~~63-46b-3~~] 63G-4-201.
16311 (2) When the law provides that a certain action is not effective if disapproved by the
16312 commissioner within a certain period, the affirmative approval by the commissioner may make
16313 the action effective at a designated earlier date, but not earlier than the date of the
16314 commissioner's affirmative approval.
16315 (3) Subsections (1) and (2) do not apply to the extent that the law specifically provides
16316 otherwise.
16317 Section 346. Section **31A-2-306.5** is amended to read:
16318 **31A-2-306.5. Stay of commissioner's decision pending administrative review or**
16319 **judicial appeal.**
16320 (1) An order of the commissioner or a designee of the commissioner is not stayed by a
16321 petition for:
16322 (a) administrative review;
16323 (b) rehearing; or
16324 (c) judicial review.
16325 (2) A person seeking to stay an order of the commissioner or a designee of the
16326 commissioner shall seek a stay in accordance with:
16327 (a) rules made by the commissioner in accordance with [~~Title 63, Chapter 46a~~] Title
16328 63G, Chapter 3, Utah Administrative Rulemaking Act, pending a petition for:
16329 (i) administrative review; or
16330 (ii) rehearing; or
16331 (b) Section [~~63-46b-18~~] 63G-4-405, pending judicial review.
16332 Section 347. Section **31A-2-404** is amended to read:
16333 **31A-2-404. Duties of the commissioner and Title and Escrow Commission.**

16334 (1) Notwithstanding the other provisions of this chapter, to the extent provided in this
16335 part, the commissioner shall administer and enforce the provisions in this title related to:
16336 (a) title insurance; and
16337 (b) escrow conducted by a title licensee or title insurer.
16338 (2) The commission shall:
16339 (a) in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
16340 Administrative Rulemaking Act, and subject to Subsection (3), make rules for the
16341 administration of the provisions in this title related to title insurance including rules related to:
16342 (i) rating standards and rating methods for title agencies and producers as provided in
16343 Section 31A-19a-209;
16344 (ii) the licensing for a title licensee including the licensing requirements of Sections
16345 31A-23a-203 and 31A-23a-204;
16346 (iii) continuing education requirements of Section 31A-23a-202;
16347 (iv) examination procedures, after consultation with the department and the
16348 department's test administrator when required by Section 31A-23a-204; and
16349 (v) standards of conduct for a title licensee;
16350 (b) concur in the issuance and renewal of licenses in accordance with Section
16351 31A-23a-105 or 31A-26-203;
16352 (c) in accordance with Section 31A-3-103, establish, with the concurrence of the
16353 department, all fees imposed by this title on a title licensee;
16354 (d) in accordance with Section 31A-23a-415 determine, after consulting with the
16355 commissioner, the assessment on a title insurer as defined in Section 31A-23a-415;
16356 (e) conduct all administrative hearings not delegated by the commission to an
16357 administrative law judge related to the:
16358 (i) licensing of any applicant;
16359 (ii) conduct of any title licensee; or
16360 (iii) approval of continuing education programs required by Section 31A-23a-202;
16361 (f) with the concurrence of the commissioner, approve assets that can be included in a
16362 reserve fund required by Section 31A-23a-204;
16363 (g) with the concurrence of the commissioner, approve continuing education programs
16364 required by Section 31A-23a-202;

16365 (h) with the concurrence of the commissioner, impose penalties:
16366 (i) under this title related to:
16367 (A) title insurance; or
16368 (B) escrow conducted by a title licensee;
16369 (ii) after investigation by the department in accordance with Part 3, Procedures and
16370 Enforcement; and
16371 (iii) that are enforced by the commissioner;
16372 (i) advise the commissioner on the administration and enforcement of any matters
16373 affecting the title insurance industry;
16374 (j) advise the commissioner on matters affecting the department's budget related to title
16375 insurance; and
16376 (k) perform other duties as provided in this title.
16377 (3) The commission may make a rule under this title only if at the time the commission
16378 files its proposed rule and rule analysis with the Division of Administrative Rules in
16379 accordance with Section [~~63-46a-4~~] 63G-3-301, the commission provides the Real Estate
16380 Commission that same information.
16381 (4) (a) The commissioner shall annually report the information described in Subsection
16382 (4)(b) in writing to:
16383 (i) the commission; and
16384 (ii) the Business and Labor Interim Committee.
16385 (b) The information required to be reported under this Subsection (4):
16386 (i) may not identify a person; and
16387 (ii) shall include:
16388 (A) the number of complaints the department receives with regard to transactions
16389 involving title insurance or a title licensee during the calendar year immediately proceeding the
16390 report;
16391 (B) the type of complaints described in Subsection (4)(b)(ii)(A); and
16392 (C) for each complaint described in Subsection (4)(b)(ii)(A):
16393 (I) any action taken by the department with regard to the complaint; and
16394 (II) the time-period beginning the day on which a complaint is made and ending the
16395 day on which the department determines it will take no further action with regard to the

16396 complaint.
16397 Section 348. Section **31A-3-101** is amended to read:
16398 **31A-3-101. General finance provisions.**
16399 (1) The department's expenses shall be paid from the General Fund. Department
16400 expenditures shall conform to the Legislature's appropriation adopted under [~~Title 63, Chapter~~
16401 ~~38~~] Title 63J, Chapter 1, Budgetary Procedures Act.
16402 (2) Except as provided in Section 31A-2-206, or as otherwise specifically provided in
16403 this title, all monies collected by the commissioner shall be deposited without deduction in the
16404 General Fund.
16405 Section 349. Section **31A-3-103** is amended to read:
16406 **31A-3-103. Fees.**
16407 (1) For purposes of this section:
16408 (a) "Regulatory fee" is as defined in Section [~~63-38-3.2~~] 63J-1-303.
16409 (b) "Services" means functions that are reasonable and necessary to enable the
16410 commissioner to perform the duties imposed by this title including:
16411 (i) issuing and renewing licenses and certificates of authority;
16412 (ii) filing policy forms;
16413 (iii) reporting agent appointments and terminations; and
16414 (iv) filing annual statements.
16415 (c) Fees related to the renewal of licenses may be imposed no more frequently than
16416 once each year.
16417 (2) (a) A regulatory fee charged by the department shall be set in accordance with
16418 Section [~~63-38-3.2~~] 63J-1-303.
16419 (b) Fees shall be set and collected for services provided by the department.
16420 (3) (a) For a fee authorized by this chapter that is not a regulatory fee, the department
16421 may adopt a schedule of fees provided that each fee in the schedule of fees is:
16422 (i) reasonable and fair; and
16423 (ii) submitted to the Legislature as part of the department's annual appropriations
16424 request.
16425 (b) If a fee schedule described in Subsection (3)(a) is submitted as part of the
16426 department's annual appropriations request, the Legislature may, in a manner substantially

16427 similar to Section [~~63-38-3.2~~] 63J-1-303:
16428 (i) approve any fee in the fee schedule;
16429 (ii) (A) increase or decrease any fee in the fee schedule; and
16430 (B) approve any fee in the fee schedule as changed by the Legislature; or
16431 (iii) reject any fee in the fee schedule.
16432 (c) (i) Except as provided in Subsection (3)(c)(ii), a fee approved by the Legislature
16433 pursuant to this Subsection (3) shall be deposited into the General Fund for appropriation by
16434 the Legislature.
16435 (ii) A fee approved by the Legislature pursuant to this Subsection (3) that relates to the
16436 use of electronic or other similar technology to provide the services of the department shall be
16437 deposited into the General Fund as a dedicated credit to be used by the department to provide
16438 services through use of electronic commerce or other similar technology.
16439 (4) The commissioner shall separately publish the schedule of fees approved by the
16440 Legislature and make it available upon request for $1 per copy. This fee schedule shall also be
16441 included in any compilation of rules promulgated by the commissioner.
16442 (5) The commissioner shall, by rule, establish the deadlines for payment of any fee
16443 established by the department in accordance with this section.
16444 Section 350. Section **31A-3-304** is amended to read:
16445 **31A-3-304. Annual fees -- Other taxes or fees prohibited.**
16446 (1) (a) A captive insurance company shall pay an annual fee imposed under this section
16447 to obtain or renew a certificate of authority.
16448 (b) The commissioner shall:
16449 (i) determine the annual fee pursuant to Sections 31A-3-103 and [~~63-38-3.2~~]
16450 63J-1-303; and
16451 (ii) consider whether the annual fee is competitive with fees imposed by other states on
16452 captive insurance companies.
16453 (2) A captive insurance company that fails to pay the fee required by this section is
16454 subject to the relevant sanctions of this title.
16455 (3) (a) Except as provided in Subsection (3)(b) and notwithstanding Title 59, Chapter
16456 9, Taxation of Admitted Insurers, the fee provided for in this section constitutes the sole tax or
16457 fee under the laws of this state that may be otherwise levied or assessed on a captive insurance

16458 company, and no other occupation tax or other tax or fee may be levied or collected from a
16459 captive insurance company by the state or a county, city, or municipality within this state.
16460 (b) Notwithstanding Subsection (3)(a), a captive insurance company is subject to real
16461 and personal property taxes.
16462 (4) A captive insurance company shall pay the fee imposed by this section to the
16463 department by March 31 of each year.
16464 (5) (a) The funds received pursuant to Subsection (2) shall be deposited into the
16465 General Fund as a dedicated credit to be used by the department to:
16466 (i) administer and enforce Chapter 37, Captive Insurance Companies Act; and
16467 (ii) promote the captive insurance industry in Utah.
16468 (b) At the end of each fiscal year, funds received by the department in excess of
16469 $250,000 shall be treated as free revenue in the General Fund.
16470 Section 351. Section **31A-4-103** is amended to read:
16471 **31A-4-103. Certificate of authority.**
16472 (1) Each certificate of authority issued by the commissioner shall specify:
16473 (a) the name of the insurer;
16474 (b) the kinds of insurance the insurer is authorized to transact in Utah; and
16475 (c) any other information the commissioner requires.
16476 (2) A certificate of authority issued under this chapter remains in force until:
16477 (a) the certificate is not renewed; or
16478 (b) under Subsection (3), the certificate of authority is:
16479 (i) revoked; or
16480 (ii) suspended.
16481 (3) (a) After an adjudicative proceeding under [~~Title 63, Chapter 46b~~] Title 63G,
16482 Chapter 4, Administrative Procedures Act, if the commissioner makes a finding described in
16483 Subsection (3)(b), the commissioner may:
16484 (i) revoke a certificate of authority;
16485 (ii) suspend a certificate of authority for a period not to exceed 12 months; or
16486 (iii) limit a certificate of authority.
16487 (b) The commissioner may take any action described in Subsection (3)(a) if the
16488 commissioner finds the insurer has:

16489 (i) failed to pay when due any fee due under Section 31A-3-103;
16490 (ii) violated or failed to comply with:
16491 (A) this title;
16492 (B) a rule made under Subsection 31A-2-201(3); or
16493 (C) an order issued under Subsection 31A-2-201(4); or
16494 (iii) engaged in methods and practices in the conduct of business that endanger the
16495 legitimate interests of customers and the public.
16496 (c) An order suspending a certificate of authority shall specify:
16497 (i) the conditions and terms imposed on the insurer during the suspension; and
16498 (ii) the conditions and procedures for reinstatement from suspension.
16499 (d) The commissioner may place limitations on a certificate of authority at the time the
16500 certificate of authority is issued based on information contained in the application for the
16501 certificate of authority.
16502 (e) An order limiting a certificate of authority that is issued under Subsection (3)(a) or
16503 (3)(d) shall specify:
16504 (i) the period of the limitation;
16505 (ii) the conditions of the limitation; and
16506 (iii) the procedures for removing the limitation.
16507 (4) Subject to the requirements of this section and in accordance with [~~Title 63,~~
16508 ~~Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner
16509 may by rule prescribe procedures to renew or reinstate a certificate of authority.
16510 (5) An insurer under this chapter whose certificate of authority is suspended or
16511 revoked, but that continues to act as an authorized insurer, is subject to the penalties for acting
16512 as an insurer without a certificate of authority.
16513 (6) Any insurer holding a certificate of authority in this state shall immediately report
16514 to the commissioner a suspension or revocation of that insurer's certificate of authority in any:
16515 (a) state;
16516 (b) the District of Columbia; or
16517 (c) a territory of the United States.
16518 (7) (a) An order revoking a certificate of authority under Subsection (3) may specify a
16519 time within which the former authorized insurer may not apply for a new certificate of

16520 authority, except that the time may not exceed five years from the date on which the certificate
16521 of authority is revoked.
16522 (b) If no time is specified in an order revoking a certificate of authority under
16523 Subsection (3), the former authorized insurer may not apply for a new certificate of authority
16524 for five years from the date on which the certificate of authority is revoked without express
16525 approval by the commissioner.
16526 (8) (a) Subject to Subsection (8)(b), the insurer shall pay all fees under Section
16527 31A-3-103 that would have been payable if the certificate of authority had not been suspended
16528 or revoked, unless the commissioner, in accordance with rule, waives the payment of the fees
16529 by no later than the day on which:
16530 (i) a suspension under Subsection (3) of an insurer's certificate of authority ends; or
16531 (ii) a new certificate of authority is issued to an insurer whose certificate of authority is
16532 revoked under Subsection (3).
16533 (b) If a new certificate of authority is issued more than three years after the day on
16534 which a similar certificate of authority was revoked, this Subsection (8) applies only to the fees
16535 that would have accrued during the three years immediately following the revocation.
16536 Section 352. Section **31A-5-204** is amended to read:
16537 **31A-5-204. Organization permit -- Certificate of incorporation.**
16538 (1) Subject to Section 31A-5-213, a person, including a stock insurance corporation,
16539 insurance holding company, stock corporation to finance an insurer or insurance production for
16540 an insurer, corporation to provide management or administrative services for any of the entities
16541 named above, or mutual insurer, may not solicit subscriptions for its securities, or in the case of
16542 a mutual insurance corporation, solicit applications for qualifying insurance policies or
16543 subscriptions for mutual bonds or contribution notes, until the commissioner has issued an
16544 organization permit.
16545 (2) The application for an organization permit shall give the name of the insurer to be
16546 formed and shall be signed and acknowledged by or on behalf of each incorporator. The
16547 application shall include or have attached:
16548 (a) the names, and for the preceding ten years all addresses, and all occupations of the
16549 incorporators and the proposed directors and officers;
16550 (b) for all persons planned by the incorporators to own 10% or more of the capital

16551 stock of the corporation, their annual financial statements and reports for the three most recent
16552 years, and if the planned shareholders are corporations, their articles and bylaws, and a list of
16553 the names, addresses, and occupations of all their directors and principal officers;
16554 (c) the proposed articles, which shall be signed and acknowledged by or on behalf of
16555 each incorporator, and the proposed bylaws;
16556 (d) all agreements relating to the corporation to which any incorporator, proposed
16557 director, or officer is a party;
16558 (e) the amount and sources of the funds available for organization expenses and the
16559 proposed arrangements for reimbursement and compensation of incorporators or other persons;
16560 (f) the plan for solicitation of applications for qualifying insurance policies and for the
16561 corporation's securities;
16562 (g) the forms to be used for stock subscriptions, certificates for shares, applications for
16563 qualifying insurance policies, subscriptions for mutual bonds and contribution notes, and the
16564 forms for bonds and notes;
16565 (h) the capital and initial paid in surplus in the case of a stock insurer, or the minimum
16566 permanent surplus and the additional surplus in the case of a mutual insurer;
16567 (i) the plan for conducting the insurance business, including:
16568 (i) the geographical area in which business is intended to be done in the first two years;
16569 (ii) the types of insurance intended to be written in the first two years;
16570 (iii) the proposed marketing methods;
16571 (iv) when requested by the commissioner, the proposed method for establishing
16572 premium rates; and
16573 (v) the proposed aggregate compensation of the five highest compensated officers,
16574 directors, and employees;
16575 (j) a projection certified by a member of the American Academy of Actuaries of the
16576 anticipated operating results of the corporation at the end of each of the first two years of
16577 operation, based on reasonable assumptions of loss experience, premium and other income,
16578 operating expenses, and acquisition costs; and
16579 (k) any other relevant document or information the commissioner reasonably requires.
16580 (3) The commissioner shall issue an organization permit if:
16581 (a) all the requirements of law have been met, including the payment of fees;

16582 (b) all the incorporators, persons listed in Subsection (2)(b), and the proposed directors
16583 and officers of the corporation being formed, are trustworthy and collectively have the
16584 competence and experience to engage in the particular insurance business proposed;
16585 (c) the business plan is consistent with the interests of the corporation's potential
16586 insureds and the public; and
16587 (d) the bond required by Section 31A-5-205 is filed.
16588 (4) If the commissioner denies the application for a permit, the commissioner shall
16589 state the reasons for the denial.
16590 (5) (a) The organization permit shall:
16591 (i) specify the minimum capital or minimum permanent surplus required under Section
16592 31A-5-211; and
16593 (ii) describe the securities or policies to be solicited under the permit.
16594 (b) The organization permit may contain any other information the commissioner
16595 considers necessary.
16596 (6) The director of the Division of Corporations and Commercial Code shall accept the
16597 filing of the corporation's articles of incorporation upon notice from the insurance
16598 commissioner that all the applicable requirements of law have been met, including the payment
16599 of fees.
16600 (7) (a) When the director of the Division of Corporations and Commercial Code
16601 accepts the articles of incorporation:
16602 (i) the legal existence of the corporation begins;
16603 (ii) the articles and bylaws become effective; and
16604 (iii) the proposed directors and officers take office.
16605 (b) The certificate is conclusive evidence of compliance with this section, except in a
16606 proceeding by the state against the corporation.
16607 (8) Notwithstanding [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records
16608 Access and Management Act, the permit applicant may request that any part of the information
16609 supplied under Subsection (2) be kept confidential. The information shall then be kept
16610 confidential unless the commissioner expressly finds, after a hearing, that the interest of the
16611 corporation or the public requires that the information be open to the public.
16612 Section 353. Section **31A-6a-110** is amended to read:

16613 **31A-6a-110. Rulemaking.**
16614 (1) Pursuant to [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
16615 Rulemaking Act, the commissioner may make rules necessary to assist in the enforcement of
16616 this chapter.
16617 (2) The commissioner may by rule or order, after a hearing, exempt certain service
16618 contract providers or service contract providers for a specific class of service contracts that are
16619 not otherwise exempt under Subsection 31A-1-103(3) from any provision of this title. The
16620 commissioner may order substitute requirements on a finding that a particular provision of this
16621 title is not necessary for the protection of the public or that the substitute requirement is
16622 reasonably certain to provide equivalent protection to the public.
16623 Section 354. Section **31A-8a-203** is amended to read:
16624 **31A-8a-203. Information filed with the department.**
16625 (1) Prior to operating a health discount program, a person must submit the following to
16626 the commissioner:
16627 (a) a copy of contract forms used by the health discount program for:
16628 (i) health care providers or health care provider networks participating in the health
16629 discount program, including the discounts for medical services provided to enrollees;
16630 (ii) marketing;
16631 (iii) administration of the health discount program;
16632 (iv) enrollment;
16633 (v) investment management for the health discount programs; and
16634 (vi) subcontracts for any services;
16635 (b) the program's proposed marketing plan; and
16636 (c) dispute resolution procedures for program holders.
16637 (2) The company must file prior to use:
16638 (a) the form of contracts used by the health discount program operator;
16639 (b) the marketing plan; and
16640 (c) dispute resolution procedures.
16641 (3) The commissioner may adopt rules in accordance with [~~Title 63, Chapter 46a~~] Title
16642 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.
16643 Section 355. Section **31A-8a-210** is amended to read:

16644 **31A-8a-210. Rulemaking authority.**
16645 The commissioner has authority to adopt administrative rules in accordance with [~~Title~~
16646 ~~63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
16647 (1) to enforce this chapter; and
16648 (2) as necessary to protect the public interest.
16649 Section 356. Section **31A-12-107** is amended to read:
16650 **31A-12-107. Governmental immunity.**
16651 Notwithstanding any other provision of this title, a governmental entity is not an insurer
16652 for purposes of this title and is not engaged in the business of insurance to the extent that it is:
16653 (1) covering its own liabilities under [~~Title 63, Chapter 30d~~] Title 63G, Chapter 7,
16654 Governmental Immunity Act of Utah; or
16655 (2) engaging in other related risk management activities related to the normal course of
16656 its activities.
16657 Section 357. Section **31A-14-217** is amended to read:
16658 **31A-14-217. Revocation of certificate of authority.**
16659 Whenever there would be grounds for delinquency proceedings under Chapter 27a,
16660 Insurer Receivership Act, against a foreign insurer, if the foreign insurer were a domestic
16661 insurer, the commissioner may, after any proceeding authorized by [~~Title 63, Chapter 46b~~]
16662 Title 63G, Chapter 4, Administrative Procedures Act, revoke, suspend, or limit the foreign
16663 insurer's certificate of authority. This action does not affect insurance which has already been
16664 issued. The insurer remains subject to regulation until released under Section 31A-14-216.
16665 Section 358. Section **31A-17-503** is amended to read:
16666 **31A-17-503. Actuarial opinion of reserves.**
16667 (1) This section becomes operative on December 31, 1993.
16668 (2) General: Every life insurance company doing business in this state shall annually
16669 submit the opinion of a qualified actuary as to whether the reserves and related actuarial items
16670 held in support of the policies and contracts specified by the commissioner by rule are
16671 computed appropriately, are based on assumptions which satisfy contractual provisions, are
16672 consistent with prior reported amounts, and comply with applicable laws of this state. The
16673 commissioner by rule shall define the specifics of this opinion and add any other items
16674 considered to be necessary to its scope.

16675 (3) Actuarial analysis of reserves and assets supporting reserves:
16676 (a) Every life insurance company, except as exempted by or pursuant to rule, shall also
16677 annually include in the opinion required by Subsection (2), an opinion of the same qualified
16678 actuary as to whether the reserves and related actuarial items held in support of the policies and
16679 contracts specified by the commissioner by rule, when considered in light of the assets held by
16680 the company with respect to the reserves and related actuarial items, including but not limited
16681 to the investment earnings on the assets and the considerations anticipated to be received and
16682 retained under the policies and contracts, make adequate provision for the company's
16683 obligations under the policies and contracts, including but not limited to the benefits under the
16684 expenses associated with the policies and contracts.
16685 (b) The commissioner may provide by rule for a transition period for establishing any
16686 higher reserves which the qualified actuary may consider necessary in order to render the
16687 opinion required by this section.
16688 (4) Requirement for opinion under Subsection (3): Each opinion required by
16689 Subsection (3) shall be governed by the following provisions:
16690 (a) A memorandum, in form and substance acceptable to the commissioner as specified
16691 by rule, shall be prepared to support each actuarial opinion.
16692 (b) If the insurance company fails to provide a supporting memorandum at the request
16693 of the commissioner within a period specified by rule or the commissioner determines that the
16694 supporting memorandum provided by the insurance company fails to meet the standards
16695 prescribed by the rule or is otherwise unacceptable to the commissioner, the commissioner may
16696 engage a qualified actuary at the expense of the company to review the opinion and the basis
16697 for the opinion and prepare such supporting memorandum as is required by the commissioner.
16698 (5) Requirement for all opinions: Every opinion shall be governed by the following
16699 provisions:
16700 (a) The opinion shall be submitted with the annual statement reflecting the valuation of
16701 the reserve liabilities for each year ending on or after December 31, 1993.
16702 (b) The opinion shall apply to all business in force including individual and group
16703 health insurance plans, in form and substance acceptable to the commissioner as specified by
16704 rule.
16705 (c) The opinion shall be based on standards adopted from time to time by the Actuarial

16706 Standards Board and on such additional standards as the commissioner may by rule prescribe.
16707 (d) In the case of an opinion required to be submitted by a foreign or alien company,
16708 the commissioner may accept the opinion filed by that company with the insurance supervisory
16709 official of another state if the commissioner determines that the opinion reasonably meets the
16710 requirements applicable to a company domiciled in this state.
16711 (e) For the purposes of this section, "qualified actuary" means a member in good
16712 standing of the American Academy of Actuaries who meets the requirements set forth by
16713 department rule.
16714 (f) Except in cases of fraud or willful misconduct, the qualified actuary is not liable for
16715 damages to any person, other than the insurance company and the commissioner, for any act,
16716 error, omission, decision, or conduct with respect to the actuary's opinion.
16717 (g) Disciplinary action by the commissioner against the company or the qualified
16718 actuary shall be defined in rules by the commissioner.
16719 (h) Any memorandum in support of the opinion, and any other material provided by the
16720 company to the commissioner in connection therewith, are considered protected records under
16721 Section [~~63-2-304~~] 63G-2-305 and may not be made public and are not subject to subpoena
16722 under Subsection [~~63-2-202~~] 63G-2-202(7), other than for the purpose of defending an action
16723 seeking damages from any person by reason of any action required by this section or rules
16724 promulgated under this section. However, the memorandum or other material may otherwise be
16725 released by the commissioner (i) with the written consent of the company or (ii) to the
16726 American Academy of Actuaries upon request stating that the memorandum or other material
16727 is required for the purpose of professional disciplinary proceedings and setting forth procedures
16728 satisfactory to the commissioner for preserving the confidentiality of the memorandum or other
16729 material. Once any portion of the confidential memorandum is cited in its marketing or is cited
16730 before any governmental agency other than the department or is released to the news media, all
16731 portions of the memorandum are no longer confidential.
16732 Section 359. Section **31A-19a-211 (Superseded 07/01/08)** is amended to read:
16733 **31A-19a-211 (Superseded 07/01/08). Premium rate reduction for seniors -- Motor**
16734 **vehicle accident prevention course -- Curriculum -- Certificate -- Exception.**
16735 (1) (a) Each rate, rating schedule, and rating manual for the liability, personal injury
16736 protection, and collision coverages of private passenger motor vehicle insurance policies

16737 submitted to or filed with the commissioner shall provide for an appropriate reduction in
16738 premium charges for those coverages if the principal operator of the covered vehicle:
16739 (i) is a named insured who is 55 years of age or older; and
16740 (ii) has successfully completed a motor vehicle accident prevention course as outlined
16741 in Subsection (2).
16742 (b) Any premium reduction provided by an insurer under this section is presumed to be
16743 appropriate unless credible data demonstrates otherwise.
16744 (2) (a) The curriculum for a motor vehicle accident prevention course under this
16745 section shall include:
16746 (i) how impairment of visual and audio perception affects driving performance and
16747 how to compensate for that impairment;
16748 (ii) the effects of fatigue, medications, and alcohol on driving performance, when
16749 experienced alone or in combination, and precautionary measures to prevent or offset ill
16750 effects;
16751 (iii) updates on rules of the road and equipment, including safety belts and safe,
16752 efficient driving techniques under present day road and traffic conditions;
16753 (iv) how to plan travel time and select routes for safety and efficiency; and
16754 (v) how to make crucial decisions in dangerous, hazardous, and unforeseen situations.
16755 (b) (i) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
16756 Administrative Rulemaking Act, the Department of Public Safety may make rules to establish
16757 and clarify standards pertaining to the curriculum and teaching methods of a course under this
16758 section.
16759 (ii) These rules may include provisions allowing the department to conduct on-site
16760 visits to ensure compliance with agency rules and this chapter.
16761 (iii) These rules shall be specific as to time and manner of visits and provide for
16762 methods to prohibit or remedy forcible visits.
16763 (3) (a) The premium reduction required by this section shall be effective for a named
16764 insured for a three-year period after successful completion of the course outlined in Subsection
16765 (2).
16766 (b) The insurer may require, as a condition of maintaining the premium reduction, that
16767 the named insured not be convicted or plead guilty or nolo contendere to a moving traffic

16768 violation for which points may be assessed against the named insured's driver license except
16769 for a violation under Subsection 53-3-221(11).
16770 (4) Each person who successfully completes the course outlined in Subsection (2) shall
16771 be issued a certificate by the organization offering the course. The certificate qualifies the
16772 person for the premium reduction required by this section.
16773 (5) This section does not apply if the approved course outlined in Subsection (2) is
16774 attended as a penalty imposed by a court or other governmental entity for a moving traffic
16775 violation.
16776 Section 360. Section **31A-19a-211 (Effective 07/01/08)** is amended to read:
16777 **31A-19a-211 (Effective 07/01/08). Premium rate reduction for seniors -- Motor**
16778 **vehicle accident prevention course -- Curriculum -- Certificate -- Exception.**
16779 (1) (a) Each rate, rating schedule, and rating manual for the liability, personal injury
16780 protection, and collision coverages of private passenger motor vehicle insurance policies
16781 submitted to or filed with the commissioner shall provide for an appropriate reduction in
16782 premium charges for those coverages if the principal operator of the covered vehicle:
16783 (i) is a named insured who is 55 years of age or older; and
16784 (ii) has successfully completed a motor vehicle accident prevention course as outlined
16785 in Subsection (2).
16786 (b) Any premium reduction provided by an insurer under this section is presumed to be
16787 appropriate unless credible data demonstrates otherwise.
16788 (2) (a) The curriculum for a motor vehicle accident prevention course under this
16789 section shall include:
16790 (i) how impairment of visual and audio perception affects driving performance and
16791 how to compensate for that impairment;
16792 (ii) the effects of fatigue, medications, and alcohol on driving performance, when
16793 experienced alone or in combination, and precautionary measures to prevent or offset ill
16794 effects;
16795 (iii) updates on rules of the road and equipment, including safety belts and safe,
16796 efficient driving techniques under present day road and traffic conditions;
16797 (iv) how to plan travel time and select routes for safety and efficiency; and
16798 (v) how to make crucial decisions in dangerous, hazardous, and unforeseen situations.

16799 (b) (i) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
16800 Administrative Rulemaking Act, the Department of Public Safety may make rules to establish
16801 and clarify standards pertaining to the curriculum and teaching methods of a course under this
16802 section.
16803 (ii) These rules may include provisions allowing the department to conduct on-site
16804 visits to ensure compliance with agency rules and this chapter.
16805 (iii) These rules shall be specific as to time and manner of visits and provide for
16806 methods to prohibit or remedy forcible visits.
16807 (3) (a) The premium reduction required by this section shall be effective for a named
16808 insured for a three-year period after successful completion of the course outlined in Subsection
16809 (2).
16810 (b) The insurer may require, as a condition of maintaining the premium reduction, that
16811 the named insured not be convicted or plead guilty or nolo contendere to a moving traffic
16812 violation for which points may be assessed against the named insured's driver license except
16813 for a violation under Subsection 53-3-221(12).
16814 (4) Each person who successfully completes the course outlined in Subsection (2) shall
16815 be issued a certificate by the organization offering the course. The certificate qualifies the
16816 person for the premium reduction required by this section.
16817 (5) This section does not apply if the approved course outlined in Subsection (2) is
16818 attended as a penalty imposed by a court or other governmental entity for a moving traffic
16819 violation.
16820 Section 361. Section **31A-19a-304** is amended to read:
16821 **31A-19a-304. Probation.**
16822 (1) (a) In any circumstances that would justify a suspension under Section
16823 31A-19a-303, instead of a suspension, the commissioner may, after a hearing, put the licensee
16824 on probation for a specified period not to exceed 12 months from the date of probation.
16825 (b) The probation order shall state the conditions for retention of the license, which
16826 shall be reasonable.
16827 (2) Violation of the probation constitutes grounds for revocation pursuant to a
16828 proceeding authorized under [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
16829 Procedures Act.

16830 Section 362. Section **31A-21-109** is amended to read:
16831 **31A-21-109. Debt cancellation agreements and debt suspension agreements.**
16832 (1) As used in this section:
16833 (a) "Debt cancellation agreement" means a contract between a lender and a borrower
16834 where the lender, for a separately stated consideration, agrees to waive all or part of the debt in
16835 the event of a fortuitous event such as death, disability, or the destruction of the lender's
16836 collateral.
16837 (b) "Debt suspension agreement" means a contract between a lender and a borrower
16838 where the lender, for a separately stated consideration, agrees to suspend scheduled installment
16839 payments for an agreed period of time in the event of a:
16840 (i) fortuitous event such as involuntary unemployment or accident; or
16841 (ii) fortuitous condition such as sickness.
16842 (c) "Institution" means:
16843 (i) a bank as defined in Section 7-1-103;
16844 (ii) a credit union as defined in Section 7-1-103;
16845 (iii) an industrial bank as defined in Section 7-1-103; or
16846 (iv) a savings and loan association as defined in Section 7-1-103.
16847 (d) "Regulate the issuance" includes regulation of the following with respect to a debt
16848 cancellation agreement or a debt suspension agreement:
16849 (i) terms;
16850 (ii) conditions;
16851 (iii) rates;
16852 (iv) forms; and
16853 (v) claims.
16854 (e) "Subsidiary" is as defined in Section 7-1-103.
16855 (2) Except as provided in Subsection (6), the commissioner has sole jurisdiction over
16856 the regulation of a debt cancellation agreement or debt suspension agreement.
16857 (3) Subject to this section, the commissioner may by rule, made in accordance with
16858 [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
16859 (a) authorize an insurer to issue:
16860 (i) a debt cancellation agreement; or

16861 (ii) a debt suspension agreement; and
16862 (b) regulate the issuance of:
16863 (i) a debt cancellation agreement; or
16864 (ii) a debt suspension agreement.
16865 (4) Except as provided in Subsection (6), a debt cancellation agreement or a debt
16866 suspension agreement may be issued only by an insurer authorized to issue a debt cancellation
16867 agreement or debt suspension agreement under this section.
16868 (5) (a) The rules promulgated by the commissioner under this section shall regulate the
16869 issuance of a debt cancellation agreement or debt suspension agreement according to the
16870 functional insurance equivalent of each type of debt cancellation agreement or debt suspension
16871 agreement.
16872 (b) Except as provided in Subsection (5)(c), in accordance with [~~Title 63, Chapter 46a~~]
16873 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner may by rule
16874 determine the functional insurance equivalent of each type of debt cancellation agreement or
16875 debt suspension agreement.
16876 (c) Notwithstanding Subsection (5)(b), the functional insurance equivalent of a debt
16877 cancellation agreement that provides for the cancellation of indebtedness at death is credit life
16878 insurance.
16879 (6) Notwithstanding the other provisions of this section, the issuance of a debt
16880 cancellation agreement or a debt suspension agreement by an institution or a subsidiary of an
16881 institution is:
16882 (a) not subject to this section; and
16883 (b) subject to the jurisdiction of the primary regulator of:
16884 (i) the institution; or
16885 (ii) the subsidiary of an institution.
16886 Section 363. Section **31A-22-315** is amended to read:
16887 **31A-22-315. Motor vehicle insurance reporting -- Penalty.**
16888 (1) (a) As used in this section, "commercial motor vehicle insurance coverage" means
16889 an insurance policy that:
16890 (i) includes motor vehicle liability coverage, uninsured motorist coverage,
16891 underinsured motorist coverage, or personal injury coverage; and

16892 (ii) is defined by the department.
16893 (b) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
16894 Administrative Rulemaking Act, the department shall make rules defining commercial motor
16895 vehicle insurance coverage.
16896 (2) (a) Except as provided in Subsections (2)(b) and (c), each insurer that issues a
16897 policy that includes motor vehicle liability coverage, uninsured motorist coverage,
16898 underinsured motorist coverage, or personal injury coverage under this part shall before the
16899 seventh and twenty-first day of each calendar month provide to the Department of Public
16900 Safety's designated agent selected in accordance with Title 41, Chapter 12a, Part 8, Uninsured
16901 Motorist Identification Database Program, a record of each motor vehicle insurance policy in
16902 effect for vehicles registered or garaged in Utah as of the previous submission that was issued
16903 by the insurer.
16904 (b) Each insurer that issues commercial motor vehicle insurance coverage shall before
16905 the seventh day of each calendar month provide to the Department of Public Safety's
16906 designated agent selected in accordance with Title 41, Chapter 12a, Part 8, Uninsured Motorist
16907 Identification Database Program, a record of each commercial motor vehicle insurance policy
16908 in effect for vehicles registered or garaged in Utah as of the previous month that was issued by
16909 the insurer.
16910 (c) An insurer that issues a policy that includes motor vehicle liability coverage,
16911 uninsured motorist coverage, underinsured motorist coverage, or personal injury coverage
16912 under this part is not required to provide a record of a motor vehicle insurance policy in effect
16913 for a vehicle to the Department of Public Safety's designated agent under Subsection (2)(a) or
16914 (b) if the policy covers a vehicle that is registered under Section 41-1a-221, 41-1a-222, or
16915 41-1a-301.
16916 (d) This Subsection (2) does not preclude more frequent reporting.
16917 (3) (a) A record provided by an insurer under Subsection (2)(a) shall include:
16918 (i) the name, date of birth, and driver license number, if the insured provides a driver
16919 license number to the insurer, of each insured owner or operator, and the address of the named
16920 insured;
16921 (ii) the make, year, and vehicle identification number of each insured vehicle; and
16922 (iii) the policy number, effective date, and expiration date of each policy.

16923 (b) A record provided by an insurer under Subsection (2)(b) shall include:
16924 (i) the named insured;
16925 (ii) the policy number, effective date, and expiration date of each policy; and
16926 (iii) the following information, if available:
16927 (A) the name, date of birth, and driver license number of each insured owner or
16928 operator, and the address of the named insured; and
16929 (B) the make, year, and vehicle identification number of each insured vehicle.
16930 (4) Each insurer shall provide this information by an electronic means or by another
16931 form the Department of Public Safety's designated agent agrees to accept.
16932 (5) (a) The commissioner may, following procedures set forth in [~~Title 63, Chapter~~
16933 ~~46b~~] Title 63G, Chapter 4, Administrative Procedures Act, assess a fine against an insurer of
16934 up to $250 for each day the insurer fails to comply with this section.
16935 (b) If an insurer shows that the failure to comply with this section was inadvertent,
16936 accidental, or the result of excusable neglect, the commissioner shall excuse the fine.
16937 Section 364. Section **31A-22-320** is amended to read:
16938 **31A-22-320. Use of credit information.**
16939 (1) For purposes of this section:
16940 (a) "Credit information" means:
16941 (i) a consumer report;
16942 (ii) a credit score;
16943 (iii) any information obtained by the insurer from a consumer report;
16944 (iv) any part of a consumer report; or
16945 (v) any part of a credit score.
16946 (b) (i) Except as provided in Subsection (1)(b)(ii), "consumer report" is as defined in
16947 15 U.S.C. 1681a.
16948 (ii) "Consumer report" does not include:
16949 (A) a motor vehicle record obtained from a state or an agency of a state; or
16950 (B) any information regarding an applicant's or insured's insurance claim history.
16951 (c) (i) "Credit score" means a numerical value or a categorization that is:
16952 (A) derived from information in a consumer report;
16953 (B) derived from a statistical tool or modeling system; and

16954 (C) developed to predict the likelihood of:
16955 (I) future insurance claims behavior; or
16956 (II) credit behavior.
16957 (ii) "Credit score" includes:
16958 (A) a risk predictor; or
16959 (B) a risk score.
16960 (iii) A numerical value or a categorization described in Subsection (1)(c)(i) is a credit
16961 score if it is developed to predict the behavior described in Subsection (1)(c)(i)(C) regardless of
16962 whether it is developed to predict other factors in addition to predicting the behavior described
16963 in Subsection (1)(c)(i)(C).
16964 (d) "Motor vehicle related insurance policy" means:
16965 (i) a motor vehicle liability policy;
16966 (ii) a policy that contains uninsured motorist coverage;
16967 (iii) a policy that contains underinsured motorist coverage;
16968 (iv) a policy that contains property damage coverage under this part; or
16969 (v) a policy that contains personal injury coverage under this part.
16970 (2) An insurer that issues a motor vehicle related insurance policy:
16971 (a) except as provided in Subsection (2)(b), may not use credit information for the
16972 purpose of determining for the motor vehicle related insurance policy:
16973 (i) renewal;
16974 (ii) nonrenewal;
16975 (iii) termination;
16976 (iv) eligibility;
16977 (v) underwriting; or
16978 (vi) rating; and
16979 (b) notwithstanding Subsection (2)(a), may use credit information for the purpose of:
16980 (i) if risk related factors other than credit information are considered, determining
16981 initial underwriting; or
16982 (ii) providing to an insured:
16983 (A) a reduction in rates paid by the insured for the motor vehicle related insurance
16984 policy; or

16985 (B) any other discount similar to the reduction in rates described in Subsection
16986 (2)(b)(ii)(A).
16987 (3) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
16988 Administrative Rulemaking Act, the commissioner may make rules necessary to enforce this
16989 section.
16990 Section 365. Section **31A-22-403** is amended to read:
16991 **31A-22-403. Incontestability.**
16992 (1) This section does not apply to group policies.
16993 (2) (a) Except as provided in Subsection (3), a life insurance policy is incontestable
16994 after the policy has been in force for a period of two years from the policy's date of issue:
16995 (i) during the lifetime of the insured; or
16996 (ii) for a survivorship life insurance policy, during the lifetime of the surviving insured.
16997 (b) A life insurance policy shall state that the life insurance policy is incontestable after
16998 the time period described in Subsection (2)(a).
16999 (3) (a) A life insurance policy described in Subsection (2) may be contested for
17000 nonpayment of premiums.
17001 (b) A life insurance policy described in Subsection (2) may be contested as to:
17002 (i) provisions relating to accident and health benefits allowed under Section
17003 31A-22-609; and
17004 (ii) additional benefits in the event of death by accident.
17005 (c) If a life insurance policy described in Subsection (2) allows the insured, after the
17006 policy's issuance and for an additional premium, to obtain a death benefit that is larger than
17007 when the policy was originally issued, the payment of the additional increment of benefit is
17008 contestable:
17009 (i) until two years after the incremental increase of benefits; and
17010 (ii) based only on a ground that may arise in connection with the incremental increase.
17011 (4) (a) A reinstated life insurance policy may be contested:
17012 (i) for two years following reinstatement on the same basis as at original issuance; and
17013 (ii) only as to matters arising in connection with the reinstatement.
17014 (b) Any grounds for contest available at original issuance continue to be available for
17015 contest until the policy has been in force for a total of two years:

17016 (i) during the lifetime of the insured; and
17017 (ii) for a survivorship life insurance policy, during the lifetime of the surviving insured.
17018 (5) (a) The limitations on incontestability under this section:
17019 (i) preclude only a contest of the validity of the policy; and
17020 (ii) do not preclude the good faith assertion at any time of defenses based upon
17021 provisions in the policy that exclude or qualify coverage, whether or not those qualifications or
17022 exclusions are specifically excepted in the policy's incontestability clause.
17023 (b) A provision on which the contestable period would normally run may not be
17024 reformulated as a coverage exclusion or restriction to take advantage of this Subsection (5).
17025 (6) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
17026 Administrative Rulemaking Act, the commissioner may make rules to implement this section.
17027 Section 366. Section **31A-22-409** is amended to read:
17028 **31A-22-409. Standard Nonforfeiture Law for Individual Deferred Annuities.**
17029 (1) This section is known as the "Standard Nonforfeiture Law for Individual Deferred
17030 Annuities."
17031 (2) This section does not apply to:
17032 (a) any reinsurance;
17033 (b) a group annuity purchased under a retirement plan or plan of deferred
17034 compensation:
17035 (i) established or maintained by:
17036 (A) an employer, including a partnership or sole proprietorship;
17037 (B) an employee organization; or
17038 (C) both an employer and an employee organization; and
17039 (ii) other than a plan providing individual retirement accounts or individual retirement
17040 annuities under Section 408, Internal Revenue Code;
17041 (c) a premium deposit fund;
17042 (d) a variable annuity;
17043 (e) an investment annuity;
17044 (f) an immediate annuity;
17045 (g) a deferred annuity contract after annuity payments have commenced;
17046 (h) a reversionary annuity; or

17047 (i) any contract that shall be delivered outside this state through an agent or other
17048 representative of the company issuing the contract.
17049 (3) (a) If a policy is issued after this section takes effect as set forth in Subsection (15),
17050 a contract of annuity, except as stated in Subsection (2), may not be delivered or issued for
17051 delivery in this state unless the contract of annuity contains in substance:
17052 (i) the provisions described in Subsection (3)(b); or
17053 (ii) provisions corresponding to the provisions described in Subsection (3)(b) that in
17054 the opinion of the commissioner are at least as favorable to the contractholder, governing
17055 cessation of payment of consideration under the contract.
17056 (b) Subsection (3)(a)(i) requires the following provisions:
17057 (i) the company shall grant a paid-up annuity benefit on a plan stipulated in the contract
17058 of such a value as specified in Subsections (7), (8), (9), (10), and (12):
17059 (A) upon cessation of payment of consideration under a contract; or
17060 (B) upon a written request of the contract owner;
17061 (ii) if a contract provides for a lump-sum settlement at maturity, or at any other time,
17062 upon surrender of the contract at or before the commencement of any annuity payments, the
17063 company shall pay in lieu of any paid-up annuity benefit a cash surrender benefit of such
17064 amount as is specified in Subsections (7), (8), (10), and (12);
17065 (iii) a statement of the mortality table, if any, and interest rates used in calculating any
17066 of the following that are guaranteed under the contract:
17067 (A) minimum paid-up annuity benefits;
17068 (B) cash surrender benefits; or
17069 (C) death benefits;
17070 (iv) sufficient information to determine the amounts of the benefits described in
17071 Subsection (3)(b)(iii);
17072 (v) a statement that any paid-up annuity, cash surrender, or death benefits that may be
17073 available under the contract are not less than the minimum benefits required by any statute of
17074 the state in which the contract is delivered; and
17075 (vi) an explanation of the manner in which the benefits described in Subsection
17076 (3)(b)(v) are altered by the existence of any:
17077 (A) additional amounts credited by the company to the contract;

17078 (B) indebtedness to the company on the contract; or
17079 (C) prior withdrawals from or partial surrender of the contract.
17080 (c) Notwithstanding the requirements of this Subsection (3), any deferred annuity
17081 contract may provide that if no consideration has been received under a contract for a period of
17082 two full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated
17083 in the contract arising from consideration paid before the period would be less than $20
17084 monthly:
17085 (i) the company may at the company's option terminate the contract by payment in cash
17086 of the then present value of such portion of the paid-up annuity benefit, calculated on the basis
17087 of the mortality table specified in the contract, if any, and the interest rate specified in the
17088 contract for determining the paid-up annuity benefit; and
17089 (ii) the payment described in Subsection (3)(c)(i), relieves the company of any further
17090 obligation under the contract.
17091 (d) A company may reserve the right to defer the payment of cash surrender benefit for
17092 a period not to exceed six months after demand for the payment of the cash surrender benefit
17093 with surrender of the contract.
17094 (4) For a policy issued before June 1, 2006, the minimum values as specified in
17095 Subsections (7), (8), (9), (10), and (12) of any paid-up annuity, cash surrender, or death benefits
17096 available under an annuity contract shall be based upon minimum nonforfeiture amounts as
17097 established in this Subsection (4).
17098 (a) (i) With respect to contracts providing for flexible considerations, the minimum
17099 nonforfeiture amount at any time at or before the commencement of any annuity payments shall
17100 be equal to an accumulation up to such time, at a rate of interest of 3% per annum of
17101 percentages of the net considerations paid prior to such time:
17102 (A) decreased by the sum of:
17103 (I) any prior withdrawals from or partial surrenders of the contract accumulated at a
17104 rate of interest of 3% per annum; and
17105 (II) the amount of any indebtedness to the company on the contract, including interest
17106 due and accrued; and
17107 (B) increased by any existing additional amounts credited by the company to the
17108 contract.

17109 (ii) For purposes of this Subsection (4)(a), the net consideration for a given contract
17110 year used to define the minimum nonforfeiture amount shall be:
17111 (A) an amount not less than zero; and
17112 (B) equal to the corresponding gross considerations credited to the contract during that
17113 contract year less:
17114 (I) an annual contract charge of $30; and
17115 (II) a collection charge of $1.25 per consideration credited to the contract during that
17116 contract year.
17117 (iii) The percentages of net considerations shall be:
17118 (A) 65% of the net consideration for the first contract year; and
17119 (B) 87-1/2% of the net considerations for the second and later contract years.
17120 (iv) Notwithstanding Subsection (4)(a)(iii), the percentage shall be 65% of the portion
17121 of the total net consideration for any renewal contract year that exceeds by not more than two
17122 times the sum of those portions of the net considerations in all prior contract years for which
17123 the percentage was 65%.
17124 (b) (i) Except as provided in Subsections (4)(b)(ii) and (iii), with respect to contracts
17125 providing for fixed scheduled consideration, minimum nonforfeiture amounts shall be:
17126 (A) calculated on the assumption that considerations are paid annually in advance; and
17127 (B) defined as for contracts with flexible considerations that are paid annually.
17128 (ii) The portion of the net consideration for the first contract year to be accumulated
17129 shall be equal to an amount that is the sum of:
17130 (A) 65% of the net consideration for the first contract year; and
17131 (B) 22-1/2% of the excess of the net consideration for the first contract year over the
17132 lesser of the net considerations for:
17133 (I) the second contract year; and
17134 (II) the third contract year.
17135 (iii) The annual contract charge shall be the lesser of $30 or 10% of the gross annual
17136 consideration.
17137 (c) With respect to contracts providing for a single consideration payment, minimum
17138 nonforfeiture amounts shall be defined as for contracts with flexible considerations except that:
17139 (i) the percentage of net consideration used to determine the minimum nonforfeiture

17140 amount shall be equal to 90%; and
17141 (ii) the net consideration shall be the gross consideration less a contract charge of $75.
17142 (5) For a policy issued on or after June 1, 2006, the minimum values as specified in
17143 Subsections (7), (8), (9), (10), and (12) of any paid-up annuity, cash surrender, or death benefits
17144 available under an annuity contract shall be based upon minimum nonforfeiture amounts as
17145 established in this Subsection (5).
17146 (a) The minimum nonforfeiture amount at any time at or before the commencement of
17147 any annuity payments shall be equal to an accumulation up to such time, at rates of interest as
17148 indicated in Subsection (5)(b), of 87-1/2% of the gross considerations paid before such time
17149 decreased by the sum of:
17150 (i) any prior withdrawals from or partial surrenders of the contract accumulated at rates
17151 of interest as indicated in Subsection (5)(b);
17152 (ii) an annual contract charge of $50, accumulated at rates of interest as indicated in
17153 Subsection (5)(b);
17154 (iii) any premium tax paid by the company for the contract, accumulated at rates of
17155 interest as indicated in Subsection (5)(b); and
17156 (iv) the amount of any indebtedness to the company on the contract, including interest
17157 due and accrued.
17158 (b) (i) The interest rate used in determining minimum nonforfeiture amounts shall be
17159 an annual rate of interest determined as the lesser of:
17160 (A) 3% per annum; and
17161 (B) the five-year Constant Maturity Treasury Rate reported by the Federal Reserve,
17162 rounded to the nearest 1/20th of 1%, as of a date or average over a period no longer than 15
17163 months prior to the contract issue date or redetermination date under Subsection (5)(b)(iii):
17164 (I) reduced by 125 basis points; and
17165 (II) where the resulting interest rate is not less than 1%.
17166 (ii) The interest rate shall apply for an initial period and may be redetermined for
17167 additional periods.
17168 (iii) (A) If the interest rate will be reset, the contract shall state:
17169 (I) the initial period;
17170 (II) the redetermination date;

17171 (III) the redetermination basis; and
17172 (IV) the redetermination period.
17173 (B) The basis is the date or average over a specified period that produces the value of
17174 the five-year Constant Maturity Treasury Rate to be used at each redetermination date.
17175 (c) (i) During the period or term that a contract provides substantive participation in an
17176 equity indexed benefit, the reduction described in Subsection (5)(b)(i)(B)(I) may be increased
17177 by up to an additional 100 basis points to reflect the value of the equity index benefit.
17178 (ii) The present value of the additional reduction at the contract issue date and at each
17179 redetermination date may not exceed the market value of the benefit.
17180 (iii) (A) The commissioner may require a demonstration that the present value of the
17181 additional reduction does not exceed the market value of the benefit.
17182 (B) If the demonstration required under Subsection (5)(c)(iii)(A) is not made to the
17183 satisfaction of the commissioner, the commissioner may disallow or limit the additional
17184 reduction.
17185 (6) Notwithstanding Subsection (4), for a policy issued on or after June 1, 2004 and
17186 before June 1, 2006, at the election of a company, on a contract form-by-contract form basis,
17187 the minimum values as specified in Subsections (7), (8), (9), (10), and (12) of any paid-up
17188 annuity, cash surrender, or death benefits available under an annuity contract may be based
17189 upon minimum nonforfeiture amounts as established in Subsection (5).
17190 (7) (a) Any paid-up annuity benefit available under a contract shall be such that the
17191 contract's present value on the date annuity payments are to commence is at least equal to the
17192 minimum nonforfeiture amount on that date.
17193 (b) The present value described in Subsection (7)(a) shall be computed using the
17194 mortality table, if any, and the interest rate specified in the contract for determining the
17195 minimum paid-up annuity benefits guaranteed in the contract.
17196 (8) (a) For contracts that provide cash surrender benefits, the cash surrender benefits
17197 available before maturity may not be less than the present value as of the date of surrender of
17198 that portion of the cash surrender value that would be provided under the contract at maturity
17199 arising from considerations paid before the time of cash surrender:
17200 (i) decreased by the amount appropriate to reflect any prior withdrawals from or partial
17201 surrender of the contract;

17202 (ii) decreased by the amount of any indebtedness to the company on the contract,
17203 including interest due and accrued; and
17204 (iii) increased by any existing additional amounts credited by the company to the
17205 contract.
17206 (b) For purposes of this Subsection (8), the present value being calculated on the basis
17207 of an interest rate not more than 1% higher than the interest rate specified in the contract for
17208 accumulating the net considerations to determine the maturity value.
17209 (c) In no event shall any cash surrender benefit be less than the minimum nonforfeiture
17210 amount at that time.
17211 (d) The death benefit under a contract described in Subsection (8)(a) shall be at least
17212 equal to the cash surrender benefit.
17213 (9) (a) For contracts that do not provide cash surrender benefits, the present value of
17214 any paid-up annuity benefit available as a nonforfeiture option at any time prior to maturity
17215 may not be less than the present value of that portion of the maturity value of the paid-up
17216 annuity benefit provided under the contract arising from considerations paid before the time the
17217 contract is surrendered in exchange for, or changed to, a deferred paid-up annuity increased by
17218 any existing additional amounts credited by the company to the contract.
17219 (b) For purposes of this Subsection (9), the present value being calculated for the
17220 period prior to the maturity date on the basis of the interest rate specified in the contract for
17221 accumulating the net considerations to determine maturity value.
17222 (c) For contracts that do not provide any death benefits before commencement of any
17223 annuity payments, the present values shall be calculated on the basis of the interest rate and the
17224 mortality table specified in the contract for determining the maturity value of the paid-up
17225 annuity benefit.
17226 (d) In no event shall the present value of a paid-up annuity benefit be less than the
17227 minimum nonforfeiture amount at that time.
17228 (10) (a) For the purpose of determining the benefits calculated under Subsections (8)
17229 and (9), the maturity date shall be considered to be the latest date permitted by the contract,
17230 except that it may not be considered to be later than the later of:
17231 (i) the anniversary of the contract next following the annuitant's 70th birthday; or
17232 (ii) the tenth anniversary of the contract.

17233 (b) For a contract that provides cash surrender benefits, the cash surrender value on or
17234 past the maturity date shall be equal to the amount used to determine the annuity benefit
17235 payments.
17236 (c) A surrender charge may not be imposed on or past maturity.
17237 (11) Any contract that does not provide cash surrender benefits or does not provide
17238 death benefits at least equal to the minimum nonforfeiture amount before the commencement
17239 of any annuity payments shall include a statement in a prominent place in the contract that
17240 these benefits are not provided.
17241 (12) Any paid-up annuity, cash surrender, or death benefits available at any time, other
17242 than on the contract anniversary under any contract with fixed scheduled considerations, shall
17243 be calculated with allowance for the lapse of time and the payment of any scheduled
17244 considerations beyond the beginning of the contract year in which cessation of payment of
17245 considerations under the contract occurs.
17246 (13) (a) For any contract that provides, within the same contract by rider or
17247 supplemental contract provisions, both annuity benefits and life insurance benefits that are in
17248 excess of the greater of cash surrender benefits or a return of the gross considerations with
17249 interest, the minimum nonforfeiture benefits shall:
17250 (i) be equal to the sum of:
17251 (A) the minimum nonforfeiture benefits for the annuity portion; and
17252 (B) the minimum nonforfeiture benefits, if any, for the life insurance portion; and
17253 (ii) computed as if each portion were a separate contract.
17254 (b) (i) Notwithstanding Subsections (7), (8), (9), (10), and (12), additional benefits
17255 payable, as described in Subsection (13)(b)(ii), and consideration for the additional benefits
17256 payable, shall be disregarded in ascertaining, if required by this section:
17257 (A) the minimum nonforfeiture amounts;
17258 (B) paid-up annuity;
17259 (C) cash surrender; and
17260 (D) death benefits.
17261 (ii) For purposes of this Subsection (13), an additional benefit is a benefit payable:
17262 (A) in the event of total and permanent disability;
17263 (B) as reversionary annuity or deferred reversionary annuity benefits; or

17264 (C) as other policy benefits additional to life insurance, endowment, and annuity
17265 benefits.
17266 (iii) The inclusion of the additional benefits described in this Subsection (13) may not
17267 be required in any paid-up benefits, unless the additional benefits separately would require:
17268 (A) minimum nonforfeiture amounts;
17269 (B) paid-up annuity;
17270 (C) cash surrender; and
17271 (D) death benefits.
17272 (14) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
17273 Administrative Rulemaking Act, the commissioner may adopt rules necessary to implement
17274 this section, including:
17275 (a) ensuring that any additional reduction under Subsection (5)(c) is consistent with the
17276 requirements imposed by Subsection (5)(c); and
17277 (b) providing for adjustments in addition to the adjustments allowed under Subsection
17278 (5)(c) to the calculation of minimum nonforfeiture amounts for:
17279 (i) contracts that provide substantive participation in an equity index benefit; and
17280 (ii) other contracts for which the commissioner determines adjustments are justified.
17281 (15) (a) After this section takes effect, any company may file with the commissioner a
17282 written notice of its election to comply with this section after a specified date before July 1,
17283 1988.
17284 (b) This section applies to annuity contracts of a company issued on or after the date
17285 the company specifies in the notice.
17286 (c) If a company makes no election under Subsection (15)(a), the operative date of this
17287 section for such company is July 1, 1988.
17288 Section 367. Section **31A-22-425** is amended to read:
17289 **31A-22-425. Rulemaking authority for standards related to life insurance and**
17290 **annuities.**
17291 In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
17292 Rulemaking Act, the commissioner may make rules to establish standards for any of the
17293 following:
17294 (1) if used in connection with the solicitation or sale of life insurance policies and

17295 contracts:
17296 (a) a buyer's guide;
17297 (b) a disclosure;
17298 (c) an illustration;
17299 (d) a policy summary; or
17300 (e) a recommendation; and
17301 (2) in a life insurance policy, annuity contract, or life insurance or annuity certificate:
17302 (a) a definition of a term;
17303 (b) a disclosure;
17304 (c) an exclusion; or
17305 (d) a limitation.
17306 Section 368. Section **31A-22-614.5** is amended to read:
17307 **31A-22-614.5. Uniform claims processing.**
17308 (1) Beginning July 1, 1993, all insurers offering health insurance shall use a uniform
17309 claim form and uniform billing and claim codes.
17310 (2) The uniform claim forms and billing codes shall be adopted and approved by the
17311 commissioner in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
17312 Administrative Rulemaking Act. The commissioner shall consult with the director of the
17313 Division of Health Care Financing, the National Uniform Claim Form Task Force, and the
17314 National Uniform Billing Committee when adopting the uniform claims and billing codes.
17315 (3) (a) Beginning July 1, 1995, all insurers shall offer compatible systems of electronic
17316 billing approved by the commissioner in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
17317 Chapter 3, Utah Administrative Rulemaking Act. The systems approved by the commissioner
17318 may include monitoring and disseminating information concerning eligibility and coverage of
17319 individuals.
17320 (b) The commissioner shall regulate any fees charged by insurers to the providers for
17321 uniform claim forms or electronic billing.
17322 Section 369. Section **31A-22-625** is amended to read:
17323 **31A-22-625. Catastrophic coverage of mental health conditions.**
17324 (1) As used in this section:
17325 (a) (i) "Catastrophic mental health coverage" means coverage in a health insurance

17326 policy or health maintenance organization contract that does not impose any lifetime limit,
17327 annual payment limit, episodic limit, inpatient or outpatient service limit, or maximum
17328 out-of-pocket limit that places a greater financial burden on an insured for the evaluation and
17329 treatment of a mental health condition than for the evaluation and treatment of a physical health
17330 condition.
17331 (ii) "Catastrophic mental health coverage" may include a restriction on cost sharing
17332 factors, such as deductibles, copayments, or coinsurance, prior to reaching any maximum
17333 out-of-pocket limit.
17334 (iii) "Catastrophic mental health coverage" may include one maximum out-of-pocket
17335 limit for physical health conditions and another maximum out-of-pocket limit for mental health
17336 conditions, provided that, if separate out-of-pocket limits are established, the out-of-pocket
17337 limit for mental health conditions may not exceed the out-of-pocket limit for physical health
17338 conditions.
17339 (b) (i) "50/50 mental health coverage" means coverage in a health insurance policy or
17340 health maintenance organization contract that pays for at least 50% of covered services for the
17341 diagnosis and treatment of mental health conditions.
17342 (ii) "50/50 mental health coverage" may include a restriction on episodic limits,
17343 inpatient or outpatient service limits, or maximum out-of-pocket limits.
17344 (c) "Large employer" is as defined in Section 31A-1-301.
17345 (d) (i) "Mental health condition" means any condition or disorder involving mental
17346 illness that falls under any of the diagnostic categories listed in the Diagnostic and Statistical
17347 Manual, as periodically revised.
17348 (ii) "Mental health condition" does not include the following when diagnosed as the
17349 primary or substantial reason or need for treatment:
17350 (A) marital or family problem;
17351 (B) social, occupational, religious, or other social maladjustment;
17352 (C) conduct disorder;
17353 (D) chronic adjustment disorder;
17354 (E) psychosexual disorder;
17355 (F) chronic organic brain syndrome;
17356 (G) personality disorder;

17357 (H) specific developmental disorder or learning disability; or
17358 (I) mental retardation.
17359 (e) "Small employer" is as defined in Section 31A-1-301.
17360 (2) (a) At the time of purchase and renewal, an insurer shall offer to each small
17361 employer that it insures or seeks to insure a choice between catastrophic mental health
17362 coverage and 50/50 mental health coverage.
17363 (b) In addition to Subsection (2)(a), an insurer may offer to provide:
17364 (i) catastrophic mental health coverage, 50/50 mental health coverage, or both at levels
17365 that exceed the minimum requirements of this section; or
17366 (ii) coverage that excludes benefits for mental health conditions.
17367 (c) A small employer may, at its option, choose either catastrophic mental health
17368 coverage, 50/50 mental health coverage, or coverage offered under Subsection (2)(b),
17369 regardless of the employer's previous coverage for mental health conditions.
17370 (d) An insurer is exempt from the 30% index rating restriction in Subsection
17371 31A-30-106(1)(b) and, for the first year only that catastrophic mental health coverage is
17372 chosen, the 15% annual adjustment restriction in Subsection 31A-30-106(1)(c)(ii), for any
17373 small employer with 20 or less enrolled employees who chooses coverage that meets or
17374 exceeds catastrophic mental health coverage.
17375 (3) (a) At the time of purchase and renewal, an insurer shall offer catastrophic mental
17376 health coverage to each large employer that it insures or seeks to insure.
17377 (b) In addition to Subsection (3)(a), an insurer may offer to provide catastrophic mental
17378 health coverage at levels that exceed the minimum requirements of this section.
17379 (c) A large employer may, at its option, choose either catastrophic mental health
17380 coverage, coverage that excludes benefits for mental health conditions, or coverage offered
17381 under Subsection (3)(b).
17382 (4) (a) An insurer may provide catastrophic mental health coverage through a managed
17383 care organization or system in a manner consistent with the provisions in Chapter 8, Health
17384 Maintenance Organizations and Limited Health Plans, regardless of whether the policy or
17385 contract uses a managed care organization or system for the treatment of physical health
17386 conditions.
17387 (b) (i) Notwithstanding any other provision of this title, an insurer may:

17388 (A) establish a closed panel of providers for catastrophic mental health coverage; and
17389 (B) refuse to provide any benefit to be paid for services rendered by a nonpanel
17390 provider unless:
17391 (I) the insured is referred to a nonpanel provider with the prior authorization of the
17392 insurer; and
17393 (II) the nonpanel provider agrees to follow the insurer's protocols and treatment
17394 guidelines.
17395 (ii) If an insured receives services from a nonpanel provider in the manner permitted by
17396 Subsection (4)(b)(i)(B), the insurer shall reimburse the insured for not less than 75% of the
17397 average amount paid by the insurer for comparable services of panel providers under a
17398 noncapitated arrangement who are members of the same class of health care providers.
17399 (iii) Nothing in this Subsection (4)(b) may be construed as requiring an insurer to
17400 authorize a referral to a nonpanel provider.
17401 (c) To be eligible for catastrophic mental health coverage, a diagnosis or treatment of a
17402 mental health condition must be rendered:
17403 (i) by a mental health therapist as defined in Section 58-60-102; or
17404 (ii) in a health care facility licensed or otherwise authorized to provide mental health
17405 services pursuant to Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, or
17406 Title 62A, Chapter 2, Licensure of Programs and Facilities, that provides a program for the
17407 treatment of a mental health condition pursuant to a written plan.
17408 (5) The commissioner may disapprove any policy or contract that provides mental
17409 health coverage in a manner that is inconsistent with the provisions of this section.
17410 (6) The commissioner shall:
17411 (a) adopt rules as necessary to ensure compliance with this section; and
17412 (b) provide general figures on the percentage of contracts and policies that include no
17413 mental health coverage, 50/50 mental health coverage, catastrophic mental health coverage,
17414 and coverage that exceeds the minimum requirements of this section.
17415 (7) The Health and Human Services Interim Committee shall review:
17416 (a) the impact of this section on insurers, employers, providers, and consumers of
17417 mental health services before January 1, 2004; and
17418 (b) make a recommendation as to whether the provisions of this section should be

17419 modified and whether the cost-sharing requirements for mental health conditions should be the
17420 same as for physical health conditions.
17421 (8) (a) An insurer shall offer catastrophic mental health coverage as part of a health
17422 maintenance organization contract that is governed by Chapter 8, Health Maintenance
17423 Organizations and Limited Health Plans, that is in effect on or after January 1, 2001.
17424 (b) An insurer shall offer catastrophic mental health coverage as a part of a health
17425 insurance policy that is not governed by Chapter 8, Health Maintenance Organizations and
17426 Limited Health Plans, that is in effect on or after July 1, 2001.
17427 (c) This section does not apply to the purchase or renewal of an individual insurance
17428 policy or contract.
17429 (d) Notwithstanding Subsection (8)(c), nothing in this section may be construed as
17430 discouraging or otherwise preventing insurers from continuing to provide mental health
17431 coverage in connection with an individual policy or contract.
17432 (9) This section shall be repealed in accordance with Section [~~63-55-231~~] 63I-1-231.
17433 Section 370. Section **31A-22-1308** is amended to read:
17434 **31A-22-1308. Use of loss history by insurers.**
17435 (1) For purposes of this section:
17436 (a) "Adverse eligibility or rate decision" means:
17437 (i) declining insurance coverage;
17438 (ii) terminating insurance coverage;
17439 (iii) not renewing insurance coverage; or
17440 (iv) the charging of a higher rate for insurance coverage.
17441 (b) (i) "Loss reporting agency" means any person who regularly engages, in whole or in
17442 part, in the business of assembling or collecting information for the primary purpose of
17443 providing the information to insurers or insurance producers for insurance transactions
17444 including assembling or collecting loss or claims information.
17445 (ii) Notwithstanding Subsection (1)(b)(i), the following persons are not loss reporting
17446 agents:
17447 (A) a governmental entity;
17448 (B) an insurer;
17449 (C) an insurance producer;

17450 (D) an insurance consultant;
17451 (E) a medical care institution or professional; or
17452 (F) a peer review committee.
17453 (iii) Notwithstanding Subsection (1)(b)(i), the following are not considered a report
17454 from a loss reporting agency:
17455 (A) a report specifically provided for fraud prevention; and
17456 (B) that portion of a report that includes information related to consumer credit
17457 behavior.
17458 (iv) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
17459 Administrative Rulemaking Act, the department may define by rule what constitutes:
17460 (A) a report specifically provided for fraud prevention; and
17461 (B) information related to consumer credit behavior.
17462 (c) (i) "Score" means a numerical value, categorization, or classification that is:
17463 (A) derived from a statistical tool, modeling system, or method; and
17464 (B) developed to predict the likelihood of future insurance claims.
17465 (ii) A numerical value, categorization, or classification described in Subsection
17466 (1)(c)(i) is a score if it is developed to predict the likelihood of future insurance claims
17467 regardless of whether it is developed to predict other factors in addition to predicting future
17468 insurance claims.
17469 (2) (a) An insurer may not make an adverse eligibility or rate decision related to
17470 personal lines insurance in whole or in part on the basis of:
17471 (i) a report by a loss reporting agency of a loss if the loss did not result in the insured
17472 requesting the payment of a claim;
17473 (ii) a telephone call or other inquiry by an insured of a loss if the loss did not result in
17474 the insured requesting payment of a claim;
17475 (iii) a loss that occurred when real property covered by the personal lines insurance was
17476 owned by a person other than the:
17477 (A) insured; or
17478 (B) person seeking insurance; or
17479 (iv) a score if the score is determined in whole or in part on the basis of information
17480 described in Subsection (2)(a)(i), (ii), or (iii).

17481 (b) Notwithstanding Subsection (2)(a), an insurer may:
17482 (i) use the information described in Subsection (2)(a)(iii) to require a review of the
17483 condition of the premises; and
17484 (ii) make an adverse eligibility or rate decision on the basis of the condition of the
17485 premises.
17486 (3) (a) If an insurer uses a score that is derived from information obtained from a loss
17487 reporting agency or an insured, the insurer shall file with the department a certification that the
17488 method used to derive the score complies with the provisions of Subsection (2)(a)(iv).
17489 (b) the insurer shall file a certification required under Subsection (3)(a) within 30 days
17490 of the day on which the score described in Subsection (3)(a) is first used by the insurer.
17491 (c) The department shall classify a certification filed under this Subsection (3) as a
17492 protected record under Subsection [~~63-2-304~~] 63G-2-305(2) except that the insurer is not
17493 required to file the information specified in Section [~~63-2-308~~] 63G-2-309.
17494 (d) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
17495 Administrative Rulemaking Act, the commissioner shall make rules providing for the form and
17496 procedure of filing the certification required by Subsection (3)(a).
17497 Section 371. Section **31A-23a-104** is amended to read:
17498 **31A-23a-104. Application for individual license -- Application for agency license.**
17499 (1) This section applies to an initial or renewal license as a:
17500 (a) producer;
17501 (b) limited line producer;
17502 (c) customer service representative;
17503 (d) consultant;
17504 (e) managing general agent; or
17505 (f) reinsurance intermediary.
17506 (2) (a) Subject to Subsection (2)(b), an initial or renewal individual license shall be:
17507 (i) made to the commissioner on forms and in a manner the commissioner prescribes;
17508 and
17509 (ii) accompanied by a license fee that is not refunded if the application:
17510 (A) is denied; or
17511 (B) if incomplete, is never completed by the applicant.

17512 (b) An application described in this Subsection (2) shall provide:
17513 (i) information about the applicant's identity;
17514 (ii) the applicant's Social Security number;
17515 (iii) the applicant's personal history, experience, education, and business record;
17516 (iv) whether the applicant is 18 years of age or older;
17517 (v) whether the applicant has committed an act that is a ground for denial, suspension,
17518 or revocation as set forth in Section 31A-23a-105 or 31A-23a-111; and
17519 (vi) any other information the commissioner reasonably requires.
17520 (3) The commissioner may require any documents reasonably necessary to verify the
17521 information contained in an application filed under this section.
17522 (4) An applicant's Social Security number contained in an application filed under this
17523 section is a private record under Section [~~63-2-302~~] 63G-2-302.
17524 (5) (a) Subject to Subsection (5)(b), an application for an initial or renewal agency
17525 license shall be:
17526 (i) made to the commissioner on forms and in a manner the commissioner prescribes;
17527 and
17528 (ii) accompanied by a license fee that is not refunded if the application:
17529 (A) is denied; or
17530 (B) if incomplete, is never completed by the applicant.
17531 (b) An application described in Subsection (5)(a) shall provide:
17532 (i) information about the applicant's identity;
17533 (ii) the applicant's federal employer identification number;
17534 (iii) the designated responsible licensed producer;
17535 (iv) the identity of all owners, partners, officers, and directors;
17536 (v) whether the applicant has committed an act that is a ground for denial, suspension,
17537 or revocation as set forth in Section 31A-23a-105 or 31A-23a-111; and
17538 (vi) any other information the commissioner reasonably requires.
17539 Section 372. Section **31A-23a-111** is amended to read:
17540 **31A-23a-111. Revocation, suspension, surrender, lapsing, limiting, or otherwise**
17541 **terminating a license -- Rulemaking for renewal or reinstatement.**
17542 (1) A license type issued under this chapter remains in force until:

17543 (a) revoked or suspended under Subsection (5);
17544 (b) surrendered to the commissioner and accepted by the commissioner in lieu of
17545 administrative action;
17546 (c) the licensee dies or is adjudicated incompetent as defined under:
17547 (i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or
17548 (ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and
17549 Minors;
17550 (d) lapsed under Section 31A-23a-113; or
17551 (e) voluntarily surrendered.
17552 (2) The following may be reinstated within one year after the day on which the license
17553 is inactivated:
17554 (a) a lapsed license; or
17555 (b) a voluntarily surrendered license.
17556 (3) Unless otherwise stated in the written agreement for the voluntary surrender of a
17557 license, submission and acceptance of a voluntary surrender of a license does not prevent the
17558 department from pursuing additional disciplinary or other action authorized under:
17559 (a) this title; or
17560 (b) rules made under this title in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
17561 Chapter 3, Utah Administrative Rulemaking Act.
17562 (4) A line of authority issued under this chapter remains in force until:
17563 (a) the qualifications pertaining to a line of authority are no longer met by the licensee;
17564 or
17565 (b) the supporting license type:
17566 (i) is revoked or suspended under Subsection (5); or
17567 (ii) is surrendered to the commissioner and accepted by the commissioner in lieu of
17568 administrative action.
17569 (5) (a) If the commissioner makes a finding under Subsection (5)(b), after an
17570 adjudicative proceeding under [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
17571 Procedures Act, the commissioner may:
17572 (i) revoke:
17573 (A) a license; or

17574 (B) a line of authority;
17575 (ii) suspend for a specified period of 12 months or less:
17576 (A) a license; or
17577 (B) a line of authority; or
17578 (iii) limit in whole or in part:
17579 (A) a license; or
17580 (B) a line of authority.
17581 (b) The commissioner may take an action described in Subsection (5)(a) if the
17582 commissioner finds that the licensee:
17583 (i) is unqualified for a license or line of authority under Sections 31A-23a-104 and
17584 31A-23a-105;
17585 (ii) has violated:
17586 (A) an insurance statute;
17587 (B) a rule that is valid under Subsection 31A-2-201(3); or
17588 (C) an order that is valid under Subsection 31A-2-201(4);
17589 (iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or other
17590 delinquency proceedings in any state;
17591 (iv) fails to pay any final judgment rendered against the person in this state within 60
17592 days after the day on which the judgment became final;
17593 (v) fails to meet the same good faith obligations in claims settlement that is required of
17594 admitted insurers;
17595 (vi) is affiliated with and under the same general management or interlocking
17596 directorate or ownership as another insurance producer that transacts business in this state
17597 without a license;
17598 (vii) refuses:
17599 (A) to be examined; or
17600 (B) to produce its accounts, records, and files for examination;
17601 (viii) has an officer who refuses to:
17602 (A) give information with respect to the insurance producer's affairs; or
17603 (B) perform any other legal obligation as to an examination;
17604 (ix) provides information in the license application that is:

17605 (A) incorrect;
17606 (B) misleading;
17607 (C) incomplete; or
17608 (D) materially untrue;
17609 (x) has violated any insurance law, valid rule, or valid order of another state's insurance
17610 department;
17611 (xi) has obtained or attempted to obtain a license through misrepresentation or fraud;
17612 (xii) has improperly withheld, misappropriated, or converted any monies or properties
17613 received in the course of doing insurance business;
17614 (xiii) has intentionally misrepresented the terms of an actual or proposed:
17615 (A) insurance contract; or
17616 (B) application for insurance;
17617 (xiv) has been convicted of a felony;
17618 (xv) has admitted or been found to have committed any insurance unfair trade practice
17619 or fraud;
17620 (xvi) in the conduct of business in this state or elsewhere has:
17621 (A) used fraudulent, coercive, or dishonest practices; or
17622 (B) demonstrated incompetence, untrustworthiness, or financial irresponsibility;
17623 (xvii) has had an insurance license, or its equivalent, denied, suspended, or revoked in
17624 any other state, province, district, or territory;
17625 (xviii) has forged another's name to:
17626 (A) an application for insurance; or
17627 (B) a document related to an insurance transaction;
17628 (xix) has improperly used notes or any other reference material to complete an
17629 examination for an insurance license;
17630 (xx) has knowingly accepted insurance business from an individual who is not
17631 licensed;
17632 (xxi) has failed to comply with an administrative or court order imposing a child
17633 support obligation;
17634 (xxii) has failed to:
17635 (A) pay state income tax; or

17636 (B) comply with any administrative or court order directing payment of state income
17637 tax;
17638 (xxiii) has violated or permitted others to violate the federal Violent Crime Control and
17639 Law Enforcement Act of 1994, 18 U.S.C. Secs. 1033 and 1034; or
17640 (xxiv) has engaged in methods and practices in the conduct of business that endanger
17641 the legitimate interests of customers and the public.
17642 (c) For purposes of this section, if a license is held by an agency, both the agency itself
17643 and any natural person named on the license are considered to be the holders of the license.
17644 (d) If a natural person named on the agency license commits any act or fails to perform
17645 any duty that is a ground for suspending, revoking, or limiting the natural person's license, the
17646 commissioner may suspend, revoke, or limit the license of:
17647 (i) the natural person;
17648 (ii) the agency, if the agency:
17649 (A) is reckless or negligent in its supervision of the natural person; or
17650 (B) knowingly participated in the act or failure to act that is the ground for suspending,
17651 revoking, or limiting the license; or
17652 (iii) (A) the natural person; and
17653 (B) the agency if the agency meets the requirements of Subsection (5)(d)(ii).
17654 (6) A licensee under this chapter is subject to the penalties for acting as a licensee
17655 without a license if:
17656 (a) the licensee's license is:
17657 (i) revoked;
17658 (ii) suspended;
17659 (iii) limited;
17660 (iv) surrendered in lieu of administrative action;
17661 (v) lapsed; or
17662 (vi) voluntarily surrendered; and
17663 (b) the licensee:
17664 (i) continues to act as a licensee; or
17665 (ii) violates the terms of the license limitation.
17666 (7) A licensee under this chapter shall immediately report to the commissioner:

17667 (a) a revocation, suspension, or limitation of the person's license in any other state,
17668 District of Columbia, or territory of the United States;
17669 (b) the imposition of a disciplinary sanction imposed on that person by any other state,
17670 District of Columbia, or territory of the United States; or
17671 (c) a judgment or injunction entered against that person on the basis of conduct
17672 involving:
17673 (i) fraud;
17674 (ii) deceit;
17675 (iii) misrepresentation; or
17676 (iv) a violation of an insurance law or rule.
17677 (8) (a) An order revoking a license under Subsection (5) or an agreement to surrender a
17678 license in lieu of administrative action may specify a time, not to exceed five years, within
17679 which the former licensee may not apply for a new license.
17680 (b) If no time is specified in the order or agreement described in Subsection (8)(a), the
17681 former licensee may not apply for a new license for five years from the day on which the order
17682 or agreement is made without the express approval by the commissioner.
17683 (9) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of
17684 a license issued under this part if so ordered by a court.
17685 (10) The commissioner shall by rule prescribe the license renewal and reinstatement
17686 procedures in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
17687 Administrative Rulemaking Act.
17688 Section 373. Section **31A-23a-112** is amended to read:
17689 **31A-23a-112. Probation -- Grounds for revocation.**
17690 (1) The commissioner may place a licensee on probation for a period not to exceed 24
17691 months as follows:
17692 (a) after an adjudicative proceeding under [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
17693 Administrative Procedures Act, for any circumstances that would justify a suspension under
17694 Section 31A-23a-111; or
17695 (b) at the issuance of a new license:
17696 (i) with an admitted violation under 18 U.S.C. Sections 1033 and 1034; or
17697 (ii) with a response to background information questions on a new license application

17698 indicating that:
17699 (A) the person has been convicted of a crime, that is listed by rule made in accordance
17700 with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as a
17701 crime that is grounds for probation;
17702 (B) the person is currently charged with a crime, that is listed by rule made in
17703 accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
17704 Rulemaking Act, as a crime that is grounds for probation regardless of whether adjudication is
17705 withheld;
17706 (C) the person has been involved in an administrative proceeding regarding any
17707 professional or occupational license; or
17708 (D) any business in which the person is or was an owner, partner, officer, or director
17709 has been involved in an administrative proceeding regarding any professional or occupational
17710 license.
17711 (2) The commissioner may place a licensee on probation for a specified period no
17712 longer than 24 months if the licensee has admitted to a violation under 18 U.S.C. Sections 1033
17713 and 1034.
17714 (3) The probation order shall state the conditions for retention of the license, which
17715 shall be reasonable.
17716 (4) Any violation of the probation is grounds for revocation pursuant to any proceeding
17717 authorized under [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
17718 Section 374. Section **31A-23a-115** is amended to read:
17719 **31A-23a-115. Appointment of individual and agency insurance producer, limited**
17720 **line producer, or managing general agent -- Reports and lists.**
17721 (1) (a) An insurer shall appoint a natural person or agency that has an insurance
17722 producer, limited line producer, or managing general agent license to act as an insurance
17723 producer, limited line producer, or managing general agent on the insurer's behalf prior to any
17724 producer, limited line producer, or managing general agent doing business for the insurer in
17725 this state.
17726 (b) An insurer shall report to the commissioner, at intervals and in the form the
17727 commissioner establishes by rule:
17728 (i) all new appointments; and

17729 (ii) all terminations of appointments.
17730 (2) (a) (i) An insurer shall report to the commissioner the cause of termination of an
17731 appointment.
17732 (ii) The information provided to the commissioner under this Subsection (2) is a
17733 private record under [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records Access
17734 and Management Act.
17735 (b) An insurer is immune from civil action, civil penalty, or damages if the insurer
17736 complies in good faith with this Subsection (2) in reporting to the commissioner the cause of
17737 termination of an appointment.
17738 (c) Notwithstanding any other provision in this section, an insurer is not immune from
17739 any action or resulting penalty imposed on the reporting insurer as a result of proceedings
17740 brought by or on behalf of the department if the action is based on evidence other than the
17741 report submitted in compliance with this Subsection (2).
17742 (3) If an insurer appoints an agency, the insurer need not appoint, report, or pay
17743 appointment reporting fees for natural persons designated on the agency's license under Section
17744 31A-23a-302.
17745 (4) If an insurer lists a licensee in a report submitted under Subsection (2), there is a
17746 rebuttable presumption that in placing a risk with the insurer the appointed licensee or any of
17747 the licensee's licensed employees acted on behalf of the insurer.
17748 Section 375. Section **31A-23a-202** is amended to read:
17749 **31A-23a-202. Continuing education requirements.**
17750 (1) Pursuant to this section, the commissioner shall by rule prescribe the continuing
17751 education requirements for a producer and a consultant.
17752 (2) (a) The commissioner may not state a continuing education requirement in terms of
17753 formal education.
17754 (b) The commissioner may state a continuing education requirement in terms of
17755 classroom hours, or their equivalent, of insurance-related instruction received.
17756 (c) Insurance-related formal education may be a substitute, in whole or in part, for
17757 classroom hours, or their equivalent, required under Subsection (2)(b).
17758 (3) (a) The commissioner shall impose continuing education requirements in
17759 accordance with a two-year licensing period in which the licensee meets the requirements of

17760 this Subsection (3).
17761 (b) (i) Except as provided in this section, the continuing education requirements shall
17762 require:
17763 (A) that a licensee complete 24 credit hours of continuing education for every two-year
17764 licensing period;
17765 (B) that three of the 24 credit hours described in Subsection (3)(b)(i)(A) be ethics
17766 courses; and
17767 (C) that the licensee complete at least half of the required hours through classroom
17768 hours of insurance-related instruction.
17769 (ii) The hours not completed through classroom hours in accordance with Subsection
17770 (3)(b)(i)(C) may be obtained through:
17771 (A) home study;
17772 (B) video recording;
17773 (C) experience credit; or
17774 (D) other methods provided by rule.
17775 (iii) (A) Notwithstanding Subsections (3)(b)(i)(A) and (B), a title insurance producer is
17776 required to complete 12 credit hours of continuing education for every two-year licensing
17777 period, with three of the credit hours being ethics courses unless the title insurance producer
17778 has been licensed in this state as a title insurance producer for 20 or more consecutive years.
17779 (B) If a title insurance producer has been licensed in this state as a title insurance
17780 producer for 20 or more consecutive years, the title insurance producer is required to complete
17781 six credit hours of continuing education for every two-year licensing period, with three of the
17782 credit hours being ethics courses.
17783 (C) Notwithstanding Subsection (3)(b)(iii)(A) or (B), a title insurance producer is
17784 considered to have met the continuing education requirements imposed under Subsection
17785 (3)(b)(iii)(A) or (B) if the title insurance producer:
17786 (I) is an active member in good standing with the Utah State Bar;
17787 (II) is in compliance with the continuing education requirements of the Utah State Bar;
17788 and
17789 (III) if requested by the department, provides the department evidence that the title
17790 insurance producer complied with the continuing education requirements of the Utah State Bar.

17791 (c) A licensee may obtain continuing education hours at any time during the two-year
17792 licensing period.
17793 (d) (i) Beginning May 3, 1999, a licensee is exempt from continuing education
17794 requirements under this section if:
17795 (A) the licensee was first licensed before April 1, 1970;
17796 (B) the licensee requests an exemption from the department; and
17797 (C) the department approves the exemption.
17798 (ii) If the department approves the exemption under Subsection (3)(d)(i), the licensee is
17799 not required to apply again for the exemption.
17800 (e) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
17801 Administrative Rulemaking Act, the commissioner shall, by rule:
17802 (i) publish a list of insurance professional designations whose continuing education
17803 requirements can be used to meet the requirements for continuing education under Subsection
17804 (3)(b); and
17805 (ii) authorize continuing education providers and professional producer or consultant
17806 associations to:
17807 (A) offer qualified programs for all license types and lines of authority on a
17808 geographically accessible basis; and
17809 (B) collect reasonable fees for funding and administration of the continuing education
17810 program, subject to the review and approval of the commissioner.
17811 (iii) The fees permitted under Subsection (3)(e)(ii)(B) that are charged for attendance at
17812 a professional producer or consultant association program may be less for an association
17813 member, based on the member's affiliation expense, but shall preserve the right of a
17814 nonmember to attend without affiliation.
17815 (4) The commissioner shall approve continuing education providers and continuing
17816 education courses that satisfy the requirements of this section.
17817 (5) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
17818 Administrative Rulemaking Act, the commissioner shall by rule set the processes and
17819 procedures for continuing education provider registration and course approval.
17820 (6) The requirements of this section apply only to producers or consultants who are
17821 natural persons.

17822 (7) A nonresident producer or consultant is considered to have satisfied this state's
17823 continuing education requirements if the nonresident producer or consultant satisfies the
17824 nonresident producer's or consultant's home state's continuing education requirements for a
17825 licensed insurance producer or consultant.
17826 (8) A producer or consultant subject to this section shall keep documentation of
17827 completing the continuing education requirements of this section for two years after the end of
17828 the two-year licensing period to which the continuing education applies.
17829 Section 376. Section **31A-23a-302** is amended to read:
17830 **31A-23a-302. Agency designations.**
17831 (1) An agency shall designate a natural person that has a producer, limited line
17832 producer, customer service representative, consultant, managing general agent, or reinsurance
17833 intermediary license to act on its behalf prior to the licensee doing business for the agency.
17834 (2) An agency shall report to the commissioner, at intervals and in the form the
17835 commissioner establishes by rule:
17836 (a) all new designations; and
17837 (b) all terminated designations.
17838 (3) (a) An agency licensed under this chapter shall report to the commissioner the
17839 cause of termination of a designation.
17840 (b) The information provided the commissioner under Subsection (3)(a) is a private
17841 record under [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records Access and
17842 Management Act.
17843 (c) An agency is immune from civil action, civil penalty, or damages if the agency
17844 complies in good faith with this Subsection (3) in reporting to the commissioner the cause of
17845 termination of a designation.
17846 (d) Notwithstanding any other provision in this section, an agency is not immune from
17847 any action or resulting penalty imposed on the reporting agency as a result of proceedings
17848 brought by or on behalf of the department if the action is based on evidence other than the
17849 report submitted in compliance with this Subsection (3).
17850 (4) An agency licensed under this chapter may act in the capacities for which it is
17851 licensed only through natural persons who are licensed under this chapter to act in the same
17852 capacities.

17853 (5) An agency licensed under this chapter shall report to the commissioner by rule the
17854 name of at least one natural person who has authority to act on behalf of the agency in all
17855 matters pertaining to compliance with this title and orders of the commissioner.
17856 (6) If an agency designates a licensee in reports submitted under Subsection (2), there
17857 is a rebuttable presumption that the designated licensee acted on behalf of the agency.
17858 Section 377. Section **31A-23a-402** is amended to read:
17859 **31A-23a-402. Unfair marketing practices -- Communication -- Inducement --**
17860 **Unfair discrimination -- Coercion or intimidation -- Restriction on choice.**
17861 (1) (a) (i) Any of the following may not make or cause to be made any communication
17862 that contains false or misleading information, relating to an insurance product or contract, any
17863 insurer, or any licensee under this title, including information that is false or misleading
17864 because it is incomplete:
17865 (A) a person who is or should be licensed under this title;
17866 (B) an employee or producer of a person described in Subsection (1)(a)(i)(A);
17867 (C) a person whose primary interest is as a competitor of a person licensed under this
17868 title; and
17869 (D) a person on behalf of any of the persons listed in this Subsection (1)(a)(i).
17870 (ii) As used in this Subsection (1), "false or misleading information" includes:
17871 (A) assuring the nonobligatory payment of future dividends or refunds of unused
17872 premiums in any specific or approximate amounts, but reporting fully and accurately past
17873 experience is not false or misleading information; and
17874 (B) with intent to deceive a person examining it:
17875 (I) filing a report;
17876 (II) making a false entry in a record; or
17877 (III) wilfully refraining from making a proper entry in a record.
17878 (iii) A licensee under this title may not:
17879 (A) use any business name, slogan, emblem, or related device that is misleading or
17880 likely to cause the insurer or other licensee to be mistaken for another insurer or other licensee
17881 already in business; or
17882 (B) use any advertisement or other insurance promotional material that would cause a
17883 reasonable person to mistakenly believe that a state or federal government agency:

17884 (I) is responsible for the insurance sales activities of the person;
17885 (II) stands behind the credit of the person;
17886 (III) guarantees any returns on insurance products of or sold by the person; or
17887 (IV) is a source of payment of any insurance obligation of or sold by the person.
17888 (iv) A person who is not an insurer may not assume or use any name that deceptively
17889 implies or suggests that person is an insurer.
17890 (v) A person other than persons licensed as health maintenance organizations under
17891 Chapter 8 may not use the term "Health Maintenance Organization" or "HMO" in referring to
17892 itself.
17893 (b) A licensee's violation creates a rebuttable presumption that the violation was also
17894 committed by the insurer if:
17895 (i) the licensee under this title distributes cards or documents, exhibits a sign, or
17896 publishes an advertisement that violates Subsection (1)(a), with reference to a particular
17897 insurer:
17898 (A) that the licensee represents; or
17899 (B) for whom the licensee processes claims; and
17900 (ii) the cards, documents, signs, or advertisements are supplied or approved by that
17901 insurer.
17902 (2) (a) (i) A licensee under this title, or an officer or employee of a licensee may not
17903 induce any person to enter into or continue an insurance contract or to terminate an existing
17904 insurance contract by offering benefits not specified in the policy to be issued or continued,
17905 including premium or commission rebates.
17906 (ii) An insurer may not make or knowingly allow any agreement of insurance that is
17907 not clearly expressed in the policy to be issued or renewed.
17908 (iii) This Subsection (2)(a) does not preclude:
17909 (A) an insurer from reducing premiums because of expense savings;
17910 (B) an insurer from providing to a policyholder or insured one or more incentives to
17911 participate in programs or activities designed to reduce claims or claim expenses;
17912 (C) the usual kinds of social courtesies not related to particular transactions; or
17913 (D) an insurer from receiving premiums under an installment payment plan.
17914 (iv) The commissioner may adopt rules in accordance with [~~Title 63, Chapter 46a~~]

17915 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define what constitutes an
17916 incentive described in Subsection (2)(a)(iii)(B).
17917 (b) A licensee under this title may not absorb the tax under Section 31A-3-301.
17918 (c) (i) A title insurer or producer or any officer or employee of either may not pay,
17919 allow, give, or offer to pay, allow, or give, directly or indirectly, as an inducement to obtaining
17920 any title insurance business:
17921 (A) any rebate, reduction, or abatement of any rate or charge made incident to the
17922 issuance of the title insurance;
17923 (B) any special favor or advantage not generally available to others; or
17924 (C) any money or other consideration, except if approved under Section 31A-2-405; or
17925 (D) material inducement.
17926 (ii) "Charge made incident to the issuance of the title insurance" includes escrow
17927 charges, and any other services that are prescribed in rule by the Title and Escrow Commission
17928 after consultation with the commissioner and subject to Section 31A-2-404.
17929 (iii) An insured or any other person connected, directly or indirectly, with the
17930 transaction, including a mortgage lender, real estate broker, builder, attorney, or any officer,
17931 employee, or agent of any of them, may not knowingly receive or accept, directly or indirectly,
17932 any benefit referred to in Subsection (2)(c)(i).
17933 (3) (a) An insurer may not unfairly discriminate among policyholders by charging
17934 different premiums or by offering different terms of coverage, except on the basis of
17935 classifications related to the nature and the degree of the risk covered or the expenses involved.
17936 (b) Rates are not unfairly discriminatory if they are averaged broadly among persons
17937 insured under a group, blanket, or franchise policy, and the terms of those policies are not
17938 unfairly discriminatory merely because they are more favorable than in similar individual
17939 policies.
17940 (4) (a) This Subsection (4) applies to:
17941 (i) a person who is or should be licensed under this title;
17942 (ii) an employee of that licensee or person who should be licensed;
17943 (iii) a person whose primary interest is as a competitor of a person licensed under this
17944 title; and
17945 (iv) one acting on behalf of any person described in Subsections (4)(a)(i) through (iii).

17946 (b) A person described in Subsection (4)(a) may not commit or enter into any
17947 agreement to participate in any act of boycott, coercion, or intimidation that:
17948 (i) tends to produce:
17949 (A) an unreasonable restraint of the business of insurance; or
17950 (B) a monopoly in that business; or
17951 (ii) results in an applicant purchasing or replacing an insurance contract.
17952 (5) (a) (i) Subject to Subsection (5)(a)(ii), a person may not restrict in the choice of an
17953 insurer or licensee under this chapter, another person who is required to pay for insurance as a
17954 condition for the conclusion of a contract or other transaction or for the exercise of any right
17955 under a contract.
17956 (ii) A person requiring coverage may reserve the right to disapprove the insurer or the
17957 coverage selected on reasonable grounds.
17958 (b) The form of corporate organization of an insurer authorized to do business in this
17959 state is not a reasonable ground for disapproval, and the commissioner may by rule specify
17960 additional grounds that are not reasonable. This Subsection (5) does not bar an insurer from
17961 declining an application for insurance.
17962 (6) A person may not make any charge other than insurance premiums and premium
17963 financing charges for the protection of property or of a security interest in property, as a
17964 condition for obtaining, renewing, or continuing the financing of a purchase of the property or
17965 the lending of money on the security of an interest in the property.
17966 (7) (a) A licensee under this title may not refuse or fail to return promptly all indicia of
17967 agency to the principal on demand.
17968 (b) A licensee whose license is suspended, limited, or revoked under Section
17969 31A-2-308, 31A-23a-111, or 31A-23a-112 may not refuse or fail to return the license to the
17970 commissioner on demand.
17971 (8) (a) A person may not engage in any other unfair method of competition or any other
17972 unfair or deceptive act or practice in the business of insurance, as defined by the commissioner
17973 by rule, after a finding that they:
17974 (i) are misleading;
17975 (ii) are deceptive;
17976 (iii) are unfairly discriminatory;

17977 (iv) provide an unfair inducement; or
17978 (v) unreasonably restrain competition.
17979 (b) Notwithstanding Subsection (8)(a), for purpose of the title insurance industry, the
17980 Title and Escrow Commission shall make rules, subject to Section 31A-2-404, that define any
17981 other unfair method of competition or any other unfair or deceptive act or practice after a
17982 finding that they:
17983 (i) are misleading;
17984 (ii) are deceptive;
17985 (iii) are unfairly discriminatory;
17986 (iv) provide an unfair inducement; or
17987 (v) unreasonably restrain competition.
17988 Section 378. Section **31A-23a-417** is amended to read:
17989 **31A-23a-417. Financial services insurance activities regulation.**
17990 (1) It is the intent of the Legislature that the regulation of insurance activities of any
17991 person in this state be based on functional regulation principles established in the
17992 Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-102.
17993 (2) The insurance activities of any person in this state shall be functionally regulated by
17994 the commissioner subject to Sections 104, 301-308, 501-507, and 509 of the
17995 Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-102.
17996 (3) Under [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
17997 Rulemaking Act, the commissioner may adopt rules consistent with Section 104(d) of the
17998 Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-102, and the functional regulation of
17999 insurance activities of any person otherwise subject to the jurisdiction of the commissioner in
18000 this state described in Subsection (2).
18001 (4) The commissioner shall consult and coordinate with the commissioner of the
18002 Department of Financial Institutions and the director of the Division of Securities for the
18003 purpose of assuring, to the extent possible, that the rules prescribed by the department are
18004 consistent and comparable with federal regulations governing the insurance, banking, and
18005 securities industries.
18006 Section 379. Section **31A-23a-809** is amended to read:
18007 **31A-23a-809. Penalties and liabilities.**

18008 (1) A reinsurance intermediary, insurer, or reinsurer found by the commissioner, after a
18009 hearing conducted in accordance with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
18010 Administrative Procedures Act, to be in violation of any provisions of this title, shall:
18011 (a) for each separate violation, pay a civil penalty in an amount not exceeding $5,000;
18012 (b) be subject to revocation or suspension of its license; and
18013 (c) if a violation was committed by the reinsurance intermediary, the reinsurance
18014 intermediary shall make restitution to the insurer, reinsurer, rehabilitator, or liquidator of the
18015 insurer or reinsurer for the net losses incurred by the insurer or reinsurer attributable to the
18016 violation.
18017 (2) Nothing contained in this section affects the right of the commissioner to impose
18018 any other penalties provided in this title.
18019 (3) Nothing contained in this part is intended to, or in any manner limits or restricts the
18020 rights of policyholders, claimants, creditors, or other third parties; nor does it confer any rights
18021 to such persons.
18022 Section 380. Section **31A-25-202** is amended to read:
18023 **31A-25-202. Application for license.**
18024 (1) (a) An application for a license as a third party administrator shall be:
18025 (i) made to the commissioner on forms and in a manner the commissioner prescribes;
18026 and
18027 (ii) accompanied by the applicable fee, which is not refundable if the application is
18028 denied.
18029 (b) The application for a license as a third party administrator shall:
18030 (i) state the applicant's:
18031 (A) Social Security number; or
18032 (B) federal employer identification number;
18033 (ii) provide information about:
18034 (A) the applicant's identity;
18035 (B) the applicant's personal history, experience, education, and business record;
18036 (C) if the applicant is a natural person, whether the applicant is 18 years of age or
18037 older; and
18038 (D) whether the applicant has committed an act that is a ground for denial, suspension,

18039 or revocation as set forth in Section 31A-25-208; and
18040 (iii) any other information as the commissioner reasonably requires.
18041 (2) The commissioner may require documents reasonably necessary to verify the
18042 information contained in the application.
18043 (3) An applicant's Social Security number contained in an application filed under this
18044 section is a private record under Section [~~63-2-302~~] 63G-2-302.
18045 Section 381. Section **31A-25-208** is amended to read:
18046 **31A-25-208. Revocation, suspension, surrender, lapsing, limiting, or otherwise**
18047 **terminating a license -- Rulemaking for renewal and reinstatement.**
18048 (1) A license type issued under this chapter remains in force until:
18049 (a) revoked or suspended under Subsection (4);
18050 (b) surrendered to the commissioner and accepted by the commissioner in lieu of
18051 administrative action;
18052 (c) the licensee dies or is adjudicated incompetent as defined under:
18053 (i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or
18054 (ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and
18055 Minors;
18056 (d) lapsed under Section 31A-25-210; or
18057 (e) voluntarily surrendered.
18058 (2) The following may be reinstated within one year after the day on which the license
18059 is inactivated:
18060 (a) a lapsed license; or
18061 (b) a voluntarily surrendered license.
18062 (3) Unless otherwise stated in the written agreement for the voluntary surrender of a
18063 license, submission and acceptance of a voluntary surrender of a license does not prevent the
18064 department from pursuing additional disciplinary or other action authorized under:
18065 (a) this title; or
18066 (b) rules made under this title in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
18067 Chapter 3, Utah Administrative Rulemaking Act.
18068 (4) (a) If the commissioner makes a finding under Subsection (4)(b), after an
18069 adjudicative proceeding under [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative

18070 Procedures Act, the commissioner may:
18071 (i) revoke a license;
18072 (ii) suspend a license for a specified period of 12 months or less; or
18073 (iii) limit a license in whole or in part.
18074 (b) The commissioner may take an action described in Subsection (4)(a) if the
18075 commissioner finds that the licensee:
18076 (i) is unqualified for a license under Sections 31A-25-202 and 31A-25-203;
18077 (ii) has violated:
18078 (A) an insurance statute;
18079 (B) a rule that is valid under Subsection 31A-2-201(3); or
18080 (C) an order that is valid under Subsection 31A-2-201(4);
18081 (iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or other
18082 delinquency proceedings in any state;
18083 (iv) fails to pay any final judgment rendered against the person in this state within 60
18084 days after the day on which the judgment became final;
18085 (v) fails to meet the same good faith obligations in claims settlement that is required of
18086 admitted insurers;
18087 (vi) is affiliated with and under the same general management or interlocking
18088 directorate or ownership as another third party administrator that transacts business in this state
18089 without a license;
18090 (vii) refuses:
18091 (A) to be examined; or
18092 (B) to produce its accounts, records, and files for examination;
18093 (viii) has an officer who refuses to:
18094 (A) give information with respect to the third party administrator's affairs; or
18095 (B) perform any other legal obligation as to an examination;
18096 (ix) provides information in the license application that is:
18097 (A) incorrect;
18098 (B) misleading;
18099 (C) incomplete; or
18100 (D) materially untrue;

18101 (x) has violated an insurance law, valid rule, or valid order of another state's insurance
18102 department;
18103 (xi) has obtained or attempted to obtain a license through misrepresentation or fraud;
18104 (xii) has improperly withheld, misappropriated, or converted any monies or properties
18105 received in the course of doing insurance business;
18106 (xiii) has intentionally misrepresented the terms of an actual or proposed:
18107 (A) insurance contract; or
18108 (B) application for insurance;
18109 (xiv) has been convicted of a felony;
18110 (xv) has admitted or been found to have committed any insurance unfair trade practice
18111 or fraud;
18112 (xvi) in the conduct of business in this state or elsewhere has:
18113 (A) used fraudulent, coercive, or dishonest practices; or
18114 (B) demonstrated incompetence, untrustworthiness, or financial irresponsibility;
18115 (xvii) has had an insurance license or its equivalent, denied, suspended, or revoked in
18116 any other state, province, district, or territory;
18117 (xviii) has forged another's name to:
18118 (A) an application for insurance; or
18119 (B) a document related to an insurance transaction;
18120 (xix) has improperly used notes or any other reference material to complete an
18121 examination for an insurance license;
18122 (xx) has knowingly accepted insurance business from an individual who is not
18123 licensed;
18124 (xxi) has failed to comply with an administrative or court order imposing a child
18125 support obligation;
18126 (xxii) has failed to:
18127 (A) pay state income tax; or
18128 (B) comply with any administrative or court order directing payment of state income
18129 tax;
18130 (xxiii) has violated or permitted others to violate the federal Violent Crime Control and
18131 Law Enforcement Act of 1994, 18 U.S.C. Secs. 1033 and 1034; or

18132 (xxiv) has engaged in methods and practices in the conduct of business that endanger
18133 the legitimate interests of customers and the public.
18134 (c) For purposes of this section, if a license is held by an agency, both the agency itself
18135 and any natural person named on the license are considered to be the holders of the license.
18136 (d) If a natural person named on the agency license commits any act or fails to perform
18137 any duty that is a ground for suspending, revoking, or limiting the natural person's license, the
18138 commissioner may suspend, revoke, or limit the license of:
18139 (i) the natural person;
18140 (ii) the agency if the agency:
18141 (A) is reckless or negligent in its supervision of the natural person; or
18142 (B) knowingly participated in the act or failure to act that is the ground for suspending,
18143 revoking, or limiting the license; or
18144 (iii) (A) the natural person; and
18145 (B) the agency if the agency meets the requirements of Subsection (4)(d)(ii).
18146 (5) A licensee under this chapter is subject to the penalties for acting as a licensee
18147 without a license if:
18148 (a) the licensee's license is:
18149 (i) revoked;
18150 (ii) suspended;
18151 (iii) limited;
18152 (iv) surrendered in lieu of administrative action;
18153 (v) lapsed; or
18154 (vi) voluntarily surrendered; and
18155 (b) the licensee:
18156 (i) continues to act as a licensee; or
18157 (ii) violates the terms of the license limitation.
18158 (6) A licensee under this chapter shall immediately report to the commissioner:
18159 (a) a revocation, suspension, or limitation of the person's license in any other state, the
18160 District of Columbia, or a territory of the United States;
18161 (b) the imposition of a disciplinary sanction imposed on that person by any other state,
18162 the District of Columbia, or a territory of the United States; or

18163 (c) a judgment or injunction entered against the person on the basis of conduct
18164 involving:
18165 (i) fraud;
18166 (ii) deceit;
18167 (iii) misrepresentation; or
18168 (iv) a violation of an insurance law or rule.
18169 (7) (a) An order revoking a license under Subsection (4) or an agreement to surrender a
18170 license in lieu of administrative action may specify a time, not to exceed five years, within
18171 which the former licensee may not apply for a new license.
18172 (b) If no time is specified in the order or agreement described in Subsection (7)(a), the
18173 former licensee may not apply for a new license for five years from the day on which the order
18174 or agreement is made without the express approval of the commissioner.
18175 (8) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of
18176 a license issued under this part if so ordered by the court.
18177 (9) The commissioner shall by rule prescribe the license renewal and reinstatement
18178 procedures in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
18179 Administrative Rulemaking Act.
18180 Section 382. Section **31A-25-209** is amended to read:
18181 **31A-25-209. Probation -- Grounds for revocation.**
18182 (1) The commissioner may place a licensee on probation for a period not to exceed 24
18183 months as follows:
18184 (a) after an adjudicative proceeding under [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
18185 Administrative Procedures Act, for any circumstances that would justify a suspension under
18186 Section 31A-25-208; or
18187 (b) at the issuance of a new license:
18188 (i) with an admitted violation under 18 U.S.C. Sections 1033 and 1034; or
18189 (ii) with a response to a background information question on a new license application
18190 indicating that:
18191 (A) the person has been convicted of a crime that is listed by rule made in accordance
18192 with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as a
18193 crime that is grounds for probation;

18194 (B) the person is currently charged with a crime that is listed by rule made in
18195 accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
18196 Rulemaking Act, as a crime that is grounds for probation regardless of whether adjudication is
18197 withheld;
18198 (C) the person has been involved in an administrative proceeding regarding any
18199 professional or occupational license; or
18200 (D) any business in which the person is or was an owner, partner, officer, or director
18201 has been involved in an administrative proceeding regarding any professional or occupational
18202 license.
18203 (2) The commissioner may place a licensee on probation for a specified period no
18204 longer than 24 months if the licensee has admitted to a violation under 18 U.S.C. Sections 1033
18205 and 1034.
18206 (3) A probation order under this section shall state the conditions for retention of the
18207 license, which shall be reasonable.
18208 (4) A violation of the probation is grounds for revocation pursuant to any proceeding
18209 authorized under [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
18210 Section 383. Section **31A-26-202** is amended to read:
18211 **31A-26-202. Application for license.**
18212 (1) (a) The application for a license as an independent adjuster or public adjuster shall
18213 be:
18214 (i) made to the commissioner on forms and in a manner the commissioner prescribes;
18215 and
18216 (ii) accompanied by the applicable fee, which is not refunded if the application is
18217 denied.
18218 (b) The application shall provide:
18219 (i) information about the applicant's identity, including:
18220 (A) the applicant's:
18221 (I) Social Security number; or
18222 (II) federal employer identification number;
18223 (B) the applicant's personal history, experience, education, and business record;
18224 (C) if the applicant is a natural person, whether the applicant is 18 years of age or

18225 older; and
18226 (D) whether the applicant has committed an act that is a ground for denial, suspension,
18227 or revocation as set forth in Section 31A-25-208; and
18228 (ii) any other information as the commissioner reasonably requires.
18229 (2) The commissioner may require documents reasonably necessary to verify the
18230 information contained in the application.
18231 (3) An applicant's Social Security number contained in an application filed under this
18232 section is a private record under Section [~~63-2-302~~] 63G-2-302.
18233 Section 384. Section **31A-26-206** is amended to read:
18234 **31A-26-206. Continuing education requirements.**
18235 (1) Pursuant to this section, the commissioner shall by rule prescribe continuing
18236 education requirements for each class of license under Section 31A-26-204.
18237 (2) (a) The commissioner shall impose continuing education requirements in
18238 accordance with a two-year licensing period in which the licensee meets the requirements of
18239 this Subsection (2).
18240 (b) (i) Except as provided in Subsection (2)(b)(iii), the continuing education
18241 requirements shall require:
18242 (A) that a licensee complete 24 credit hours of continuing education for every two-year
18243 licensing period;
18244 (B) that three of the 24 credit hours described in Subsection (2)(b)(i)(A) be ethics
18245 courses; and
18246 (C) that the licensee complete at least half of the required hours through classroom
18247 hours of insurance-related instruction.
18248 (ii) The hours not completed through classroom hours in accordance with Subsection
18249 (2)(b)(i)(C) may be obtained through:
18250 (A) home study;
18251 (B) video recording;
18252 (C) experience credit; or
18253 (D) other methods provided by rule.
18254 (iii) Notwithstanding Subsections (2)(b)(i)(A) and (B), a title insurance adjuster is
18255 required to complete 12 credit hours of continuing education for every two-year licensing

18256 period, with three of the credit hours being ethics courses.
18257 (c) A licensee may obtain continuing education hours at any time during the two-year
18258 licensing period.
18259 (d) (i) Beginning May 3, 1999, a licensee is exempt from the continuing education
18260 requirements of this section if:
18261 (A) the licensee was first licensed before April 1, 1970;
18262 (B) the licensee requests an exemption from the department; and
18263 (C) the department approves the exemption.
18264 (ii) If the department approves the exemption under Subsection (2)(d)(i), the licensee is
18265 not required to apply again for the exemption.
18266 (e) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
18267 Administrative Rulemaking Act, the commissioner shall by rule:
18268 (i) publish a list of insurance professional designations whose continuing education
18269 requirements can be used to meet the requirements for continuing education under Subsection
18270 (2)(b); and
18271 (ii) authorize professional adjuster associations to:
18272 (A) offer qualified programs for all classes of licenses on a geographically accessible
18273 basis; and
18274 (B) collect reasonable fees for funding and administration of the continuing education
18275 programs, subject to the review and approval of the commissioner.
18276 (f) (i) The fees permitted under Subsection (2)(e)(ii)(B) that are charged to fund and
18277 administer a program shall reasonably relate to the costs of administering the program.
18278 (ii) Nothing in this section shall prohibit a provider of continuing education programs
18279 or courses from charging fees for attendance at courses offered for continuing education credit.
18280 (iii) The fees permitted under Subsection (2)(e)(ii)(B) that are charged for attendance
18281 at an association program may be less for an association member, based on the member's
18282 affiliation expense, but shall preserve the right of a nonmember to attend without affiliation.
18283 (3) The requirements of this section apply only to licensees who are natural persons.
18284 (4) The requirements of this section do not apply to members of the Utah State Bar.
18285 (5) The commissioner shall designate courses that satisfy the requirements of this
18286 section, including those presented by insurers.

18287 (6) A nonresident adjuster is considered to have satisfied this state's continuing
18288 education requirements if:
18289 (a) the nonresident adjuster satisfies the nonresident producer's home state's continuing
18290 education requirements for a licensed insurance adjuster; and
18291 (b) on the same basis the nonresident adjuster's home state considers satisfaction of
18292 Utah's continuing education requirements for a producer as satisfying the continuing education
18293 requirements of the home state.
18294 (7) A licensee subject to this section shall keep documentation of completing the
18295 continuing education requirements of this section for two years after the end of the two-year
18296 licensing period to which the continuing education requirement applies.
18297 Section 385. Section **31A-26-213** is amended to read:
18298 **31A-26-213. Revocation, suspension, surrender, lapsing, limiting, or otherwise**
18299 **terminating a license -- Rulemaking for renewal or reinstatement.**
18300 (1) A license type issued under this chapter remains in force until:
18301 (a) revoked or suspended under Subsection (5);
18302 (b) surrendered to the commissioner and accepted by the commissioner in lieu of
18303 administrative action;
18304 (c) the licensee dies or is adjudicated incompetent as defined under:
18305 (i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or
18306 (ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and
18307 Minors;
18308 (d) lapsed under Section 31A-26-214.5; or
18309 (e) voluntarily surrendered.
18310 (2) The following may be reinstated within one year after the day on which the license
18311 is inactivated:
18312 (a) a lapsed license; or
18313 (b) a voluntarily surrendered license.
18314 (3) Unless otherwise stated in the written agreement for the voluntary surrender of a
18315 license, submission and acceptance of a voluntary surrender of a license does not prevent the
18316 department from pursuing additional disciplinary or other action authorized under:
18317 (a) this title; or

18318 (b) rules made under this title in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
18319 Chapter 3, Utah Administrative Rulemaking Act.
18320 (4) A license classification issued under this chapter remains in force until:
18321 (a) the qualifications pertaining to a license classification are no longer met by the
18322 licensee; or
18323 (b) the supporting license type:
18324 (i) is revoked or suspended under Subsection (5); or
18325 (ii) is surrendered to the commissioner and accepted by the commissioner in lieu of
18326 administrative action.
18327 (5) (a) If the commissioner makes a finding under Subsection (5)(b) after an
18328 adjudicative proceeding under [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
18329 Procedures Act, the commissioner may:
18330 (i) revoke:
18331 (A) a license; or
18332 (B) a license classification;
18333 (ii) suspend for a specified period of 12 months or less:
18334 (A) a license; or
18335 (B) a license classification; or
18336 (iii) limit in whole or in part:
18337 (A) a license; or
18338 (B) a license classification.
18339 (b) The commissioner may take an action described in Subsection (5)(a) if the
18340 commissioner finds that the licensee:
18341 (i) is unqualified for a license or license classification under Sections 31A-26-202,
18342 31A-26-203, and 31A-26-204;
18343 (ii) has violated:
18344 (A) an insurance statute;
18345 (B) a rule that is valid under Subsection 31A-2-201(3); or
18346 (C) an order that is valid under Subsection 31A-2-201(4);
18347 (iii) is insolvent, or the subject of receivership, conservatorship, rehabilitation, or other
18348 delinquency proceedings in any state;

18349 (iv) fails to pay any final judgment rendered against the person in this state within 60
18350 days after the judgment became final;
18351 (v) fails to meet the same good faith obligations in claims settlement that is required of
18352 admitted insurers;
18353 (vi) is affiliated with and under the same general management or interlocking
18354 directorate or ownership as another insurance adjuster that transacts business in this state
18355 without a license;
18356 (vii) refuses:
18357 (A) to be examined; or
18358 (B) to produce its accounts, records, and files for examination;
18359 (viii) has an officer who refuses to:
18360 (A) give information with respect to the insurance adjuster's affairs; or
18361 (B) perform any other legal obligation as to an examination;
18362 (ix) provides information in the license application that is:
18363 (A) incorrect;
18364 (B) misleading;
18365 (C) incomplete; or
18366 (D) materially untrue;
18367 (x) has violated any insurance law, valid rule, or valid order of another state's insurance
18368 department;
18369 (xi) has obtained or attempted to obtain a license through misrepresentation or fraud;
18370 (xii) has improperly withheld, misappropriated, or converted any monies or properties
18371 received in the course of doing insurance business;
18372 (xiii) has intentionally misrepresented the terms of an actual or proposed:
18373 (A) insurance contract; or
18374 (B) application for insurance;
18375 (xiv) has been convicted of a felony;
18376 (xv) has admitted or been found to have committed any insurance unfair trade practice
18377 or fraud;
18378 (xvi) in the conduct of business in this state or elsewhere has:
18379 (A) used fraudulent, coercive, or dishonest practices; or

18380 (B) demonstrated incompetence, untrustworthiness, or financial irresponsibility;
18381 (xvii) has had an insurance license, or its equivalent, denied, suspended, or revoked in
18382 any other state, province, district, or territory;
18383 (xviii) has forged another's name to:
18384 (A) an application for insurance; or
18385 (B) any document related to an insurance transaction;
18386 (xix) has improperly used notes or any other reference material to complete an
18387 examination for an insurance license;
18388 (xx) has knowingly accepted insurance business from an individual who is not
18389 licensed;
18390 (xxi) has failed to comply with an administrative or court order imposing a child
18391 support obligation;
18392 (xxii) has failed to:
18393 (A) pay state income tax; or
18394 (B) comply with any administrative or court order directing payment of state income
18395 tax;
18396 (xxiii) has violated or permitted others to violate the federal Violent Crime Control and
18397 Law Enforcement Act of 1994, 18 U.S.C. Secs. 1033 and 1034; or
18398 (xxiv) has engaged in methods and practices in the conduct of business that endanger
18399 the legitimate interests of customers and the public.
18400 (c) For purposes of this section, if a license is held by an agency, both the agency itself
18401 and any natural person named on the license are considered to be the holders of the license.
18402 (d) If a natural person named on the agency license commits any act or fails to perform
18403 any duty that is a ground for suspending, revoking, or limiting the natural person's license, the
18404 commissioner may suspend, revoke, or limit the license of:
18405 (i) the natural person;
18406 (ii) the agency, if the agency:
18407 (A) is reckless or negligent in its supervision of the natural person; or
18408 (B) knowingly participated in the act or failure to act that is the ground for suspending,
18409 revoking, or limiting the license; or
18410 (iii) (A) the natural person; and

18411 (B) the agency if the agency meets the requirements of Subsection (5)(d)(ii).
18412 (6) A licensee under this chapter is subject to the penalties for conducting an insurance
18413 business without a license if:
18414 (a) the licensee's license is:
18415 (i) revoked;
18416 (ii) suspended;
18417 (iii) limited;
18418 (iv) surrendered in lieu of administrative action;
18419 (v) lapsed; or
18420 (vi) voluntarily surrendered; and
18421 (b) the licensee:
18422 (i) continues to act as a licensee; or
18423 (ii) violates the terms of the license limitation.
18424 (7) A licensee under this chapter shall immediately report to the commissioner:
18425 (a) a revocation, suspension, or limitation of the person's license in any other state, the
18426 District of Columbia, or a territory of the United States;
18427 (b) the imposition of a disciplinary sanction imposed on that person by any other state,
18428 the District of Columbia, or a territory of the United States; or
18429 (c) a judgment or injunction entered against that person on the basis of conduct
18430 involving:
18431 (i) fraud;
18432 (ii) deceit;
18433 (iii) misrepresentation; or
18434 (iv) a violation of an insurance law or rule.
18435 (8) (a) An order revoking a license under Subsection (5) or an agreement to surrender a
18436 license in lieu of administrative action may specify a time not to exceed five years within
18437 which the former licensee may not apply for a new license.
18438 (b) If no time is specified in the order or agreement described in Subsection (8)(a), the
18439 former licensee may not apply for a new license for five years without the express approval of
18440 the commissioner.
18441 (9) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of

18442 a license issued under this part if so ordered by a court.
18443 (10) The commissioner shall by rule prescribe the license renewal and reinstatement
18444 procedures in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
18445 Administrative Rulemaking Act.
18446 Section 386. Section **31A-26-214** is amended to read:
18447 **31A-26-214. Probation -- Grounds for revocation.**
18448 (1) The commissioner may place a licensee on probation for a period not to exceed 24
18449 months as follows:
18450 (a) after an adjudicative proceeding under [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
18451 Administrative Procedures Act, for any circumstances that would justify a suspension under
18452 Section 31A-26-213; or
18453 (b) at the issuance of a new license:
18454 (i) with an admitted violation under 18 U.S.C. Sections 1033 and 1034; or
18455 (ii) with a response to a background information question on any new license
18456 application indicating that:
18457 (A) the person has been convicted of a crime, that is listed by rule made in accordance
18458 with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as a
18459 crime that is grounds for probation;
18460 (B) the person is currently charged with a crime, that is listed by rule made in
18461 accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
18462 Rulemaking Act, as a crime that is grounds for probation regardless of whether adjudication
18463 was withheld;
18464 (C) the person has been involved in an administrative proceeding regarding any
18465 professional or occupational license; or
18466 (D) any business in which the person is or was an owner, partner, officer, or director
18467 has been involved in an administrative proceeding regarding any professional or occupational
18468 license.
18469 (2) The commissioner may put a licensee on probation for a specified period no longer
18470 than 24 months if the licensee has admitted to violations under 18 U.S.C. Sections 1033 and
18471 1034.
18472 (3) A probation order under this section shall state the conditions for retention of the

18473 license, which shall be reasonable.
18474 (4) A violation of the probation is grounds for revocation pursuant to any proceeding
18475 authorized under [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
18476 Section 387. Section **31A-27a-102** is amended to read:
18477 **31A-27a-102. Definitions.**
18478 As used in this chapter:
18479 (1) "Admitted assets" is as defined by and is measured in accordance with the National
18480 Association of Insurance Commissioner's Statements of Statutory Accounting Principles, as
18481 incorporated in this state by rules made by the department in accordance with [~~Title 63,~~
18482 ~~Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the purposes of
18483 Subsection 31A-4-113(1)(b)(ii).
18484 (2) "Affected guaranty association" means a guaranty association that is or may
18485 become liable for payment of a covered claim.
18486 (3) "Affiliate" is as defined in Section 31A-1-301.
18487 (4) Notwithstanding Section 31A-1-301, "alien insurer" means an insurer incorporated
18488 or organized under the laws of a jurisdiction that is not a state.
18489 (5) Notwithstanding Section 31A-1-301, "claimant" or "creditor" means a person
18490 having a claim against an insurer whether the claim is:
18491 (a) matured or not matured;
18492 (b) liquidated or unliquidated;
18493 (c) secured or unsecured;
18494 (d) absolute; or
18495 (e) fixed or contingent.
18496 (6) "Commissioner" is as defined in Section 31A-1-301.
18497 (7) "Commodity contract" means:
18498 (a) a contract for the purchase or sale of a commodity for future delivery on, or subject
18499 to the rules of:
18500 (i) a board of trade or contract market under the Commodity Exchange Act, 7 U.S.C.
18501 Sec. 1 et seq.; or
18502 (ii) a board of trade outside the United States;
18503 (b) an agreement that is:

18504 (i) subject to regulation under Section 19 of the Commodity Exchange Act, 7 U.S.C.
18505 Sec. 1 et seq.; and
18506 (ii) commonly known to the commodities trade as:
18507 (A) a margin account;
18508 (B) a margin contract;
18509 (C) a leverage account; or
18510 (D) a leverage contract;
18511 (c) an agreement or transaction that is:
18512 (i) subject to regulation under Section 4c(b) of the Commodity Exchange Act, 7 U.S.C.
18513 Sec. 1 et seq.; and
18514 (ii) commonly known to the commodities trade as a commodity option;
18515 (d) a combination of the agreements or transactions referred to in this Subsection (7);
18516 or
18517 (e) an option to enter into an agreement or transaction referred to in this Subsection (7).
18518 (8) "Control" is as defined in Section 31A-1-301.
18519 (9) "Delinquency proceeding" means a:
18520 (a) proceeding instituted against an insurer for the purpose of rehabilitating or
18521 liquidating the insurer; and
18522 (b) summary proceeding under Section 31A-27a-201.
18523 (10) "Department" is as defined in Section 31A-1-301 unless the context requires
18524 otherwise.
18525 (11) "Doing business," "doing insurance business," and "business of insurance"
18526 includes any of the following acts, whether effected by mail, electronic means, or otherwise:
18527 (a) issuing or delivering a contract, certificate, or binder relating to insurance or
18528 annuities:
18529 (i) to a person who is resident in this state; or
18530 (ii) covering a risk located in this state;
18531 (b) soliciting an application for the contract, certificate, or binder described in
18532 Subsection (11)(a);
18533 (c) negotiating preliminary to the execution of the contract, certificate, or binder
18534 described in Subsection (11)(a);

18535 (d) collecting premiums, membership fees, assessments, or other consideration for the
18536 contract, certificate, or binder described in Subsection (11)(a);
18537 (e) transacting matters:
18538 (i) subsequent to execution of the contract, certificate, or binder described in
18539 Subsection (11)(a); and
18540 (ii) arising out of the contract, certificate, or binder described in Subsection (11)(a);
18541 (f) operating as an insurer under a license or certificate of authority issued by the
18542 department; or
18543 (g) engaging in an act identified in Chapter 15, Unauthorized Insurers, Surplus Lines,
18544 and Risk Retention Groups.
18545 (12) Notwithstanding Section 31A-1-301, "domiciliary state" means the state in which
18546 an insurer is incorporated or organized, except that "domiciliary state" means:
18547 (a) in the case of an alien insurer, its state of entry; or
18548 (b) in the case of a risk retention group, the state in which the risk retention group is
18549 chartered as contemplated in the Liability Risk Retention Act, 15 U.S.C. Sec. 3901 et seq.
18550 (13) "Estate" has the same meaning as "property of the insurer" as defined in
18551 Subsection (30).
18552 (14) "Fair consideration" is given for property or an obligation:
18553 (a) when in exchange for the property or obligation, as a fair equivalent for it, and in
18554 good faith:
18555 (i) property is conveyed;
18556 (ii) services are rendered;
18557 (iii) an obligation is incurred; or
18558 (iv) an antecedent debt is satisfied; or
18559 (b) when the property or obligation is received in good faith to secure a present
18560 advance or an antecedent debt in amount not disproportionately small compared to the value of
18561 the property or obligation obtained.
18562 (15) Notwithstanding Section 31A-1-301, "foreign insurer" means an insurer domiciled
18563 in another state.
18564 (16) "Formal delinquency proceeding" means a rehabilitation or liquidation
18565 proceeding.

18566 (17) "Forward contract" is as defined in the Federal Deposit Insurance Act, 12 U.S.C.
18567 Sec. 1821(e)(8)(D).
18568 (18) (a) "General assets" include all property of the estate that is not:
18569 (i) subject to a properly perfected secured claim;
18570 (ii) subject to a valid and existing express trust for the security or benefit of a specified
18571 person or class of person; or
18572 (iii) required by the insurance laws of this state or any other state to be held for the
18573 benefit of a specified person or class of person.
18574 (b) "General assets" include all property of the estate or its proceeds in excess of the
18575 amount necessary to discharge a claim described in Subsection (18)(a).
18576 (19) "Good faith" means honesty in fact and intention, and in regard to Part 5, Asset
18577 Recovery, also requires the absence of:
18578 (a) information that would lead a reasonable person in the same position to know that
18579 the insurer is financially impaired or insolvent; and
18580 (b) knowledge regarding the imminence or pendency of a delinquency proceeding
18581 against the insurer.
18582 (20) "Guaranty association" means:
18583 (a) a mechanism mandated by Chapter 28, Guaranty Associations; or
18584 (b) a similar mechanism in another state that is created for the payment of claims or
18585 continuation of policy obligations of a financially impaired or insolvent insurer.
18586 (21) "Impaired" means that an insurer:
18587 (a) does not have admitted assets at least equal to the sum of:
18588 (i) all its liabilities; and
18589 (ii) the minimum surplus required to be maintained by Section 31A-5-211 or
18590 31A-8-209; or
18591 (b) has a total adjusted capital that is less than its authorized control level RBC, as
18592 defined in Section 31A-17-601.
18593 (22) "Insolvency" or "insolvent" means that an insurer:
18594 (a) is unable to pay its obligations when they are due;
18595 (b) does not have admitted assets at least equal to all of its liabilities; or
18596 (c) has a total adjusted capital that is less than its mandatory control level RBC, as

18597 defined in Section 31A-17-601.
18598 (23) Notwithstanding Section 31A-1-301, "insurer" means a person who:
18599 (a) is doing, has done, purports to do, or is licensed to do the business of insurance;
18600 (b) is or has been subject to the authority of, or to rehabilitation, liquidation,
18601 reorganization, supervision, or conservation by an insurance commissioner; or
18602 (c) is included under Section 31A-27a-104.
18603 (24) "Liabilities" is as defined by and is measured in accordance with the National
18604 Association of Insurance Commissioner's Statements of Statutory Accounting Principles, as
18605 incorporated in this state by rules made by the department in accordance with [~~Title 63,~~
18606 ~~Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the purposes of
18607 Subsection 31A-4-113(1)(b)(ii).
18608 (25) (a) Subject to Subsection (21)(b), "netting agreement" means:
18609 (i) a contract or agreement that:
18610 (A) documents one or more transactions between the parties to the agreement for or
18611 involving one or more qualified financial contracts; and
18612 (B) provides for the netting, liquidation, setoff, termination, acceleration, or close out
18613 under or in connection with:
18614 (I) one or more qualified financial contracts; or
18615 (II) present or future payment or delivery obligations or payment or delivery
18616 entitlements under the agreement, including liquidation or close-out values relating to the
18617 obligations or entitlements, among the parties to the netting agreement;
18618 (ii) a master agreement or bridge agreement for one or more master agreements
18619 described in Subsection (25)(a)(i); or
18620 (iii) any of the following related to a contract or agreement described in Subsection
18621 (25)(a)(i) or (ii):
18622 (A) a security agreement;
18623 (B) a security arrangement;
18624 (C) other credit enhancement or guarantee; or
18625 (D) a reimbursement obligation.
18626 (b) If a contract or agreement described in Subsection (25)(a)(i) or (ii) relates to an
18627 agreement or transaction that is not a qualified financial contract, the contract or agreement

18628 described in Subsection (25)(a)(i) or (ii) is considered a netting agreement only with respect to
18629 an agreement or transaction that is a qualified financial contract.
18630 (c) "Netting agreement" includes:
18631 (i) a term or condition incorporated by reference in the contract or agreement described
18632 in Subsection (25)(a); or
18633 (ii) a master agreement described in Subsection (25)(a).
18634 (d) A master agreement described in Subsection (25)(a), together with all schedules,
18635 confirmations, definitions, and addenda to that master agreement and transactions under any of
18636 the items described in this Subsection (25)(d), are treated as one netting agreement.
18637 (26) (a) "New value" means:
18638 (i) money;
18639 (ii) money's worth in goods, services, or new credit; or
18640 (iii) release by a transferee of property previously transferred to the transferee in a
18641 transaction that is neither void nor voidable by the insurer or the receiver under any applicable
18642 law, including proceeds of the property.
18643 (b) "New value" does not include an obligation substituted for an existing obligation.
18644 (27) "Party in interest" means:
18645 (a) the commissioner;
18646 (b) a nondomiciliary commissioner in whose state the insurer has outstanding claims
18647 liabilities;
18648 (c) an affected guaranty association; and
18649 (d) the following parties if the party files a request with the receivership court for
18650 inclusion as a party in interest and to be on the service list:
18651 (i) an insurer that ceded to or assumed business from the insurer;
18652 (ii) a policyholder;
18653 (iii) a third party claimant;
18654 (iv) a creditor;
18655 (v) a 10% or greater equity security holder in the insolvent insurer; and
18656 (vi) a person, including an indenture trustee, with a financial or regulatory interest in
18657 the delinquency proceeding.
18658 (28) (a) Notwithstanding Section 31A-1-301, "policy" means, notwithstanding what it

18659 is called:
18660 (i) a written contract of insurance;
18661 (ii) a written agreement for or affecting insurance; or
18662 (iii) a certificate of a written contract or agreement described in this Subsection (28)(a).
18663 (b) "Policy" includes all clauses, riders, endorsements, and papers that are a part of a
18664 policy.
18665 (c) "Policy" does not include a contract of reinsurance.
18666 (29) "Preference" means a transfer of property of an insurer to or for the benefit of a
18667 creditor:
18668 (a) for or on account of an antecedent debt, made or allowed by the insurer within one
18669 year before the day on which a successful petition for rehabilitation or liquidation is filed under
18670 this chapter;
18671 (b) the effect of which transfer may enable the creditor to obtain a greater percentage of
18672 the creditor's debt than another creditor of the same class would receive; and
18673 (c) if a liquidation order is entered while the insurer is already subject to a
18674 rehabilitation order and the transfer otherwise qualifies, that is made or allowed within the
18675 shorter of:
18676 (i) one year before the day on which a successful petition for rehabilitation is filed; or
18677 (ii) two years before the day on which a successful petition for liquidation is filed.
18678 (30) "Property of the insurer" or "property of the estate" includes:
18679 (a) a right, title, or interest of the insurer in property:
18680 (i) whether:
18681 (A) legal or equitable;
18682 (B) tangible or intangible; or
18683 (C) choate or inchoate; and
18684 (ii) including choses in action, contract rights, and any other interest recognized under
18685 the laws of this state;
18686 (b) entitlements that exist before the entry of an order of rehabilitation or liquidation;
18687 (c) entitlements that may arise by operation of this chapter or other provisions of law
18688 allowing the receiver to avoid prior transfers or assert other rights; and
18689 (d) (i) records or data that is otherwise the property of the insurer; and

18690 (ii) records or data similar to those described in Subsection (30)(d)(i) that are within
18691 the possession, custody, or control of a managing general agent, a third party administrator, a
18692 management company, a data processing company, an accountant, an attorney, an affiliate, or
18693 other person.
18694 (31) Subject to Subsection 31A-27a-611(10), "qualified financial contract" means any
18695 of the following:
18696 (a) a commodity contract;
18697 (b) a forward contract;
18698 (c) a repurchase agreement;
18699 (d) a securities contract;
18700 (e) a swap agreement; or
18701 (f) any similar agreement that the commissioner determines by rule or order to be a
18702 qualified financial contract for purposes of this chapter.
18703 (32) As the context requires, "receiver" means a rehabilitator, liquidator, or ancillary
18704 receiver.
18705 (33) As the context requires, "receivership" means a rehabilitation, liquidation, or
18706 ancillary receivership.
18707 (34) Unless the context requires otherwise, "receivership court" refers to the court in
18708 which a delinquency proceeding is pending.
18709 (35) "Reciprocal state" means any state other than this state that:
18710 (a) enforces a law substantially similar to this chapter;
18711 (b) requires the commissioner to be the receiver of a delinquent insurer; and
18712 (c) has laws for the avoidance of fraudulent conveyances and preferential transfers by
18713 the receiver of a delinquent insurer.
18714 (36) "Record," when used as a noun, means any information or data, in whatever form
18715 maintained, including:
18716 (a) a book;
18717 (b) a document;
18718 (c) a paper;
18719 (d) a file;
18720 (e) an application file;

18721 (f) a policyholder list;
18722 (g) policy information;
18723 (h) a claim or claim file;
18724 (i) an account;
18725 (j) a voucher;
18726 (k) a litigation file;
18727 (l) a premium record;
18728 (m) a rate book;
18729 (n) an underwriting manual;
18730 (o) a personnel record;
18731 (p) a financial record; or
18732 (q) other material.
18733 (37) "Reinsurance" means a transaction or contract under which an assuming insurer
18734 agrees to indemnify a ceding insurer against all, or a part, of any loss that the ceding insurer
18735 may sustain under the one or more policies that the ceding insurer issues or will issue.
18736 (38) "Repurchase agreement" is as defined in the Federal Deposit Insurance Act, 12
18737 U.S.C. Sec. 1821(e)(8)(D).
18738 (39) (a) "Secured claim" means, subject to Subsection (39)(b):
18739 (i) a claim secured by an asset that is not a general asset; or
18740 (ii) the right to set off as provided in Section 31A-27a-510.
18741 (b) "Secured claim" does not include:
18742 (i) a special deposit claim;
18743 (ii) a claim based on mere possession; or
18744 (iii) a claim arising from a constructive or resulting trust.
18745 (40) "Securities contract" is as defined in the Federal Deposit Insurance Act, 12 U.S.C.
18746 Sec. 1821(e)(8)(D).
18747 (41) "Special deposit" means a deposit established pursuant to statute for the security
18748 or benefit of a limited class or classes of persons.
18749 (42) (a) Subject to Subsection (42)(b), "special deposit claim" means a claim secured
18750 by a special deposit.
18751 (b) "Special deposit claim" does not include a claim against the general assets of the

18752 insurer.
18753 (43) "State" means a state, district, or territory of the United States.
18754 (44) "Subsidiary" is as defined in Section 31A-1-301.
18755 (45) "Swap agreement" is as defined in the Federal Deposit Insurance Act, 12 U.S.C.
18756 Sec. 1821(e)(8)(D).
18757 (46) (a) "Transfer" includes the sale and every other and different mode of disposing of
18758 or parting with property or with an interest in property, whether:
18759 (i) directly or indirectly;
18760 (ii) absolutely or conditionally;
18761 (iii) voluntarily or involuntarily; or
18762 (iv) by or without judicial proceedings.
18763 (b) An interest in property includes:
18764 (i) a set off;
18765 (ii) having possession of the property; or
18766 (iii) fixing a lien on the property or on an interest in the property.
18767 (c) The retention of a security title in property delivered to an insurer and foreclosure
18768 of the insurer's equity of redemption is considered a transfer suffered by the insurer.
18769 (47) Notwithstanding Section 31A-1-301, "unauthorized insurer" means an insurer
18770 transacting the business of insurance in this state that has not received a certificate of authority
18771 from this state, or some other type of authority that allows for the transaction of the business of
18772 insurance in this state.
18773 Section 388. Section **31A-27a-116** is amended to read:
18774 **31A-27a-116. Financial reporting.**
18775 (1) (a) The receiver shall comply with all requirements for receivership financial
18776 reporting as specified by the commissioner by rule within:
18777 (i) 180 days after the day on which the receivership court enters an order of
18778 receivership; and
18779 (ii) 45 days following each calendar quarter after the period specified in Subsection
18780 (1)(a)(i).
18781 (b) The rule described in this Subsection (1) shall:
18782 (i) comply with this section;

18783 (ii) be made in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
18784 Administrative Rulemaking Act; and
18785 (iii) require the receiver to file any financial report with the receivership court in
18786 addition to any other person specified in the rule.
18787 (c) A financial report shall include, at a minimum, a statement of:
18788 (i) the assets and liabilities of the insurer;
18789 (ii) the changes in those assets and liabilities; and
18790 (iii) all funds received or disbursed by the receiver during that reporting period.
18791 (d) The receiver may qualify a financial report or provide notes to the financial
18792 statement for further explanation.
18793 (e) The receivership court may order the receiver to provide any additional information
18794 as the receivership court considers appropriate.
18795 (2) Each affected guaranty association shall file one or more reports with the liquidator:
18796 (a) (i) within 180 days after the day on which the receivership court enters an order of
18797 liquidation; and
18798 (ii) (A) within 45 days following each calendar quarter after the period described in
18799 Subsection (2)(a)(i); or
18800 (B) at an interval:
18801 (I) agreed to between the liquidator and the affected guaranty association; or
18802 (II) required by the receivership court; and
18803 (b) in no event less than annually.
18804 (3) For good cause shown, the receivership court may grant:
18805 (a) relief for an extension or modification of time to comply with Subsection (1) or (2);
18806 or
18807 (b) such other relief as may be appropriate.
18808 Section 389. Section **31A-27a-117** is amended to read:
18809 **31A-27a-117. Records.**
18810 (1) (a) Upon entry of an order of rehabilitation or liquidation, the receiver is vested
18811 with title to all of the records of the insurer:
18812 (i) of whatever nature;
18813 (ii) in whatever medium;

18814 (iii) wherever located; and
18815 (iv) regardless of whether the item is in the custody and control of:
18816 (A) a third party administrator;
18817 (B) a managing general agent;
18818 (C) an attorney; or
18819 (D) other representatives of the insurer.
18820 (b) The receiver may immediately take possession and control of:
18821 (i) all of the records of the insurer; and
18822 (ii) the premises where the records are located.
18823 (c) At the request of the receiver, a third party administrator, managing general agent,
18824 attorney, or other representatives of the insurer shall release all records of the insurer to:
18825 (i) the receiver; or
18826 (ii) the receiver's designee.
18827 (d) With the receiver's approval, an affected guaranty association with an obligation
18828 under a policy issued by the insurer may take actions necessary to obtain directly from a third
18829 party administrator, managing general agent, attorney, or other representative of the insurer all
18830 records pertaining to the insurer's business that are appropriate or necessary for the affected
18831 guaranty association to fulfill its statutory obligations.
18832 (2) The receiver may certify a record of a delinquent insurer described in Subsection
18833 (1) and a record of the receiver's office created and maintained in connection with a delinquent
18834 insurer, as follows:
18835 (a) a record of a delinquent insurer may be certified by the receiver in an affidavit
18836 stating that the record is a true and correct copy of the record of the insurer that is received
18837 from the custody of the insurer, or found among the insurer's effects; or
18838 (b) a record created by or filed with the receiver's office in connection with a
18839 delinquent insurer may be certified by the receiver's affidavit stating that the record is a true
18840 and correct copy of the record maintained by the receiver's office.
18841 (3) (a) An original record or copy of a record certified under Subsection (2):
18842 (i) when admitted in evidence is prima facie evidence of the facts disclosed; and
18843 (ii) is admissible in evidence in the same manner as a document described in Utah
18844 Rules of Evidence, Rule 902(1).

18845 (b) The receivership court may consider the certification of a record by the receiver
18846 pursuant to this section as satisfying the requirements of Utah Rules of Evidence, Rule 803(6).
18847 (4) A record of a delinquent insurer held by the receiver:
18848 (a) is not a record of the department for any purposes; and
18849 (b) not subject to [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records
18850 Access and Management Act.
18851 Section 390. Section **31A-27a-514** is amended to read:
18852 **31A-27a-514. Recovery of premiums owed.**
18853 (1) (a) An insured shall pay any unpaid earned premium or retrospectively rated
18854 premium due the insurer:
18855 (i) directly to the receiver; or
18856 (ii) to an agent that pays or is obligated to pay the receiver on behalf of the insured.
18857 (b) (i) Premium on surety business is considered earned at inception if no policy term
18858 can be determined.
18859 (ii) All premium other than that described in Subsection (1)(b)(i) is considered earned
18860 and is prorated equally over the determined policy term, regardless of any provision in the
18861 bond, guaranty, contract, or other agreement.
18862 (2) (a) A person, other than the insured, responsible for the remittance of a premium,
18863 shall turn over to the receiver any unpaid premium due and owing as shown on the records of
18864 the insurer for the full policy term due the insurer at the time of the entry of the receivership
18865 order:
18866 (i) including any amount representing commissions; and
18867 (ii) whether earned or unearned based on the termination of coverage under Sections
18868 31A-27a-402 and 31A-27a-403.
18869 (b) The unpaid premium due the receiver from any person other than the insured
18870 excludes any premium not collected from the insured and not earned based on the termination
18871 of coverage under Sections 31A-27a-402 and 31A-27a-403.
18872 (3) (a) A person, other than the insured, responsible for the remittance of a premium,
18873 shall turn over to the receiver any unearned commission of that person based on the termination
18874 of coverage under Sections 31A-27a-402 and 31A-27a-403.
18875 (b) A credit, setoff, or both may not be allowed to an agent, broker, premium finance

18876 company, or any other person for an:
18877 (i) amount advanced to the insurer by the person on behalf of, but in the absence of a
18878 payment by, the insured; or
18879 (ii) other amount paid by the person to any other person after the day on which the
18880 order of receivership is entered.
18881 (4) Regardless of any provision to the contrary in an agency contract or other
18882 agreement, a person that collects premium or finances premium under a premium finance
18883 contract, that is due the insurer in receivership is considered to:
18884 (a) hold that premium in trust as a fiduciary for the benefit of the insurer; and
18885 (b) have availed itself of the laws of this state.
18886 (5) (a) A premium finance company is obligated to pay an amount due the insurer from
18887 a premium finance contract, whether the premium is earned or unearned.
18888 (b) The receiver may collect an unpaid financed premium directly from:
18889 (i) the premium finance company by taking an assignment of the underlying premium
18890 finance contract; or
18891 (ii) the insured that is a party to the premium finance contract.
18892 (6) Upon satisfactory evidence of a violation of this section by a person other than an
18893 insured, the commissioner may pursue one or more of the following courses of action:
18894 (a) suspend, revoke, or refuse to renew the license of an offending party;
18895 (b) impose a penalty of not more than $1,000 for each act in violation of this section by
18896 a party; and
18897 (c) impose any other sanction or penalty allowed for by law.
18898 (7) (a) Before the commissioner may take an action set forth in Subsection (6), written
18899 notice shall be given to the person accused of violating the law:
18900 (i) stating specifically the nature of the alleged violation; and
18901 (ii) fixing a time and place, at least ten days after the day on which the notice is sent,
18902 when a hearing on the matter is to be held.
18903 (b) After a hearing, or upon failure of the accused to appear at a hearing, the
18904 commissioner, if a violation is found, shall impose the penalties under Subsection (6) that the
18905 commissioner considers advisable.
18906 (c) If the commissioner takes action under this Subsection (7), the party aggrieved may

18907 appeal from that action as provided in [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
18908 Administrative Procedures Act.
18909 Section 391. Section **31A-27a-515** is amended to read:
18910 **31A-27a-515. Commutation and release agreements.**
18911 (1) For purposes of this section, "casualty claims" means the insurer's aggregate claims
18912 arising out of insurance contracts in the following lines:
18913 (a) farm owner multiperil;
18914 (b) homeowner multiperil;
18915 (c) commercial multiperil;
18916 (d) medical malpractice;
18917 (e) workers' compensation;
18918 (f) other liability;
18919 (g) products liability;
18920 (h) auto liability;
18921 (i) aircraft, all peril; and
18922 (j) international, for lines listed in Subsections (1)(a) through (i).
18923 (2) (a) Notwithstanding Section 31A-27a-512, the liquidator and a reinsurer may
18924 negotiate a voluntary commutation and release of all obligations arising from a reinsurance
18925 agreement in which the insurer is the ceding party.
18926 (b) A commutation and release agreement voluntarily entered into by the parties shall
18927 be commercially reasonable, actuarially sound, and in the best interests of the creditors of the
18928 insurer.
18929 (c) (i) An agreement subject to this Subsection (2) that has a gross consideration in
18930 excess of $250,000 shall be submitted pursuant to Section 31A-27a-107 to the receivership
18931 court for approval.
18932 (ii) An agreement described in this Subsection (2)(c) shall be approved by the
18933 receivership court if it meets the standards described in this Subsection (2).
18934 (3) Without derogating from Section 31A-27a-512, if the liquidator is unable to
18935 negotiate a voluntary commutation with a reinsurer with respect to a reinsurance agreement
18936 between the insurer and that reinsurer, the liquidator may, in addition to any other remedy
18937 available under applicable law, apply to the receivership court, with notice to the reinsurer, for

18938 an order requiring that the parties submit commutation proposals with respect to the
18939 reinsurance agreement to a panel of three arbitrators:
18940 (a) at any time after 75% of the actuarially estimated ultimate incurred liability for all
18941 of the casualty claims against the liquidation estate is reached by allowance of claims in the
18942 liquidation estate pursuant to Sections 31A-27a-603 and 31A-27a-605, calculated:
18943 (i) as of the day on which the order of liquidation is entered by or at the instance of the
18944 liquidator; and
18945 (ii) for purposes of this Subsection (3), not performed during the five-year period
18946 subsequent to the day on which the order of liquidation is entered; or
18947 (b) at any time in regard to a reinsurer if that reinsurer has a total adjusted capital that
18948 is less than 250% of its authorized control level RBC as defined in Section 31A-17-601.
18949 (4) Venue for the arbitration is within the district of the receivership court's jurisdiction
18950 or at another location agreed to by the parties.
18951 (5) (a) If the liquidator determines that commutation would be in the best interests of
18952 the creditors of the liquidation estate, the liquidator may petition the receivership court to order
18953 arbitration.
18954 (b) If the liquidator petitions the receivership court under Subsection (5)(a), the
18955 receivership court shall require that the liquidator and the reinsurer each appoint an arbitrator
18956 within 30 days after the day on which the order for arbitration is entered.
18957 (c) If either party fails to appoint an arbitrator within the 30-day period, the other party
18958 may appoint both arbitrators and the appointments are binding on the parties.
18959 (d) The two arbitrators shall be active or retired executive officers of insurance or
18960 reinsurance companies, not under the control of or affiliated with the insurer or the reinsurer.
18961 (e) (i) Within 30 days after the day on which both arbitrators have been appointed, the
18962 two arbitrators shall agree to the appointment of a third independent, impartial, disinterested
18963 arbitrator.
18964 (ii) If agreement to the disinterested arbitrator is not reached within the 30-day period,
18965 the third arbitrator shall be appointed by the receivership court.
18966 (f) The disinterested arbitrator shall be a person who:
18967 (i) is or, if retired, has been, an executive officer of a United States domiciled
18968 insurance or reinsurance company that is not under the control of or affiliated with either of the

18969 parties; and
18970 (ii) has at least 15 years experience in the reinsurance industry.
18971 (6) (a) The arbitration panel may choose to retain as an expert to assist the panel in its
18972 determinations, a retired, disinterested executive officer of a United States domiciled insurance
18973 or reinsurance company having at least 15 years loss reserving actuarial experience.
18974 (b) If the arbitration panel is unable to unanimously agree on the identity of the expert
18975 within 14 days of the day on which the disinterested arbitrator is appointed, the expert shall be:
18976 (i) designated by the commissioner:
18977 (A) by rule made in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
18978 Administrative Rulemaking Act; and
18979 (B) on the basis of recommendations made by a nationally recognized society of
18980 actuaries; and
18981 (ii) a disinterested person that has knowledge, experience, and training applicable to
18982 the line of insurance that is the subject of the arbitration.
18983 (c) The expert:
18984 (i) may not vote in the proceeding; and
18985 (ii) shall issue a written report and recommendations to the arbitration panel within 60
18986 days after the day on which the arbitration panel receives the commutation proposals submitted
18987 by the parties pursuant to Subsection (7), which report shall:
18988 (A) be included as part of the arbitration record; and
18989 (B) accompany the award issued by the arbitration panel pursuant to Subsection (8).
18990 (d) The cost of the expert is to be paid equally by the parties.
18991 (7) Within 90 days after the day on which the disinterested arbitrator is appointed
18992 under Subsection (5), each party shall submit to the arbitration panel:
18993 (a) the party's commutation proposals; and
18994 (b) other documents and information relevant to the determination of the parties' rights
18995 and obligations under the reinsurance agreement to be commuted, including:
18996 (i) a written review of any disputed paid claim balances;
18997 (ii) any open claim files and related case reserves at net present value; and
18998 (iii) any actuarial estimates with the basis of computation of any other reserves and any
18999 incurred-but-not-reported losses at net present value.

19000 (8) (a) Within 90 days after the day on which the parties submit the information
19001 required by Subsection (7), the arbitration panel:
19002 (i) shall issue an award, determined by a majority of the arbitration panel, specifying
19003 the terms of a commercially reasonable and actuarially sound commutation agreement between
19004 the parties; or
19005 (ii) may issue an award declining commutation between the parties for a period not to
19006 exceed two years if a majority of the arbitration panel determines that it is unable to derive a
19007 commercially reasonable and actuarially sound commutation on the basis of:
19008 (A) the submissions of the parties; and
19009 (B) if applicable, the report and recommendation of the expert retained in accordance
19010 with Subsection (6).
19011 (b) Following the expiration of the two-year period described in Subsection (8)(a), the
19012 liquidator may again invoke arbitration in accordance with Subsection (2), in which event
19013 Subsections (2) through (9) apply to the renewed proceeding, except that the arbitration panel
19014 is obliged to issue an award under Subsection (8)(a).
19015 (9) Once an award is issued, the liquidator shall promptly submit the award to the
19016 receivership court for confirmation.
19017 (10) (a) Within 30 days of the day on which the receivership court confirms the award,
19018 the reinsurer shall give notice to the receiver that the reinsurer:
19019 (i) will commute the reinsurer's liabilities to the insurer for the amount of the award in
19020 return for a full and complete release of all liabilities between the parties, whether past, present,
19021 or future; or
19022 (ii) will not commute the reinsurer's liabilities to the insurer.
19023 (b) If the reinsurer's liabilities are not commuted under Subsection (10)(a), the
19024 reinsurer shall:
19025 (i) establish and maintain in accordance with Section 31A-27a-516 a reinsurance
19026 recoverable trust in the amount of 102% of the award; and
19027 (ii) pay the costs and fees associated with establishing and maintaining the trust
19028 established under this Subsection (10)(b).
19029 (11) (a) If the reinsurer notifies the liquidator that it will commute the reinsurer's
19030 liabilities pursuant to Subsection (10)(a)(i), the liquidator has 30 days from the day on which

19031 the reinsurer notifies the liquidator to:
19032 (i) tender to the reinsurer a proposed commutation and release agreement:
19033 (A) providing for a full and complete release of all liabilities between the parties,
19034 whether past, present, or future;
19035 (B) that requires that the reinsurer make payment of the commutation amount within
19036 14 days from the day on which the agreement is consummated; or
19037 (ii) reject the commutation in writing, subject to receivership court approval.
19038 (b) If the liquidator rejects the commutation subject to approval of the receivership
19039 court in accordance with Subsection (11)(a)(ii), the reinsurer shall establish and maintain a
19040 reinsurance recoverable trust in accordance with Section 31A-27a-516.
19041 (c) The liquidator and the reinsurer shall share equally in the costs and fees associated
19042 with establishing and maintaining the trust established under Subsection (11)(b).
19043 (12) Except for the period provided in Subsection (8)(b), the time periods established
19044 in Subsections (6), (7), (8), (10), and (11) may be extended:
19045 (a) upon the consent of the parties; or
19046 (b) by order of the receivership court, for good cause shown.
19047 (13) Subject to Subsection (14), this section may not be construed to supersede or
19048 impair any provision in a reinsurance agreement that establishes a commercially reasonable and
19049 actuarially sound method for valuing and commuting the obligations of the parties to the
19050 reinsurance agreement by providing in the contract the specific methodology to be used for
19051 valuing and commuting the obligations between the parties.
19052 (14) (a) A commutation provision in a reinsurance agreement is not effective if it is
19053 demonstrated to the receivership court that the provision is entered into in contemplation of the
19054 insolvency of one or more of the parties.
19055 (b) A contractual commutation provision entered into within one year of the day on
19056 which the liquidation order of the insurer is entered is rebuttably presumed to have been
19057 entered into in contemplation of insolvency.
19058 Section 392. Section **31A-27a-804** is amended to read:
19059 **31A-27a-804. Disposition of records during and after termination of liquidation.**
19060 (1) Whenever it appears to the receiver that records of the insurer in receivership are no
19061 longer useful, the receiver may recommend to the receivership court, and the receivership court

19062 shall direct what records shall be destroyed.
19063 (2) (a) If the receiver determines that records should be maintained after the closing of
19064 the delinquency proceeding, the receiver may reserve property from the receivership estate for
19065 the maintenance of the records.
19066 (b) Any amounts retained under this Subsection (2) are an administrative expense of
19067 the estate under Subsection 31A-27a-701(2)(a).
19068 (c) Any records retained pursuant to this Subsection (2) shall be transferred to the
19069 custody of the commissioner, and the commissioner may retain or dispose of the records as
19070 appropriate, at the commissioner's discretion.
19071 (d) Records of a delinquent insurer that are transferred to the commissioner:
19072 (i) may not be considered a record of the department for any purpose; and
19073 (ii) are not subject to [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records
19074 Access and Management Act.
19075 Section 393. Section **31A-29-106** is amended to read:
19076 **31A-29-106. Powers of board.**
19077 (1) The board shall have the general powers and authority granted under the laws of
19078 this state to insurance companies licensed to transact health care insurance business. In
19079 addition, the board shall have the specific authority to:
19080 (a) enter into contracts to carry out the provisions and purposes of this chapter,
19081 including, with the approval of the commissioner, contracts with:
19082 (i) similar pools of other states for the joint performance of common administrative
19083 functions; or
19084 (ii) persons or other organizations for the performance of administrative functions;
19085 (b) sue or be sued, including taking such legal action necessary to avoid the payment of
19086 improper claims against the pool or the coverage provided through the pool;
19087 (c) establish appropriate rates, rate schedules, rate adjustments, expense allowances,
19088 agents' referral fees, claim reserve formulas, and any other actuarial function appropriate to the
19089 operation of the pool;
19090 (d) issue policies of insurance in accordance with the requirements of this chapter;
19091 (e) retain an executive director and appropriate legal, actuarial, and other personnel as
19092 necessary to provide technical assistance in the operations of the pool;

19093 (f) establish rules, conditions, and procedures for reinsuring risks under this chapter;
19094 (g) cause the pool to have an annual audit of its operations by the state auditor;
19095 (h) coordinate with the Department of Health in seeking to obtain from the Centers for
19096 Medicare and Medicaid Services, or other appropriate office or agency of government, all
19097 appropriate waivers, authority, and permission needed to coordinate the coverage available
19098 from the pool with coverage available under Medicaid, either before or after Medicaid
19099 coverage, or as a conversion option upon completion of Medicaid eligibility, without the
19100 necessity for requalification by the enrollee;
19101 (i) provide for and employ cost containment measures and requirements including
19102 preadmission certification, concurrent inpatient review, and individual case management for
19103 the purpose of making the pool more cost-effective;
19104 (j) offer pool coverage through contracts with health maintenance organizations,
19105 preferred provider organizations, and other managed care systems that will manage costs while
19106 maintaining quality care;
19107 (k) establish annual limits on benefits payable under the pool to or on behalf of any
19108 enrollee;
19109 (l) exclude from coverage under the pool specific benefits, medical conditions, and
19110 procedures for the purpose of protecting the financial viability of the pool;
19111 (m) administer the Pool Fund;
19112 (n) make rules in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
19113 Administrative Rulemaking Act, to implement this chapter; and
19114 (o) adopt, trademark, and copyright a trade name for the pool for use in marketing and
19115 publicizing the pool and its products.
19116 (2) (a) The board shall prepare and submit an annual report to the Legislature which
19117 shall include:
19118 (i) the net premiums anticipated;
19119 (ii) actuarial projections of payments required of the pool;
19120 (iii) the expenses of administration; and
19121 (iv) the anticipated reserves or losses of the pool.
19122 (b) The budget for operation of the pool is subject to the approval of the board.
19123 (c) The administrative budget of the board and the commissioner under this chapter

19124 shall comply with the requirements of [~~Title 63, Chapter 38~~] Title 63J, Chapter 1, Budgetary
19125 Procedures Act, and is subject to review and approval by the Legislature.
19126 (3) (a) The board shall on or before September 1, 2004, require the plan administrator
19127 or an independent actuarial consultant retained by the plan administrator to redetermine the
19128 reasonable equivalent of the criteria for uninsurability required under Subsection
19129 31A-30-106(1)(j) that is used by the board to determine eligibility for coverage in the pool.
19130 (b) The board shall redetermine the criteria established in Subsection (3)(a) at least
19131 every five years thereafter.
19132 Section 394. Section **31A-29-110** is amended to read:
19133 **31A-29-110. Pool administrator -- Selection -- Powers.**
19134 (1) The board shall select a pool administrator in accordance with [~~Title 63, Chapter~~
19135 ~~56~~] Title 63G, Chapter 6, Utah Procurement Code. The board shall evaluate bids based on
19136 criteria established by the board, which shall include:
19137 (a) ability to manage medical expenses;
19138 (b) proven ability to handle accident and health insurance;
19139 (c) efficiency of claim paying procedures;
19140 (d) marketing and underwriting;
19141 (e) proven ability for managed care and quality assurance;
19142 (f) provider contracting and discounts;
19143 (g) pharmacy benefit management;
19144 (h) an estimate of total charges for administering the pool; and
19145 (i) ability to administer the pool in a cost-efficient manner.
19146 (2) A pool administrator may be:
19147 (a) a health insurer;
19148 (b) a health maintenance organization;
19149 (c) a third-party administrator; or
19150 (d) any person or entity which has demonstrated ability to meet the criteria in
19151 Subsection (1).
19152 (3) (a) The pool administrator shall serve for a period of three years, with two one-year
19153 extension options, subject to the terms, conditions, and limitations of the contract between the
19154 board and the administrator.

19155 (b) At least one year prior to the expiration of the contract between the board and the
19156 pool administrator, the board shall invite all interested parties, including the current pool
19157 administrator, to submit bids to serve as the pool administrator.
19158 (c) Selection of the pool administrator for a succeeding period shall be made at least
19159 six months prior to the expiration of the period of service under Subsection (3)(a).
19160 (4) The pool administrator is responsible for all operational functions of the pool and
19161 shall:
19162 (a) have access to all nonpatient specific experience data, statistics, treatment criteria,
19163 and guidelines compiled or adopted by the Medicaid program, the Public Employees Health
19164 Plan, the Department of Health, or the Insurance Department, and which are not otherwise
19165 declared by statute to be confidential;
19166 (b) perform all marketing, eligibility, enrollment, member agreements, and
19167 administrative claim payment functions relating to the pool;
19168 (c) establish, administer, and operate a monthly premium billing procedure for
19169 collection of premiums from enrollees;
19170 (d) perform all necessary functions to assure timely payment of benefits to enrollees,
19171 including:
19172 (i) making information available relating to the proper manner of submitting a claim
19173 for benefits to the pool administrator and distributing forms upon which submission shall be
19174 made; and
19175 (ii) evaluating the eligibility of each claim for payment by the pool;
19176 (e) submit regular reports to the board regarding the operation of the pool, the
19177 frequency, content, and form of which reports shall be determined by the board;
19178 (f) following the close of each calendar year, determine net written and earned
19179 premiums, the expense of administration, and the paid and incurred losses for the year and
19180 submit a report of this information to the board, the commissioner, and the Division of Finance
19181 on a form prescribed by the commissioner; and
19182 (g) be paid as provided in the plan of operation for expenses incurred in the
19183 performance of the pool administrator's services.
19184 Section 395. Section **31A-29-111** is amended to read:
19185 **31A-29-111. Eligibility -- Limitations.**

19186 (1) (a) Except as provided in Subsection (1)(b), an individual who is not HIPAA
19187 eligible is eligible for pool coverage if the individual:
19188 (i) pays the established premium;
19189 (ii) is a resident of this state; and
19190 (iii) meets the health underwriting criteria under Subsection (5)(a).
19191 (b) Notwithstanding Subsection (1)(a), an individual who is not HIPAA eligible is not
19192 eligible for pool coverage if one or more of the following conditions apply:
19193 (i) the individual is eligible for health care benefits under Medicaid or Medicare,
19194 except as provided in Section 31A-29-112;
19195 (ii) the individual has terminated coverage in the pool, unless:
19196 (A) 12 months have elapsed since the termination date; or
19197 (B) the individual demonstrates that creditable coverage has been involuntarily
19198 terminated for any reason other than nonpayment of premium;
19199 (iii) the pool has paid the maximum lifetime benefit to or on behalf of the individual;
19200 (iv) the individual is an inmate of a public institution;
19201 (v) the individual is eligible for a public health plan, as defined in federal regulations
19202 adopted pursuant to 42 U.S.C. 300gg;
19203 (vi) the individual's health condition does not meet the criteria established under
19204 Subsection (5);
19205 (vii) the individual is eligible for coverage under an employer group that offers health
19206 insurance or a self-insurance arrangement to its eligible employees, dependents, or members as:
19207 (A) an eligible employee;
19208 (B) a dependent of an eligible employee; or
19209 (C) a member;
19210 (viii) the individual:
19211 (A) has coverage substantially equivalent to a pool policy, as established by the board
19212 in administrative rule, either as an insured or a covered dependent; or
19213 (B) would be eligible for the substantially equivalent coverage if the individual elected
19214 to obtain the coverage;
19215 (ix) at the time of application, the individual has not resided in Utah for at least 12
19216 consecutive months preceding the date of application; or

19217 (x) the individual's employer pays any part of the individual's health insurance
19218 premium, either as an insured or a dependent, for pool coverage.
19219 (2) (a) Except as provided in Subsection (2)(b), an individual who is HIPAA eligible is
19220 eligible for pool coverage if the individual:
19221 (i) pays the established premium; and
19222 (ii) is a resident of this state.
19223 (b) Notwithstanding Subsection (2)(a), a HIPAA eligible individual is not eligible for
19224 pool coverage if one or more of the following conditions apply:
19225 (i) the individual is eligible for health care benefits under Medicaid or Medicare,
19226 except as provided in Section 31A-29-112;
19227 (ii) the individual is eligible for a public health plan, as defined in federal regulations
19228 adopted pursuant to 42 U.S.C. 300gg;
19229 (iii) the individual is covered under any other health insurance;
19230 (iv) the individual is eligible for coverage under an employer group that offers health
19231 insurance or self-insurance arrangements to its eligible employees, dependents, or members as:
19232 (A) an eligible employee;
19233 (B) a dependent of an eligible employee; or
19234 (C) a member;
19235 (v) the pool has paid the maximum lifetime benefit to or on behalf of the individual;
19236 (vi) the individual is an inmate of a public institution; or
19237 (vii) the individual's employer pays any part of the individual's health insurance
19238 premium, either as an insured or a dependent, for pool coverage.
19239 (3) (a) Notwithstanding Subsection (1)(b)(ix), if otherwise eligible under Subsection
19240 (1)(a), an individual whose health insurance coverage from a state high risk pool with similar
19241 coverage is terminated because of nonresidency in another state is eligible for coverage under
19242 the pool subject to the conditions of Subsections (1)(b)(i) through (viii).
19243 (b) Coverage sought under Subsection (3)(a) shall be applied for within 63 days after
19244 the termination date of the previous high risk pool coverage.
19245 (c) The effective date of this state's pool coverage shall be the date of termination of
19246 the previous high risk pool coverage.
19247 (d) The waiting period of an individual with a preexisting condition applying for

19248 coverage under this chapter shall be waived:
19249 (i) to the extent to which the waiting period was satisfied under a similar plan from
19250 another state; and
19251 (ii) if the other state's benefit limitation was not reached.
19252 (4) (a) If an eligible individual applies for pool coverage within 30 days of being
19253 denied coverage by an individual carrier, the effective date for pool coverage shall be no later
19254 than the first day of the month following the date of submission of the completed insurance
19255 application to the carrier.
19256 (b) Notwithstanding Subsection (4)(a), for individuals eligible for coverage under
19257 Subsection (3), the effective date shall be the date of termination of the previous high risk pool
19258 coverage.
19259 (5) (a) The board shall establish and adjust, as necessary, health underwriting criteria
19260 based on:
19261 (i) health condition; and
19262 (ii) expected claims so that the expected claims are anticipated to remain within
19263 available funding.
19264 (b) The board, with approval of the commissioner, may contract with one or more
19265 providers under [~~Title 63, Chapter 56~~] Title 63G, Chapter 6, Utah Procurement Code, to
19266 develop underwriting criteria under Subsection (5)(a).
19267 (c) If an individual is denied coverage by the pool under the criteria established in
19268 Subsection (5)(a), the pool shall issue a certificate of insurability to the individual for coverage
19269 under Subsection 31A-30-108(3).
19270 Section 396. Section **31A-29-116** is amended to read:
19271 **31A-29-116. Notice of availability.**
19272 The commissioner shall establish rules in accordance with [~~Title 63, Chapter 46a~~] Title
19273 63G, Chapter 3, Utah Administrative Rulemaking Act, governing notice of availability which
19274 is to be given by insurers to potential enrollees in the pool.
19275 Section 397. Section **31A-30-106** is amended to read:
19276 **31A-30-106. Premiums -- Rating restrictions -- Disclosure.**
19277 (1) Premium rates for health benefit plans under this chapter are subject to the
19278 provisions of this Subsection (1).

19279 (a) The index rate for a rating period for any class of business may not exceed the
19280 index rate for any other class of business by more than 20%.
19281 (b) (i) For a class of business, the premium rates charged during a rating period to
19282 covered insureds with similar case characteristics for the same or similar coverage, or the rates
19283 that could be charged to such employers under the rating system for that class of business, may
19284 not vary from the index rate by more than 30% of the index rate, except as provided in Section
19285 31A-22-625.
19286 (ii) A covered carrier that offers individual and small employer health benefit plans
19287 may use the small employer index rates to establish the rate limitations for individual policies,
19288 even if some individual policies are rated below the small employer base rate.
19289 (c) The percentage increase in the premium rate charged to a covered insured for a new
19290 rating period, adjusted pro rata for rating periods less than a year, may not exceed the sum of
19291 the following:
19292 (i) the percentage change in the new business premium rate measured from the first day
19293 of the prior rating period to the first day of the new rating period;
19294 (ii) any adjustment, not to exceed 15% annually and adjusted pro rata for rating periods
19295 of less than one year, due to the claim experience, health status, or duration of coverage of the
19296 covered individuals as determined from the covered carrier's rate manual for the class of
19297 business, except as provided in Section 31A-22-625; and
19298 (iii) any adjustment due to change in coverage or change in the case characteristics of
19299 the covered insured as determined from the covered carrier's rate manual for the class of
19300 business.
19301 (d) (i) Adjustments in rates for claims experience, health status, and duration from
19302 issue may not be charged to individual employees or dependents.
19303 (ii) Any adjustment described in Subsection (1)(d)(i) shall be applied uniformly to the
19304 rates charged for all employees and dependents of the small employer.
19305 (e) A covered carrier may use industry as a case characteristic in establishing premium
19306 rates, provided that the highest rate factor associated with any industry classification does not
19307 exceed the lowest rate factor associated with any industry classification by more than 15%.
19308 (f) (i) Covered carriers shall apply rating factors, including case characteristics,
19309 consistently with respect to all covered insureds in a class of business.

19310 (ii) Rating factors shall produce premiums for identical groups that:
19311 (A) differ only by the amounts attributable to plan design; and
19312 (B) do not reflect differences due to the nature of the groups assumed to select
19313 particular health benefit products.
19314 (iii) A covered carrier shall treat all health benefit plans issued or renewed in the same
19315 calendar month as having the same rating period.
19316 (g) For the purposes of this Subsection (1), a health benefit plan that uses a restricted
19317 network provision may not be considered similar coverage to a health benefit plan that does not
19318 use such a network, provided that use of the restricted network provision results in substantial
19319 difference in claims costs.
19320 (h) The covered carrier may not, without prior approval of the commissioner, use case
19321 characteristics other than:
19322 (i) age;
19323 (ii) gender;
19324 (iii) industry;
19325 (iv) geographic area;
19326 (v) family composition; and
19327 (vi) group size.
19328 (i) (i) The commissioner may establish rules in accordance with [~~Title 63, Chapter 46a~~]
19329 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:
19330 (A) implement this chapter; and
19331 (B) assure that rating practices used by covered carriers are consistent with the
19332 purposes of this chapter.
19333 (ii) The rules described in Subsection (1)(i)(i) may include rules that:
19334 (A) assure that differences in rates charged for health benefit products by covered
19335 carriers are reasonable and reflect objective differences in plan design, not including
19336 differences due to the nature of the groups assumed to select particular health benefit products;
19337 (B) prescribe the manner in which case characteristics may be used by covered carriers;
19338 (C) implement the individual enrollment cap under Section 31A-30-110, including
19339 specifying:
19340 (I) the contents for certification;

19341 (II) auditing standards;
19342 (III) underwriting criteria for uninsurable classification; and
19343 (IV) limitations on high risk enrollees under Section 31A-30-111; and
19344 (D) establish the individual enrollment cap under Subsection 31A-30-110(1).
19345 (j) Before implementing regulations for underwriting criteria for uninsurable
19346 classification, the commissioner shall contract with an independent consulting organization to
19347 develop industry-wide underwriting criteria for uninsurability based on an individual's expected
19348 claims under open enrollment coverage exceeding 200% of that expected for a standard
19349 insurable individual with the same case characteristics.
19350 (k) The commissioner shall revise rules issued for Sections 31A-22-602 and
19351 31A-22-605 regarding individual accident and health policy rates to allow rating in accordance
19352 with this section.
19353 (2) For purposes of Subsection (1)(c)(i), if a health benefit product is a health benefit
19354 product into which the covered carrier is no longer enrolling new covered insureds, the covered
19355 carrier shall use the percentage change in the base premium rate, provided that the change does
19356 not exceed, on a percentage basis, the change in the new business premium rate for the most
19357 similar health benefit product into which the covered carrier is actively enrolling new covered
19358 insureds.
19359 (3) (a) A covered carrier may not transfer a covered insured involuntarily into or out of
19360 a class of business.
19361 (b) A covered carrier may not offer to transfer a covered insured into or out of a class
19362 of business unless the offer is made to transfer all covered insureds in the class of business
19363 without regard:
19364 (i) to case characteristics;
19365 (ii) claim experience;
19366 (iii) health status; or
19367 (iv) duration of coverage since issue.
19368 (4) (a) Each covered carrier shall maintain at the covered carrier's principal place of
19369 business a complete and detailed description of its rating practices and renewal underwriting
19370 practices, including information and documentation that demonstrate that the covered carrier's
19371 rating methods and practices are:

19372 (i) based upon commonly accepted actuarial assumptions; and
19373 (ii) in accordance with sound actuarial principles.
19374 (b) (i) Each covered carrier shall file with the commissioner, on or before April 1 of
19375 each year, in a form, manner, and containing such information as prescribed by the
19376 commissioner, an actuarial certification certifying that:
19377 (A) the covered carrier is in compliance with this chapter; and
19378 (B) the rating methods of the covered carrier are actuarially sound.
19379 (ii) A copy of the certification required by Subsection (4)(b)(i) shall be retained by the
19380 covered carrier at the covered carrier's principal place of business.
19381 (c) A covered carrier shall make the information and documentation described in this
19382 Subsection (4) available to the commissioner upon request.
19383 (d) Records submitted to the commissioner under this section shall be maintained by
19384 the commissioner as protected records under [~~Title 63, Chapter 2~~] Title 63G, Chapter 2,
19385 Government Records Access and Management Act.
19386 Section 398. Section **31A-30-106.7** is amended to read:
19387 **31A-30-106.7. Surcharge for groups changing carriers.**
19388 (1) (a) Except as provided in Subsection (1)(b), if prior notice is given, a covered
19389 carrier may impose upon a small group that changes coverage to that carrier from another
19390 carrier a one-time surcharge of up to 25% of the annualized premium that the carrier could
19391 otherwise charge under Section 31A-30-106.
19392 (b) A covered carrier may not impose the surcharge described in Subsection (1)(a) if:
19393 (i) the change in carriers occurs on the anniversary of the plan year, as defined in
19394 Section 31A-1-301;
19395 (ii) the previous coverage was terminated under Subsection 31A-30-107(3)(e); or
19396 (iii) employees from an existing group form a new business.
19397 (2) A covered carrier may not impose the surcharge described in Subsection (1) if the
19398 offer to cover the group occurs at a time other than the anniversary of the plan year because:
19399 (a) (i) the application for coverage is made prior to the anniversary date in accordance
19400 with the covered carrier's published policies; and
19401 (ii) the offer to cover the group is not issued until after the anniversary date; or
19402 (b) (i) the application for coverage is made prior to the anniversary date in accordance

19403 with the covered carrier's published policies; and
19404 (ii) additional underwriting or rating information requested by the covered carrier is not
19405 received until after the anniversary date.
19406 (3) If a covered carrier chooses to apply a surcharge under Subsection (1), the
19407 application of the surcharge and the criteria for incurring or avoiding the surcharge shall be
19408 clearly stated in the:
19409 (a) written application materials provided to the applicant at the time of application;
19410 and
19411 (b) written producer guidelines.
19412 (4) The commissioner shall adopt rules in accordance with [~~Title 63, Chapter 46a~~] Title
19413 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure compliance with this section.
19414 Section 399. Section **31A-31-104** is amended to read:
19415 **31A-31-104. Disclosure of information.**
19416 (1) (a) Subject to Subsection (2), upon written request by an insurer to an authorized
19417 agency, the authorized agency may release to the insurer information or evidence that is
19418 relevant to any suspected insurance fraud.
19419 (b) Upon written request by an authorized agency to an insurer, the insurer or an agent
19420 authorized by the insurer to act on the insurer's behalf shall release to the authorized agency
19421 information or evidence that is relevant to any suspected insurance fraud.
19422 (2) (a) Any information or evidence furnished to an authorized agency under this
19423 section may be classified as a protected record in accordance with Subsection [~~63-2-304~~]
19424 63G-2-305(9).
19425 (b) Any information or evidence furnished to an insurer under this section is not
19426 subject to discovery in a civil proceeding unless, after reasonable notice to any insurer, agent,
19427 or any authorized agency that has an interest in the information and subsequent hearing, a court
19428 determines that the public interest and any ongoing criminal investigation will not be
19429 jeopardized by the disclosure.
19430 (c) An insurer shall report to the department agency terminations based upon a
19431 violation of this chapter.
19432 Section 400. Section **31A-31-106** is amended to read:
19433 **31A-31-106. Disciplinary action.**

19434 (1) If, after giving notice and a hearing conducted pursuant to [~~Title 63, Chapter 46b~~]
19435 Title 63G, Chapter 4, Administrative Procedures Act, the commissioner finds by a
19436 preponderance of the evidence that a person licensed under Title 31A has committed a
19437 fraudulent insurance act, the commissioner may suspend or revoke the license issued under
19438 Title 31A.
19439 (2) If the appropriate licensing authority finds by a preponderance of the evidence that
19440 a service provider violated Section 31A-31-103, the service provider is subject to revocation or
19441 suspension of the service provider's license.
19442 (3) The commissioner may notify the appropriate licensing authority of conduct by a
19443 service provider that the commissioner believes may constitute a fraudulent insurance act.
19444 Section 401. Section **31A-31-108** is amended to read:
19445 **31A-31-108. Assessment of insurers.**
19446 (1) For purposes of this section:
19447 (a) The commissioner shall by rule made in accordance with [~~Title 63, Chapter 46a~~]
19448 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, define:
19449 (i) "annuity consideration";
19450 (ii) "membership fees";
19451 (iii) "other fees";
19452 (iv) "deposit-type contract funds"; and
19453 (v) "other considerations in Utah."
19454 (b) "Utah consideration" means:
19455 (i) the total premiums written for Utah risks;
19456 (ii) annuity consideration;
19457 (iii) membership fees collected by the insurer;
19458 (iv) other fees collected by the insurer;
19459 (v) deposit-type contract funds; and
19460 (vi) other considerations in Utah.
19461 (c) "Utah risks" means insurance coverage on the lives, health, or against the liability
19462 of persons residing in Utah, or on property located in Utah, other than property temporarily in
19463 transit through Utah.
19464 (2) To implement this chapter, Section 34A-2-110, and Section 76-6-521, the

19465 commissioner may assess each admitted insurer and each nonadmitted insurer transacting
19466 insurance under Chapter 15, Parts 1 and 2, an annual fee as follows:
19467 (a) $150 for an insurer if the sum of the Utah consideration for that insurer is less than
19468 or equal to $1,000,000;
19469 (b) $400 for an insurer if the sum of the Utah consideration for that insurer is greater
19470 than $1,000,000 but is less than or equal to $2,500,000;
19471 (c) $700 for an insurer if the sum of the Utah consideration for that insurer is greater
19472 than $2,500,000 but is less than or equal to $5,000,000;
19473 (d) $1,350 for an insurer if the sum of the Utah consideration for that insurer is greater
19474 than $5,000,000 but less than or equal to $10,000,000;
19475 (e) $5,150 for an insurer if the sum of the Utah consideration for that insurer is greater
19476 than $10,000,000 but less than $50,000,000; and
19477 (f) $12,350 for an insurer if the sum of the Utah consideration for that insurer equals or
19478 exceeds $50,000,000.
19479 (3) (a) All money received by the state under this section shall be deposited in the
19480 General Fund as a dedicated credit of the department for the purpose of providing funds to pay
19481 for any costs and expenses incurred by the department in the administration, investigation, and
19482 enforcement of this chapter, Section 34A-2-110, and Section 76-6-521.
19483 (b) All monies received by the department to pay for the costs and expenses incurred
19484 by the department in the administration, investigation, and enforcement of this chapter, Section
19485 34A-2-110, and Section 76-6-521 shall be nonlapsing.
19486 Section 402. Section **31A-33-104** is amended to read:
19487 **31A-33-104. Workers' Compensation Fund exempted.**
19488 (1) The Workers' Compensation Fund is exempt from the provisions of:
19489 (a) Title 52, Chapter 4, Open and Public Meetings Act;
19490 (b) [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records Access and
19491 Management Act; and
19492 (c) Title 63A, Utah Administrative Services Code.
19493 (2) The board may specifically exempt the Workers' Compensation Fund from any
19494 provisions of:
19495 (a) Title 67, Chapter 19, Utah State Personnel Management Act; and

19496 (b) [~~Title 63, Chapter 56~~] Title 63G, Chapter 6, Utah Procurement Code.
19497 (3) The provisions of [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
19498 Procedures Act, do not govern the initial determination of any person's eligibility for benefits
19499 under Title 34A, Chapter 2, Workers' Compensation Act, and Title 34A, Chapter 3, Utah
19500 Occupational Disease Act.
19501 Section 403. Section **31A-33-107** is amended to read:
19502 **31A-33-107. Duties of board -- Creation of subsidiaries -- Entering into joint**
19503 **enterprises.**
19504 (1) The board shall:
19505 (a) appoint a chief executive officer to administer the Workers' Compensation Fund;
19506 (b) receive and act upon financial, management, and actuarial reports covering the
19507 operations of the Workers' Compensation Fund;
19508 (c) ensure that the Workers' Compensation Fund is administered according to law;
19509 (d) examine and approve an annual operating budget for the Workers' Compensation
19510 Fund;
19511 (e) serve as investment trustees and fiduciaries of the Injury Fund;
19512 (f) receive and act upon recommendations of the chief executive officer;
19513 (g) develop broad policy for the long-term operation of the Workers' Compensation
19514 Fund, consistent with its mission and fiduciary responsibility;
19515 (h) subject to Chapter 19a, Part 4, Workers' Compensation Rates, approve any rating
19516 plans that would modify a policyholder's premium;
19517 (i) subject to Chapter 19a, Part 4, Workers' Compensation Rates, approve the amount
19518 of deviation, if any, from standard insurance rates;
19519 (j) approve the amount of the dividends, if any, to be returned to policyholders;
19520 (k) adopt a procurement policy consistent with the provisions of [~~Title 63, Chapter 56~~]
19521 Title 63G, Chapter 6, Utah Procurement Code;
19522 (l) develop and publish an annual report to policyholders, the governor, the Legislature,
19523 and interested parties that describes the financial condition of the Injury Fund, including a
19524 statement of expenses and income and what measures were taken or will be necessary to keep
19525 the Injury Fund actuarially sound;
19526 (m) establish a fiscal year;

19527 (n) determine and establish an actuarially sound price for insurance offered by the
19528 fund;
19529 (o) establish conflict of interest requirements that govern the board, officers, and
19530 employees;
19531 (p) establish compensation and reasonable expenses to be paid to directors on the board
19532 subject to the requirements of Section 31A-33-106, so that the board may not approve
19533 compensation that exceeds the amount described in Subsection 31A-33-106(18)(a)(i)(B); and
19534 (q) perform all other acts necessary for the policymaking and oversight of the Workers'
19535 Compensation Fund.
19536 (2) Subject to board review and its responsibilities under Subsection (1)(e), the board
19537 may delegate authority to make daily investment decisions.
19538 (3) The fund may form or acquire a subsidiary or enter into a joint enterprise:
19539 (a) only if that action is approved by the board; and
19540 (b) subject to the limitations in Section 31A-33-103.5.
19541 Section 404. Section **31A-34-104** is amended to read:
19542 **31A-34-104. Alliance -- Required license.**
19543 (1) A person must be licensed as an alliance pursuant to this chapter to directly or
19544 indirectly make available or otherwise arrange for health insurance through multiple
19545 unaffiliated insurers through the use of coordinated actuarial models, coordinated underwriting,
19546 or coordinated marketing methodologies.
19547 (2) (a) A person may not hold itself out as a health insurance purchasing alliance,
19548 purchasing alliance, health insurance purchasing cooperative, purchasing cooperative, or
19549 otherwise use a similar name unless licensed by the commissioner as an alliance.
19550 (b) Notwithstanding Subsection (a), a person may hold itself out as a voluntary health
19551 insurance purchasing association without being licensed by the commissioner as provided in
19552 Section 31A-34-105.
19553 (3) To apply for licensure as an alliance, a person shall complete an application in a
19554 form designated by the commissioner and file it with the commissioner, together with the
19555 applicable filing fees determined by the commissioner under Section [~~63-38-3.2~~] 63J-1-303.
19556 Section 405. Section **31A-35-301** is amended to read:
19557 **31A-35-301. The commissioner's authority.**

19558 (1) The commissioner shall:
19559 (a) make rules as necessary for the administration of this chapter;
19560 (b) with information as provided by the board, issue or deny licensure under this
19561 chapter;
19562 (c) take action regarding a license, including suspension or revocation; and
19563 (d) maintain and publish a current list of licensed bail bond surety companies and
19564 producers.
19565 (2) The commissioner may establish fees for the issuance, renewal, and reinstatement
19566 of a bail bond surety company license in accordance with Section [~~63-38-3.2~~] 63J-1-303.
19567 Section 406. Section **31A-35-401** is amended to read:
19568 **31A-35-401. Requirement for license or certificate of authority -- Process -- Fees**
19569 **-- Limitations.**
19570 (1) (a) A person may not engage in the bail bond surety insurance business unless that
19571 person:
19572 (i) is a bail bond surety company licensed under this chapter;
19573 (ii) is a surety insurer that is granted a certificate under this section in the same manner
19574 as other insurers doing business in this state are granted certificates of authority under this title;
19575 or
19576 (iii) is a bail bond producer licensed in accordance with this section.
19577 (b) A bail bond surety company shall be licensed under this chapter as an agency.
19578 (c) A bail bond producer shall be licensed under Chapter 23a, Insurance Marketing -
19579 Licensing Producers, Consultants, and Reinsurance Intermediaries, as a limited lines producer.
19580 (2) A person applying for a bail bond surety company license under this chapter shall
19581 submit to the commissioner:
19582 (a) a completed application form as prescribed by the commissioner;
19583 (b) a fee as determined by the commissioner in accordance with Section [~~63-38-3.2~~]
19584 63J-1-303; and
19585 (c) any additional information required by rule.
19586 (3) Fees required under this section are not refundable.
19587 (4) Fees collected from a bail bond surety company shall be deposited in a restricted
19588 account created in Section 31A-35-407.

19589 (5) (a) A bail bond surety company shall be domiciled in Utah.
19590 (b) A bail bond producer shall be a resident of Utah.
19591 (c) A foreign surety insurer that is granted a certificate to issue bail bonds may only
19592 issue bail bonds through a bail bond surety company licensed under this chapter.
19593 Section 407. Section **31A-35-405** is amended to read:
19594 **31A-35-405. Issuance of license -- Denial -- Right of appeal.**
19595 (1) Upon a determination by the board that a person applying for a bail bond surety
19596 company license meets the requirements for issuance of a license under this chapter, the
19597 commissioner shall issue to that person a bail bond surety company license.
19598 (2) (a) If the commissioner denies an application for a bail bond surety company
19599 license under this chapter, the commissioner shall provide prompt written notification to the
19600 person applying for licensure:
19601 (i) stating the grounds for denial; and
19602 (ii) notifying the person applying for licensure as a bail bond company that:
19603 (A) the person is entitled to a hearing if that person wants to contest the denial; and
19604 (B) if the person wants a hearing, the person shall submit the request in writing to the
19605 commissioner within 30 days after the issuance of the denial.
19606 (b) The hearing described in Subsection (2)(a) shall be scheduled not later than 60 days
19607 after the commissioner's receipt of the request.
19608 (c) The department shall hear the appeal, and may:
19609 (i) return the case to the commissioner for reconsideration;
19610 (ii) modify the commissioner's decision; or
19611 (iii) reverse the commissioner's decision.
19612 (3) A decision under this section is subject to review under [~~Title 63, Chapter 46b~~]
19613 Title 63G, Chapter 4, Administrative Procedures Act.
19614 Section 408. Section **31A-35-406** is amended to read:
19615 **31A-35-406. Renewal and reinstatement.**
19616 (1) (a) To renew its license under this chapter, on or before the last day of the month in
19617 which the license expires a bail bond surety company shall:
19618 (i) complete and submit a renewal application to the department; and
19619 (ii) pay the department the applicable renewal fee established in accordance with

19620 Section [~~63-38-3.2~~] 63J-1-303.
19621 (b) A bail bond surety company shall renew its license under this chapter annually as
19622 established by department rule, regardless of when the license is issued.
19623 (2) A bail bond surety company may renew a bail bond surety company license not
19624 renewed under Subsection (1) within 30 days after the expiration date by:
19625 (a) submitting a renewal application required by Subsection (1); and
19626 (b) paying a late renewal fee established in accordance with Section [~~63-38-3.2~~]
19627 63J-1-303.
19628 (3) A bail bond surety company may apply for reinstatement of an expired bail bond
19629 surety company license between 31 days and six months following the expiration of the license
19630 under Subsection (1) by:
19631 (a) submitting the renewal application required by Subsection (1); and
19632 (b) paying a license reinstatement fee established in accordance with Section
19633 [~~63-38-3.2~~] 63J-1-303.
19634 (4) If a bail bond surety company license has been expired for more than six months,
19635 the person applying for reinstatement of the bail bond surety license shall:
19636 (a) submit an application form to the commissioner; and
19637 (b) pay the application fee established in accordance with Section [~~63-38-3.2~~]
19638 63J-1-303.
19639 (5) If a bail bond surety company license is suspended, the applicant may not submit an
19640 application for a bail bond surety company license until after the end of the period of
19641 suspension.
19642 (6) Fees collected under this section shall be deposited in the restricted account created
19643 in Section 31A-35-407.
19644 Section 409. Section **31A-35-502** is amended to read:
19645 **31A-35-502. Notification of violation of chapter.**
19646 If the commissioner has reason to believe a person licensed as a bail bond surety
19647 company or a bail bond producer has violated this chapter, written notice shall be sent to that
19648 person, advising the person of:
19649 (1) the alleged violation;
19650 (2) the commissioner's authority to take action against the person's license;

19651 (3) the person's right to an administrative hearing under [~~Title 63, Chapter 46b~~] Title
19652 63G, Chapter 4, Administrative Procedures Act; and
19653 (4) the period of time within which the hearing described in Subsection (3) shall be
19654 requested if the person requests a hearing.
19655 Section 410. Section **31A-36-104** is amended to read:
19656 **31A-36-104. License requirements, revocation, and denial.**
19657 (1) (a) A person may not, without first obtaining a license from the commissioner,
19658 operate in or from this state as:
19659 (i) a viatical settlement provider; or
19660 (ii) a viatical settlement producer.
19661 (b) Viatical settlements are included within the scope of the life insurance producer
19662 line of authority.
19663 (2) (a) To obtain a license as a viatical settlement provider, an applicant shall:
19664 (i) comply with Section 31A-23a-117;
19665 (ii) file an application; and
19666 (iii) pay the license fee.
19667 (b) If an applicant complies with Subsection (2)(a), the commissioner shall investigate
19668 the applicant and issue a license if the commissioner finds that the applicant is competent and
19669 trustworthy to engage in the business of providing viatical settlements by experience, training,
19670 or education.
19671 (3) In addition to the requirements in Sections 31A-23a-111, 31A-23a-112 and
19672 31A-23a-113, the commissioner may refuse to issue, suspend, revoke, or refuse to renew the
19673 license of a viatical settlement provider or viatical settlement producer if the commissioner
19674 finds that:
19675 (a) a viatical settlement provider demonstrates a pattern of unreasonable payments to
19676 viators;
19677 (b) the applicant, the licensee, an officer, partner, or member, or key management
19678 personnel:
19679 (i) has, whether or not a judgment of conviction has been entered by the court, been
19680 found guilty of, or pleaded guilty or nolo contendere to:
19681 (A) a felony; or

19682 (B) a misdemeanor involving fraud or moral turpitude;
19683 (ii) violated any provision of this chapter; or
19684 (iii) has been subject to a final administrative action by another state or federal
19685 jurisdiction.
19686 (c) a viatical settlement provider has entered into a viatical settlement not approved
19687 under this chapter;
19688 (d) a viatical settlement provider has failed to honor obligations of a viatical
19689 settlement;
19690 (e) a viatical settlement provider has assigned, transferred, or pledged a viaticated
19691 policy to a person other than:
19692 (i) a viatical settlement provider licensed under this chapter;
19693 (ii) a viatical settlement purchaser;
19694 (iii) an accredited investor as defined in Regulation D, Rule 501, 17 C.F.R. Sec.
19695 230.501;
19696 (iv) a qualified institutional buyer as defined in Rule 144A, 17 C.F.R. Sec. 230.144A;
19697 (v) a financing entity;
19698 (vi) a special purpose entity; or
19699 (vii) a related provider trust; or
19700 (f) a viatical settlement provider has failed to maintain a standard set forth in
19701 Subsection (2)(b).
19702 (4) If the commissioner denies a license application or suspends, revokes, or refuses to
19703 renew the license of a viatical settlement provider or viatical settlement producer, the
19704 commissioner shall conduct an adjudicative proceeding under [~~Title 63, Chapter 46b~~] Title
19705 63G, Chapter 4, Administrative Procedures Act.
19706 Section 411. Section **31A-36-115** is amended to read:
19707 **31A-36-115. Confidentiality.**
19708 (1) The following shall be classified as protected records under [~~Title 63, Chapter 2~~]
19709 Title 63G, Chapter 2, Government Records Access and Management Act:
19710 (a) a document or information furnished pursuant to Section 31A-36-114; and
19711 (b) a document or information obtained by the commissioner in an investigation of a
19712 violation of Section 31A-36-113.

19713 (2) Subsection (1) does not prohibit the commissioner from disclosing documents or
19714 evidence so furnished or obtained:
19715 (a) in an administrative or judicial proceeding to enforce laws administered by the
19716 commissioner;
19717 (b) to federal, state, or local law enforcement or regulatory agencies;
19718 (c) to an organization established to detect and prevent fraudulent viatical settlement
19719 acts;
19720 (d) to the National Association of Insurance Commissioners; or
19721 (e) to a person engaged in the business of viatical settlements that is aggrieved by the
19722 violation.
19723 (3) Disclosure of a document or evidence under Subsection (2) does not abrogate or
19724 modify the privilege granted in Subsection (1).
19725 Section 412. Section **31A-36-117** is amended to read:
19726 **31A-36-117. Antifraud initiatives.**
19727 (1) The following shall establish and maintain antifraud initiatives which are
19728 reasonably calculated to prevent, detect, and assist in the prosecution of violations of Section
19729 31A-36-113:
19730 (a) a viatical settlement provider; and
19731 (b) an agency that is a viatical settlement producer.
19732 (2) The commissioner may order, or a licensee may request and the commissioner may
19733 approve, modifications of the measures otherwise required under this section, more or less
19734 restrictive than those measures, as necessary to protect against fraud.
19735 (3) Antifraud initiatives shall include:
19736 (a) fraud investigators, that may be either:
19737 (i) employees of a viatical settlement provider or viatical settlement producer; or
19738 (ii) independent contractors;
19739 (b) an antifraud plan submitted to the commissioner, which shall include:
19740 (i) a description of the procedures for:
19741 (A) detecting and investigating possible violations of Section 31A-36-113; and
19742 (B) resolving material inconsistencies between medical records and applications for
19743 insurance;

19744 (ii) a description of the procedures for reporting possible violations to the
19745 commissioner;
19746 (iii) a description of the plan for educating and training underwriters and other
19747 personnel against fraud; and
19748 (iv) a description or chart of the organizational arrangement of the personnel
19749 responsible for detecting and investigating possible violations of Section 31A-36-113 and for
19750 resolving material inconsistencies between medical records and applications for insurance.
19751 (4) A plan submitted to the commissioner shall be classified as a protected record
19752 under [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records Access and
19753 Management Act.
19754 Section 413. Section **31A-36-119** is amended to read:
19755 **31A-36-119. Authority to make rules.**
19756 In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
19757 Rulemaking Act, the commissioner may adopt rules to:
19758 (1) establish the requirements for the annual statement required under Section
19759 31A-36-106;
19760 (2) establish standards for evaluating the reasonableness of payments under viatical
19761 settlements;
19762 (3) establish appropriate licensing requirements, fees, and standards for continued
19763 licensure for:
19764 (a) a viatical settlement provider; and
19765 (b) a viatical settlement producer;
19766 (4) require a bond or otherwise ensure financial accountability of:
19767 (a) a viatical settlement provider; and
19768 (b) a viatical settlement producer;
19769 (5) govern the relationship of insurers with a viatical settlement provider or viatical
19770 settlement producer during the viatication of a policy;
19771 (6) determine the specific disclosures required under Section 31A-36-108;
19772 (7) determine whether advertising for viatical settlements violates Section 31A-36-112;
19773 (8) determine the information to be provided to the commissioner under Section
19774 31A-36-114 and the manner of providing the information;

19775 (9) determine additional acts or practices that are prohibited under Section
19776 31A-36-111;
19777 (10) establish payment requirements for the payments in Section 31A-36-110; and
19778 (11) establish the filing procedure for the forms listed in Subsection 31A-36-105(1).
19779 Section 414. Section **31A-37-106** is amended to read:
19780 **31A-37-106. Authority to make rules -- Authority to issue orders.**
19781 (1) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
19782 Administrative Rulemaking Act, the commissioner may adopt rules to:
19783 (a) determine circumstances under which a branch captive insurance company is not
19784 required to be a pure captive insurance company;
19785 (b) determine any statement, document, or information a captive insurance company
19786 must provide to the commissioner to obtain a certificate of authority;
19787 (c) determine any factors a captive insurance company shall provide evidence of under
19788 Subsection 31A-37-202(4)(c);
19789 (d) prescribe capital requirements for a captive insurance company in addition to those
19790 required under Section 31A-37-204 based on the type, volume, and nature of insurance
19791 business transacted by the captive insurance company;
19792 (e) establish:
19793 (i) the amount of capital or surplus required to be retained under Subsection
19794 31A-37-205(4) at the payment of a dividend or other distribution by a captive insurance
19795 company; or
19796 (ii) a formula to determine the amount described in Subsection 31A-37-205(4);
19797 (f) waive or modify the requirements for public notice and hearing for any of the
19798 following by a captive insurance company:
19799 (i) merger;
19800 (ii) consolidation;
19801 (iii) conversion;
19802 (iv) mutualization; or
19803 (v) redomestication;
19804 (g) approve the use of alternative reliable methods of valuation and rating for:
19805 (i) an association captive insurance company;

19806 (ii) a sponsored captive insurance company; or
19807 (iii) an industrial insured group;
19808 (h) prohibit or limit an investment that threatens the solvency or liquidity of:
19809 (i) a pure captive insurance company; or
19810 (ii) an industrial insured captive insurance company;
19811 (i) determine the financial reports a sponsored captive insurance company shall
19812 annually file with the commissioner;
19813 (j) determine the required forms and reports under Section 31A-37-501; and
19814 (k) establish standards to ensure that a parent or affiliate of a pure captive insurance
19815 company is able to exercise control of the risk management function of any controlled
19816 unaffiliated business to be insured by the pure captive insurance company.
19817 (2) Notwithstanding Subsection (1)(k), until the commissioner adopts the rules
19818 authorized under Subsection (1)(k), the commissioner may by temporary order grant authority
19819 to a pure captive insurance company to insure risks.
19820 (3) The commissioner may issue prohibitory, mandatory, and other orders relating to
19821 captive insurance companies as necessary to enable the commissioner to secure compliance
19822 with this chapter.
19823 Section 415. Section **31A-37-202** is amended to read:
19824 **31A-37-202. Permissive areas of insurance.**
19825 (1) (a) Except as provided in Subsection (1)(b), when permitted by its articles of
19826 incorporation or charter, a captive insurance company may apply to the commissioner for a
19827 certificate of authority to do all insurance authorized by this title except workers' compensation
19828 insurance.
19829 (b) Notwithstanding Subsection (1)(a):
19830 (i) a pure captive insurance company may not insure any risks other than those of its:
19831 (A) parent and affiliates;
19832 (B) controlled unaffiliated business; or
19833 (C) a combination of Subsections (1)(b)(i)(A) and (B);
19834 (ii) an association captive insurance company may not insure any risks other than those
19835 of the:
19836 (A) member organizations of its association; and

19837 (B) affiliates of the member organizations of its association;
19838 (iii) an industrial insured captive insurance company may not insure any risks other
19839 than those of the:
19840 (A) industrial insureds that comprise the industrial insured group; and
19841 (B) affiliates of the industrial insureds that comprise the industrial insured group;
19842 (iv) a special purpose captive insurance company may only insure the risk of its parent;
19843 (v) a captive insurance company may not provide personal motor vehicle or
19844 homeowner's insurance coverage or any component of these coverages; and
19845 (vi) a captive insurance company may not accept or cede reinsurance except as
19846 provided in Section 31A-37-303.
19847 (c) Notwithstanding Subsection (1)(b)(iv), for risks approved by the commissioner a
19848 special purpose captive insurance company may provide:
19849 (i) insurance;
19850 (ii) reinsurance; or
19851 (iii) both insurance and reinsurance.
19852 (2) To conduct insurance business in this state a captive insurance company shall:
19853 (a) obtain from the commissioner a certificate of authority authorizing it to conduct
19854 insurance business in this state;
19855 (b) hold at least once each year in this state:
19856 (i) a board of directors meeting; or
19857 (ii) in the case of a reciprocal insurer, a subscriber's advisory committee meeting;
19858 (c) maintain in this state:
19859 (i) the principal place of business of the captive insurance company; or
19860 (ii) in the case of a branch captive insurance company, the principal place of business
19861 for the branch operations of the branch captive insurance company; and
19862 (d) except as provided in Subsection (3), appoint a resident registered agent to accept
19863 service of process and to otherwise act on behalf of the captive insurance company in this state.
19864 (3) Notwithstanding Subsection (2)(d), in the case of a captive insurance company
19865 formed as a corporation or a reciprocal insurer, whenever the registered agent cannot with
19866 reasonable diligence be found at the registered office of the captive insurance company, the
19867 commissioner shall be an agent of the captive insurance company upon whom any process,

19868 notice, or demand may be served.
19869 (4) (a) Before receiving a certificate of authority, a captive insurance company:
19870 (i) formed as a corporation shall file with the commissioner:
19871 (A) a certified copy of:
19872 (I) articles of incorporation or the charter of the corporation; and
19873 (II) bylaws of the corporation;
19874 (B) a statement under oath of the president and secretary of the corporation showing
19875 the financial condition of the corporation; and
19876 (C) any other statement or document required by the commissioner under Section
19877 31A-37-106;
19878 (ii) formed as a reciprocal shall:
19879 (A) file with the commissioner:
19880 (I) a certified copy of the power of attorney of the attorney-in-fact of the reciprocal;
19881 (II) a certified copy of the subscribers' agreement of the reciprocal;
19882 (III) a statement under oath of the attorney-in-fact of the reciprocal showing the
19883 financial condition of the reciprocal; and
19884 (IV) any other statement or document required by the commissioner under Section
19885 31A-37-106; and
19886 (B) submit to the commissioner for approval a description of the:
19887 (I) coverages;
19888 (II) deductibles;
19889 (III) coverage limits;
19890 (IV) rates; and
19891 (V) any other information the commissioner requires under Section 31A-37-106.
19892 (b) (i) If there is a subsequent material change in an item in the description required
19893 under Subsection (4)(a)(ii)(B) for a reciprocal captive insurance company, the reciprocal
19894 captive insurance company shall submit to the commissioner for approval an appropriate
19895 revision to the description required under Subsection (4)(a)(ii)(B).
19896 (ii) A reciprocal captive insurance company that is required to submit a revision under
19897 Subsection (4)(b)(i) may not offer any additional kinds of insurance until the commissioner
19898 approves a revision of the description.

19899 (iii) A reciprocal captive insurance company shall inform the commissioner of any
19900 material change in rates within 30 days of the adoption of the change.
19901 (c) In addition to the information required by Subsection (4)(a), an applicant captive
19902 insurance company shall file with the commissioner evidence of:
19903 (i) the amount and liquidity of the assets of the applicant captive insurance company
19904 relative to the risks to be assumed by the applicant captive insurance company;
19905 (ii) the adequacy of the expertise, experience, and character of the person who will
19906 manage the applicant captive insurance company;
19907 (iii) the overall soundness of the plan of operation of the applicant captive insurance
19908 company;
19909 (iv) the adequacy of the loss prevention programs of the applicant captive insurance
19910 company's parent, member organizations, or industrial insureds, as applicable; and
19911 (v) any other factors the commissioner:
19912 (A) adopts by rule under Section 31A-37-106; and
19913 (B) considers relevant in ascertaining whether the applicant captive insurance company
19914 will be able to meet the policy obligations of the applicant captive insurance company.
19915 (d) In addition to the information required by Subsections (4)(a), (b), and (c), an
19916 applicant sponsored captive insurance company shall file with the commissioner:
19917 (i) a business plan at the level of detail required by the commissioner under Section
19918 31A-37-106 demonstrating:
19919 (A) the manner in which the applicant sponsored captive insurance company will
19920 account for the losses and expenses of each protected cell; and
19921 (B) the manner in which the applicant sponsored captive insurance company will report
19922 to the commissioner the financial history, including losses and expenses, of each protected cell;
19923 (ii) a statement acknowledging that all financial records of the applicant sponsored
19924 captive insurance company, including records pertaining to any protected cell, shall be made
19925 available for inspection or examination by the commissioner;
19926 (iii) any contract or sample contract between the applicant sponsored captive insurance
19927 company and any participant; and
19928 (iv) evidence that expenses will be allocated to each protected cell in an equitable
19929 manner.

19930 (e) Information submitted pursuant to this Subsection (4) shall be classified as a
19931 protected record under [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records Access
19932 and Management Act.
19933 (f) Notwithstanding [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records
19934 Access and Management Act, the commissioner may disclose information submitted pursuant
19935 to this Subsection (4) to a public official having jurisdiction over the regulation of insurance in
19936 another state if:
19937 (i) the public official receiving the information agrees in writing to maintain the
19938 confidentiality of the information; and
19939 (ii) the laws of the state in which the public official serves require the information to be
19940 confidential.
19941 (g) Subsections (4)(e) and (4)(f) do not apply to information provided by an industrial
19942 insured captive insurance company insuring the risks of an industrial insured group.
19943 (5) (a) A captive insurance company shall pay to the department the following
19944 nonrefundable fees established by the department under Sections 31A-3-103 and [~~63-38-3.2~~]
19945 63J-1-303:
19946 (i) a fee for examining, investigating, and processing, by department employees, of an
19947 application for a certificate of authority made by a captive insurance company;
19948 (ii) a fee for obtaining a certificate of authority for the year the captive insurance
19949 company is issued a certificate of authority by the department; and
19950 (iii) a certificate of authority renewal fee.
19951 (b) The commissioner may retain legal, financial, and examination services from
19952 outside the department to perform the services under Subsection (5)(a) and Section
19953 31A-37-502 and charge the reasonable cost of those services against the applicant captive
19954 insurance company.
19955 (6) If the commissioner is satisfied that the documents and statements filed by the
19956 applicant captive insurance company comply with the provisions of this chapter, the
19957 commissioner may grant a certificate of authority authorizing the company to do insurance
19958 business in this state.
19959 (7) A certificate of authority granted under this section expires annually and must be
19960 renewed by July 1 of each year.

19961 Section 416. Section **31A-37-503** is amended to read:
19962 **31A-37-503. Classification and use of records.**
19963 (1) The following shall be classified as a protected record under [~~Title 63, Chapter 2~~]
19964 Title 63G, Chapter 2, Government Records Access and Management Act:
19965 (a) examination reports under this section;
19966 (b) preliminary examination reports or results under this section;
19967 (c) working papers for an examination conducted under this section;
19968 (d) recorded information for an examination conducted under this section; and
19969 (e) documents and copies of documents produced by, obtained by, or disclosed to the
19970 commissioner or any other person in the course of an examination conducted under this
19971 section.
19972 (2) This section does not prevent the commissioner from using the information
19973 provided under this section in furtherance of the commissioner's regulatory authority under this
19974 title.
19975 (3) Notwithstanding other provisions of this section, the commissioner may grant
19976 access to the information provided under this section to:
19977 (a) public officers having jurisdiction over the regulation of insurance in any other state
19978 or country; or
19979 (b) law enforcement officers of this state or any other state or agency of the federal
19980 government, if the officers receiving the information agree in writing to hold the information in
19981 a manner consistent with this section.
19982 Section 417. Section **31A-37-602** is amended to read:
19983 **31A-37-602. Requirements of a captive reinsurance company.**
19984 (1) (a) If permitted by its articles of incorporation or charter, a captive reinsurance
19985 company may apply to the commissioner for a license to write reinsurance covering:
19986 (i) property and casualty insurance; or
19987 (ii) reinsurance contracts.
19988 (b) A captive reinsurance company authorized by the commissioner may write
19989 reinsurance contracts covering risks in any state.
19990 (2) To conduct business in this state, a captive reinsurance company shall:
19991 (a) obtain from the commissioner a license authorizing it to conduct business as a

19992 captive reinsurance company in this state;
19993 (b) hold at least one board of directors' meeting each year in this state;
19994 (c) maintain its principal place of business in this state; and
19995 (d) appoint a registered agent to accept service of process and act otherwise on its
19996 behalf in this state.
19997 (3) Before receiving a license, a captive reinsurance company shall file with the
19998 commissioner:
19999 (a) a certified copy of its:
20000 (i) (A) articles of incorporation; or
20001 (B) charter; and
20002 (ii) bylaws;
20003 (b) a statement under oath of its president and secretary showing its financial
20004 condition; and
20005 (c) other documents required by the commissioner.
20006 (4) In addition to the information required by Subsection (3), the applicant captive
20007 reinsurance company shall file with the commissioner evidence of:
20008 (a) the amount and liquidity of the captive reinsurance company's assets relative to the
20009 risks to be assumed;
20010 (b) the adequacy of the expertise, experience, and character of the person who manages
20011 the captive reinsurance company;
20012 (c) the overall soundness of the captive reinsurance company's plan of operation; and
20013 (d) other overall factors considered relevant by the commissioner in ascertaining if the
20014 proposed captive reinsurance company is able to meet its policy obligations.
20015 (5) (a) Notwithstanding [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government
20016 Records Access and Management Act, information submitted pursuant to this section is
20017 confidential and may not be made public by the commissioner or an agent or employee of the
20018 commissioner without the written consent of the company, except that:
20019 (i) information may be discoverable by a party in a civil action or contested case to
20020 which the submitting captive reinsurance company is a party, upon a showing by the party
20021 seeking to discover the information that:
20022 (A) the information sought is relevant to and necessary for the furtherance of the action

20023 or case;
20024 (B) the information sought is unavailable from other nonconfidential sources; and
20025 (C) a subpoena issued by a judicial or administrative law officer of competent
20026 jurisdiction has been submitted to the commissioner; and
20027 (ii) the commissioner may disclose the information to the public officer having
20028 jurisdiction over the regulation of insurance in another state if:
20029 (A) the public official agrees in writing to maintain the confidentiality of the
20030 information; and
20031 (B) the laws of the state in which the public official serves require the information to
20032 be confidential.
20033 (b) This Subsection (5) does not apply to an industrial insured captive reinsurance
20034 company insuring the risks of an industrial insured group.
20035 Section 418. Section **32A-1-115** is amended to read:
20036 **32A-1-115. Alcoholic Beverage Enforcement and Treatment Restricted Account**
20037 **-- Distribution.**
20038 (1) As used in this section:
20039 (a) "Account" means the Alcoholic Beverage Enforcement and Treatment Restricted
20040 Account created in this section.
20041 (b) "Alcohol-related offense" means:
20042 (i) a violation of:
20043 (A) Section 41-6a-502; or
20044 (B) an ordinance that complies with the requirements of:
20045 (I) Subsection 41-6a-510(1); or
20046 (II) Section 76-5-207; or
20047 (ii) an offense involving the:
20048 (A) illegal sale of alcohol;
20049 (B) illegal distribution of alcohol;
20050 (C) illegal transportation of alcohol;
20051 (D) illegal possession of alcohol; or
20052 (E) illegal consumption of alcohol.
20053 (c) "Annual conviction time period" means the time period that:

20054 (i) begins on July 1 and ends on June 30; and
20055 (ii) immediately precedes the fiscal year for which an appropriation under this section
20056 is made.
20057 (d) "Coordinating council" means the Utah Substance Abuse and Anti-Violence
20058 Coordinating Council created in Section [~~63-25a-201~~] 63M-7-301.
20059 (e) "Municipality" means:
20060 (i) a city; or
20061 (ii) a town.
20062 (2) (a) There is created in the General Fund a restricted account called the "Alcoholic
20063 Beverage Enforcement and Treatment Restricted Account."
20064 (b) The account shall be funded from:
20065 (i) amounts deposited by the state treasurer in accordance with Section 59-15-109;
20066 (ii) any appropriations made to the account by the Legislature; and
20067 (iii) interest described in Subsection (2)(c).
20068 (c) Interest earned on the account shall be deposited into the account.
20069 (d) (i) Consistent with the policies provided in Subsection 32A-1-104(4)(b), the
20070 revenues in the account shall be used for statewide public purposes including promoting the
20071 reduction of the harmful effects of over consumption of alcoholic beverages by adults and
20072 alcohol consumption by minors by funding exclusively programs or projects related to
20073 prevention, treatment, detection, prosecution, and control of violations of this title and other
20074 offenses in which alcohol is a contributing factor except as provided in Subsection (2)(d)(ii).
20075 (ii) The portion distributed under this section to counties may also be used for the
20076 confinement or treatment of persons arrested for or convicted of offenses in which alcohol is a
20077 contributing factor.
20078 (iii) Any municipality or county entitled to receive funds shall use the funds
20079 exclusively as required by this Subsection (2)(d).
20080 (iv) The appropriations provided for under Subsection (3) are:
20081 (A) intended to supplement the budget of the appropriate agencies of each municipality
20082 and county within the state to enable the municipalities and counties to more effectively fund
20083 the programs and projects described in this Subsection (2)(d); and
20084 (B) not intended to replace funds that would otherwise be allocated for the programs

20085 and projects in this Subsection (2)(d).
20086 (3) (a) The revenues deposited into the account shall be distributed to municipalities
20087 and counties:
20088 (i) to the extent appropriated by the Legislature except that the Legislature shall
20089 appropriate each fiscal year an amount equal to at least the amount deposited in the account in
20090 accordance with Section 59-15-109; and
20091 (ii) as provided in this Subsection (3).
20092 (b) The amount appropriated from the account shall be distributed as follows:
20093 (i) 25% to municipalities and counties based upon the percentage of the state
20094 population residing in each municipality and county;
20095 (ii) 30% to municipalities and counties based upon each municipality's and county's
20096 percentage of the statewide convictions for all alcohol-related offenses;
20097 (iii) 20% to municipalities and counties based upon the percentage of all state stores,
20098 package agencies, liquor licensees, and beer licensees in the state that are located in each
20099 municipality and county; and
20100 (iv) 25% to the counties for confinement and treatment purposes authorized by this
20101 section based upon the percentage of the state population located in each county.
20102 (c) (i) Except as provided in Subsection (3)(c)(iii), a municipality that does not have a
20103 law enforcement agency may not receive monies under this section.
20104 (ii) The State Tax Commission:
20105 (A) may not distribute the monies the municipality would receive but for the
20106 municipality not having a law enforcement agency to that municipality; and
20107 (B) shall distribute the monies that the municipality would have received but for it not
20108 having a law enforcement agency to the county in which the municipality is located for use by
20109 the county in accordance with this section.
20110 (iii) Notwithstanding Subsections (3)(c)(i) and (ii), if the coordinating council finds
20111 that a municipality described in Subsection (3)(c)(i) demonstrates that the municipality can use
20112 the monies that the municipality is otherwise eligible to receive in accordance with this section,
20113 the coordinating council may direct the State Tax Commission to distribute the money to the
20114 municipality.
20115 (4) To determine the distributions required by Subsection (3)(b)(ii), the State Tax

20116 Commission shall annually:
20117 (a) for an annual conviction time period:
20118 (i) multiply by two the total number of convictions in the state obtained during the
20119 annual conviction time period for violation of:
20120 (A) Section 41-6a-502; or
20121 (B) an ordinance that complies with the requirements of Subsection 41-6a-510(1) or
20122 Section 76-5-207; and
20123 (ii) add to the number calculated under Subsection (4)(a)(i) the number of convictions
20124 obtained during the annual conviction time period for all alcohol-related offenses other than the
20125 alcohol-related offenses described in Subsection (4)(a)(i);
20126 (b) divide an amount equal to 30% of the appropriation for that fiscal year by the sum
20127 obtained in Subsection (4)(a); and
20128 (c) multiply the amount calculated under Subsection (4)(b), by the number of
20129 convictions obtained in each municipality and county during the annual conviction time period
20130 for alcohol-related offenses.
20131 (5) For purposes of this section:
20132 (a) the number of state stores, package agencies, and licensees located within the limits
20133 of each municipality and county:
20134 (i) is the number determined by the department to be so located;
20135 (ii) includes all:
20136 (A) private clubs;
20137 (B) restaurants;
20138 (C) limited restaurants;
20139 (D) on-premise banquet licenses;
20140 (E) airport lounges;
20141 (F) package agencies; and
20142 (G) state stores; and
20143 (iii) does not include on-premise beer retailer licensees;
20144 (b) the number of state stores, package agencies, and licensees in a county consists only
20145 of that number located within unincorporated areas of the county;
20146 (c) population figures shall be determined according to the most current population

20147 estimates prepared by the Utah Population Estimates Committee;
20148 (d) a county's population figure for the 25% distribution to municipalities and counties
20149 under Subsection (3)(b)(i) shall be determined only with reference to the population in the
20150 unincorporated areas of the county;
20151 (e) a county's population figure under Subsection (3)(b)(iv) for the 25% distribution to
20152 counties only shall be determined with reference to the total population in the county, including
20153 that of municipalities;
20154 (f) a conviction occurs in the municipality or county that actually prosecutes the
20155 offense to judgment; and
20156 (g) in the case of a conviction based upon a guilty plea, the conviction is considered to
20157 occur in the municipality or county that, except for the guilty plea, would have prosecuted the
20158 offense.
20159 (6) By not later than September 1 each year:
20160 (a) the state court administrator shall certify to the State Tax Commission the number
20161 of convictions obtained for alcohol-related offenses in each municipality or county in the state
20162 during the annual conviction time period; and
20163 (b) the coordinating council shall notify the State Tax Commission of any municipality
20164 that does not have a law enforcement agency.
20165 (7) By not later than December 1 of each year, the coordinating council shall notify the
20166 State Tax Commission for the fiscal year of appropriation of:
20167 (a) any municipality that may receive a distribution under Subsection (3)(c)(iii);
20168 (b) any county that may receive a distribution allocated to a municipality described in
20169 Subsection (3)(c)(ii);
20170 (c) any municipality or county that may not receive a distribution because the
20171 coordinating council has suspended the payment under Subsection (10)(a)(i); and
20172 (d) any municipality or county that receives a distribution because the suspension of
20173 payment has been cancelled under Subsection (10)(a)(ii).
20174 (8) (a) By not later than January 1 of the fiscal year of appropriation, the State Tax
20175 Commission shall annually distribute to each municipality and county the portion of the
20176 appropriation that the municipality or county is eligible to receive under this section, except for
20177 any municipality or county that the coordinating council notifies the State Tax Commission in

20178 accordance with Subsection (7) may not receive a distribution in that fiscal year.
20179 (b) (i) The State Tax Commission shall prepare forms for use by municipalities and
20180 counties in applying for distributions under this section.
20181 (ii) The forms described in this Subsection (8) may require the submission of
20182 information the State Tax Commission considers necessary to enable the State Tax
20183 Commission to comply with this section.
20184 (9) A municipality or county that receives any monies under this section during a fiscal
20185 year shall by no later than October 1 following the fiscal year:
20186 (a) report to the coordinating council:
20187 (i) the programs or projects of the municipality or county that receive monies under
20188 this section;
20189 (ii) if the monies for programs or projects were exclusively used as required by
20190 Subsection (2)(d);
20191 (iii) indicators of whether the programs or projects that receive monies under this
20192 section are effective; and
20193 (iv) if any monies received under this section were not expended by the municipality or
20194 county; and
20195 (b) provide the coordinating council a statement signed by the chief executive officer
20196 of the county or municipality attesting that the monies received under this section were used in
20197 addition to any monies appropriated or otherwise available for the county's or municipality's
20198 law enforcement and were not used to supplant those monies.
20199 (10) (a) The coordinating council may, by a majority vote:
20200 (i) suspend future payments under Subsection (8) to a municipality or county that:
20201 (A) does not file a report that meets the requirements of Subsection (9); or
20202 (B) the coordinating council finds does not use the monies as required by Subsection
20203 (2)(d) on the basis of the report filed by the municipality or county under Subsection (9); and
20204 (ii) cancel a suspension under Subsection (10)(a)(i).
20205 (b) The State Tax Commission shall:
20206 (i) retain monies that a municipality or county does not receive under Subsection
20207 (10)(a); and
20208 (ii) notify the coordinating council of the balance of retained monies under this

20209 Subsection (10)(b) after the annual distribution under Subsection (8).
20210 (11) (a) Subject to the requirements of this Subsection (11), the coordinating council
20211 shall award the balance of retained monies under Subsection (10)(b):
20212 (i) as prioritized by majority vote of the coordinating council; and
20213 (ii) as grants to:
20214 (A) a county;
20215 (B) a municipality;
20216 (C) the Department of Alcoholic Beverage Control;
20217 (D) the Department of Human Services;
20218 (E) the Department of Public Safety; or
20219 (F) the Utah State Office of Education.
20220 (b) By not later than May 30 of the fiscal year of the appropriation, the coordinating
20221 council shall notify the State Tax Commission of any grants awarded under this Subsection
20222 (11).
20223 (c) The State Tax Commission shall make payments of grants:
20224 (i) upon receiving notice as provided under Subsection (11)(b); and
20225 (ii) by not later than June 30 of the fiscal year of the appropriation.
20226 (d) An entity that receives a grant under this Subsection (11) shall use the grant monies
20227 exclusively for programs or projects described in Subsection (2)(d).
20228 Section 419. Section **32A-1-118** is amended to read:
20229 **32A-1-118. Liability insurance -- Governmental immunity.**
20230 (1) The department shall maintain insurance against loss on each motor vehicle
20231 operated by it on any public highway. Each motor vehicle shall be covered for:
20232 (a) any liability imposed by law upon the department for damages from bodily injuries
20233 suffered by any person or persons by reason of the ownership, maintenance, or use of the motor
20234 vehicle; and
20235 (b) any liability or loss from damage to or destruction of property of any description,
20236 including liability of the department for the resultant loss of use of the property, which results
20237 from accident due to the ownership, maintenance, or use of the motor vehicle.
20238 (2) The department is liable to respond in damages in all cases if a private corporation
20239 under the same circumstances would be liable.

20240 (3) The provisions of [~~Title 63, Chapter 30d~~] Title 63G, Chapter 7, Governmental
20241 Immunity Act of Utah, apply in all actions commenced against the department in any action for
20242 damages sustained as a result of department ownership, maintenance, or use of motor vehicles
20243 under Subsections (1) and (2). Immunity from suit against the commission or any member of
20244 the commission, is in all respects retained in any such action.
20245 Section 420. Section **32A-1-119** is amended to read:
20246 **32A-1-119. Disciplinary proceedings -- Procedure.**
20247 (1) (a) As used in this section and Section 32A-1-120, "disciplinary proceeding" means
20248 an adjudicative proceeding permitted under this title:
20249 (i) against:
20250 (A) a permittee;
20251 (B) a licensee;
20252 (C) a manufacturer;
20253 (D) a supplier;
20254 (E) an importer;
20255 (F) an out-of-state brewer holding a certificate of approval under Section 32A-8-101;
20256 or
20257 (G) an officer, employee, or agent of:
20258 (I) a person listed in Subsections (1)(a)(i)(A) through (F); or
20259 (II) a package agent; and
20260 (ii) that is brought on the basis of a violation of this title.
20261 (b) As used in Subsection (4), "final adjudication" means an adjudication for which a
20262 final unappealable judgment or order has been issued.
20263 (2) (a) The following may conduct adjudicative proceedings to inquire into any matter
20264 necessary and proper for the administration of this title and rules adopted under this title:
20265 (i) the commission;
20266 (ii) a hearing examiner appointed by the commission for the purposes provided in
20267 Subsection 32A-1-107(3);
20268 (iii) the director; and
20269 (iv) the department.
20270 (b) Except as provided in this section or Section 32A-3-106, the following shall

20271 comply with the procedures and requirements of [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
20272 Administrative Procedures Act, in adjudicative proceedings:
20273 (i) the commission;
20274 (ii) a hearing examiner appointed by the commission;
20275 (iii) the director; and
20276 (iv) the department.
20277 (c) Except where otherwise provided by law, all adjudicative proceedings before the
20278 commission or its appointed hearing examiner shall be:
20279 (i) video or audio recorded; and
20280 (ii) subject to Subsection (5)(e), conducted in accordance with Title 52, Chapter 4,
20281 Open and Public Meetings Act.
20282 (d) All adjudicative proceedings concerning departmental personnel shall be conducted
20283 in accordance with Title 67, Chapter 19, Utah State Personnel Management Act.
20284 (e) All hearings that are informational, fact gathering, and nonadversarial in nature
20285 shall be conducted in accordance with rules, policies, and procedures promulgated by the
20286 commission, director, or department.
20287 (3) (a) A disciplinary proceeding shall be conducted under the authority of the
20288 commission, which is responsible for rendering a final decision and order on any disciplinary
20289 matter.
20290 (b) (i) Nothing in this section precludes the commission from appointing necessary
20291 officers, including hearing examiners, from within or without the department, to administer the
20292 disciplinary proceeding process.
20293 (ii) A hearing examiner appointed by the commission:
20294 (A) may conduct a disciplinary proceeding hearing on behalf of the commission; and
20295 (B) shall submit to the commission a report including:
20296 (I) findings of fact determined on the basis of a preponderance of the evidence
20297 presented at the hearing;
20298 (II) conclusions of law; and
20299 (III) recommendations.
20300 (c) Nothing in this section precludes the commission, after the commission has
20301 rendered its final decision and order, from having the director prepare, issue, and cause to be

20302 served on the parties the final written order on behalf of the commission.
20303 (4) (a) The department may initiate a disciplinary proceeding described in Subsection
20304 (4)(b) when the department receives:
20305 (i) a report from any government agency, peace officer, examiner, or investigator
20306 alleging that any person listed in Subsections (1)(a)(i)(A) through (G) has violated this title or
20307 the rules of the commission;
20308 (ii) a final adjudication of criminal liability against any person listed in Subsections
20309 (1)(a)(i)(A) through (G) based on an alleged violation of this title; or
20310 (iii) a final adjudication of civil liability under Chapter 14a, Alcoholic Beverage
20311 Liability, against any person listed in Subsections (1)(a)(i)(A) through (G) based on an alleged
20312 violation of this title.
20313 (b) The department may initiate a disciplinary proceeding if the department receives an
20314 item listed in Subsection (4)(a) to determine:
20315 (i) whether any person listed in Subsections (1)(a)(i)(A) through (G) violated this title
20316 or rules of the commission; and
20317 (ii) if a violation is found, the appropriate sanction to be imposed.
20318 (5) (a) Unless waived by the respondent, a disciplinary proceeding shall be held:
20319 (i) if required by law;
20320 (ii) before revoking or suspending any permit, license, or certificate of approval issued
20321 under this title; or
20322 (iii) before imposing a fine against any person listed in Subsections (1)(a)(i)(A)
20323 through (G).
20324 (b) Inexcusable failure of a respondent to appear at a scheduled disciplinary proceeding
20325 hearing after receiving proper notice is an admission of the charged violation.
20326 (c) The validity of a disciplinary proceeding is not affected by the failure of any person
20327 to attend or remain in attendance.
20328 (d) All disciplinary proceeding hearings shall be presided over by the commission or an
20329 appointed hearing examiner.
20330 (e) A disciplinary proceeding hearing may be closed only after the commission or
20331 hearing examiner makes a written finding that the public interest in an open hearing is clearly
20332 outweighed by factors enumerated in the closure order.

20333 (f) (i) The commission or its hearing examiner as part of a disciplinary proceeding
20334 hearing may:
20335 (A) administer oaths or affirmations;
20336 (B) take evidence;
20337 (C) take depositions within or without this state; and
20338 (D) require by subpoena from any place within this state:
20339 (I) the testimony of any person at a hearing; and
20340 (II) the production of any books, records, papers, contracts, agreements, documents, or
20341 other evidence considered relevant to the inquiry.
20342 (ii) A person subpoenaed in accordance with this Subsection (5)(f) shall testify and
20343 produce any books, papers, documents, or tangible things as required in the subpoena.
20344 (iii) Any witness subpoenaed or called to testify or produce evidence who claims a
20345 privilege against self-incrimination may not be compelled to testify, but the commission or the
20346 hearing examiner shall file a written report with the county attorney or district attorney in the
20347 jurisdiction where the privilege was claimed or where the witness resides setting forth the
20348 circumstance of the claimed privilege.
20349 (iv) (A) A person is not excused from obeying a subpoena without just cause.
20350 (B) Any district court within the judicial district in which a person alleged to be guilty
20351 of willful contempt of court or refusal to obey a subpoena is found or resides, upon application
20352 by the party issuing the subpoena, may issue an order requiring the person to:
20353 (I) appear before the issuing party; and
20354 (II) (Aa) produce documentary evidence if so ordered; or
20355 (Bb) give evidence regarding the matter in question.
20356 (C) Failure to obey an order of the court may be punished by the court as contempt.
20357 (g) (i) In all disciplinary proceeding hearings heard by a hearing examiner, the hearing
20358 examiner shall prepare a report required by Subsection (3)(b)(ii) to the commission.
20359 (ii) The report required by Subsection (3)(b)(ii) and this Subsection (5)(g) may not
20360 recommend a penalty more severe than that initially sought by the department in the notice of
20361 agency action.
20362 (iii) A copy of the report required by Subsection (3)(b)(ii) and this Subsection (5)(g)
20363 shall be served upon the respective parties.

20364 (iv) The respondent and the department shall be given reasonable opportunity to file
20365 any written objections to the report required by Subsection (3)(b)(ii) and this Subsection (5)(g)
20366 before final commission action.
20367 (h) In all cases heard by the commission, it shall issue its final decision and order in
20368 accordance with Subsection (3).
20369 (6) (a) The commission shall:
20370 (i) render a final decision and order on any disciplinary action; and
20371 (ii) cause its final order to be prepared in writing, issued, and served on all parties.
20372 (b) Any order of the commission is considered final on the date the order becomes
20373 effective.
20374 (c) If the commission is satisfied that a person listed in Subsections (1)(a)(i)(A)
20375 through (G) has committed a violation of this title or the commission's rules, in accordance
20376 with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, the
20377 commission may:
20378 (i) suspend or revoke the permit, license, or certificate of approval;
20379 (ii) impose a fine against a person listed in Subsections (1)(a)(i)(A) through (G);
20380 (iii) assess the administrative costs of any disciplinary proceeding to the permittee, the
20381 licensee, or certificate holder; or
20382 (iv) any combination of Subsections (6)(c)(i) through (iii).
20383 (d) A fine imposed in accordance with this Subsection (6) is subject to Subsections
20384 32A-1-107(1)(p) and (4).
20385 (e) (i) If a permit or license is suspended under this Subsection (6), a sign provided by
20386 the department shall be prominently posted:
20387 (A) during the suspension;
20388 (B) by the permittee or licensee; and
20389 (C) at the entrance of the premises of the permittee or licensee.
20390 (ii) The sign required by this Subsection (6)(e) shall:
20391 (A) read "The Utah Alcoholic Beverage Control Commission has suspended the
20392 alcoholic beverage license or permit of this establishment. Alcoholic beverages may not be
20393 sold, served, furnished, or consumed on these premises during the period of suspension."; and
20394 (B) include the dates of the suspension period.

20395 (iii) A permittee or licensee may not remove, alter, obscure, or destroy a sign required
20396 to be posted under this Subsection (6)(e) during the suspension period.
20397 (f) If a permit or license is revoked, the commission may order the revocation of any
20398 compliance bond posted by the permittee or licensee.
20399 (g) Any permittee or licensee whose permit or license is revoked may not reapply for a
20400 permit or license under this title for three years from the date on which the permit or license is
20401 revoked.
20402 (h) All costs assessed by the commission shall be transferred into the General Fund in
20403 accordance with Section 32A-1-113.
20404 (7) (a) In addition to any action taken against a permittee, licensee, or certificate holder
20405 under this section, the department may initiate disciplinary action against an officer, employee,
20406 or agent of a permittee, licensee, or certificate holder.
20407 (b) If any officer, employee, or agent is found to have violated this title, the
20408 commission may prohibit the officer, employee, or agent from serving, selling, distributing,
20409 manufacturing, wholesaling, warehousing, or handling alcoholic beverages in the course of
20410 employment with any permittee, licensee, or certificate holder under this title for a period
20411 determined by the commission.
20412 (8) (a) The department may initiate a disciplinary proceeding for an alleged violation of
20413 this title or the rules of the commission against:
20414 (i) a manufacturer, supplier, or importer of alcoholic beverages; or
20415 (ii) an officer, employee, agent, or representative of a person listed in Subsection
20416 (8)(a)(i).
20417 (b) (i) If the commission makes the finding described in Subsection (8)(b)(ii), the
20418 commission may, in addition to other penalties prescribed by this title, order:
20419 (A) the removal of the manufacturer's, supplier's, or importer's products from the
20420 department's sales list; and
20421 (B) a suspension of the department's purchase of the products described in Subsection
20422 (8)(b)(i)(A) for a period determined by the commission.
20423 (ii) The commission may take the action described in Subsection (8)(b)(i) if:
20424 (A) any manufacturer, supplier, or importer of liquor, wine, or heavy beer or its officer,
20425 employee, agent, or representative violates any provision of this title; and

20426 (B) the manufacturer, supplier, or importer:
20427 (I) directly committed the violation; or
20428 (II) solicited, requested, commanded, encouraged, or intentionally aided another to
20429 engage in the violation.
20430 (9) (a) The department may initiate a disciplinary proceeding against a brewer holding
20431 a certificate of approval under Section 32A-8-101 for an alleged violation of this title or the
20432 rules of the commission.
20433 (b) If the commission makes a finding that the brewer holding a certificate of approval
20434 violates this title or rules of the commission, the commission may take any action against the
20435 brewer holding a certificate of approval that the commission could take against a licensee
20436 including:
20437 (i) suspension or revocation of the certificate of approval; and
20438 (ii) imposition of a fine.
20439 (10) (a) If a respondent requests a disciplinary proceeding hearing, the hearing held by
20440 the commission or a hearing examiner appointed by the commission shall proceed formally in
20441 accordance with Sections [~~63-46b-6~~] 63G-4-204 through [~~63-46b-11~~] 63G-4-209 in any case
20442 where:
20443 (i) the alleged violation poses, or potentially poses, a grave risk to public safety, health,
20444 and welfare;
20445 (ii) the alleged violation involves:
20446 (A) selling, serving, or otherwise furnishing alcoholic products to a minor;
20447 (B) attire, conduct, or entertainment prohibited by Part 6, Attire, Conduct, and
20448 Entertainment Act;
20449 (C) fraud, deceit, willful concealment, or misrepresentation of the facts by or on behalf
20450 of the respondent;
20451 (D) interfering or refusing to cooperate with:
20452 (I) an authorized official of the department or the state in the discharge of the official's
20453 duties in relation to the enforcement of this title; or
20454 (II) a peace officer in the discharge of the peace officer's duties in relation to the
20455 enforcement of this title;
20456 (E) an unlawful trade practice under Sections 32A-12-601 through 32A-12-606;

20457 (F) unlawful importation of alcoholic products; or
20458 (G) unlawful supply of liquor by a liquor industry member, as defined in Subsection
20459 32A-12-601(2), to any person other than the department or a military installation, except to the
20460 extent permitted by this title; or
20461 (iii) the department determines to seek in a disciplinary proceeding hearing:
20462 (A) an administrative fine exceeding $3,000;
20463 (B) a suspension of a license, permit, or certificate of approval of more than ten days;
20464 or
20465 (C) a revocation of a license, permit, or certificate of approval.
20466 (b) The commission shall make rules in accordance with [~~Title 63, Chapter 46a~~] Title
20467 63G, Chapter 3, Utah Administrative Rulemaking Act, to provide a procedure to implement
20468 this Subsection (10).
20469 Section 421. Section **32A-1-120** is amended to read:
20470 **32A-1-120. Judicial review -- Enforcement.**
20471 (1) In a disciplinary proceeding, as defined in Section 32A-1-119, a respondent found
20472 in a final order of the commission to have violated this title or rules of the commission made
20473 under this title may seek judicial review in a court of competent jurisdiction pursuant to the
20474 judicial review provisions of Sections [~~63-46b-14~~] 63G-4-401 through [~~63-46b-18~~] 63G-4-405.
20475 (2) Notwithstanding Subsection [~~63-46b-16~~] 63G-4-403(4)(g), an appellate court may
20476 not grant relief on the basis that a finding of fact by the commission in a formal disciplinary
20477 proceeding is not supported, if the commission's finding of fact is supported by any evidence of
20478 substance in the record of the formal disciplinary proceeding when viewed in light of the whole
20479 record before the court.
20480 (3) In addition to any other remedy provided by law, the commission may seek
20481 enforcement of a commission order in a disciplinary proceeding by seeking civil enforcement
20482 in a state district court in accordance with Section [~~63-46b-19~~] 63G-4-501.
20483 Section 422. Section **32A-1-603** is amended to read:
20484 **32A-1-603. Sexually oriented entertainer.**
20485 (1) Subject to the restrictions of this section, live entertainment is permitted on a
20486 premises or at an event regulated by the commission.
20487 (2) Notwithstanding Subsection (1), a licensee or permittee may not permit a person to:

20488 (a) appear or perform in a state of nudity;
20489 (b) perform or simulate an act of:
20490 (i) sexual intercourse;
20491 (ii) masturbation;
20492 (iii) sodomy;
20493 (iv) bestiality;
20494 (v) oral copulation;
20495 (vi) flagellation; or
20496 (v) a sexual act that is prohibited by Utah law; or
20497 (c) touch, caress, or fondle the breast, buttocks, anus, or genitals.
20498 (3) A sexually oriented entertainer may perform in a state of seminudity:
20499 (a) only in a tavern or class D private club; and
20500 (b) only if:
20501 (i) all windows, doors, and other apertures to the premises are darkened or otherwise
20502 constructed to prevent anyone outside the premises from seeing the performance; and
20503 (ii) the outside entrance doors of the premises remain unlocked.
20504 (4) A sexually oriented entertainer may perform only upon a stage or in a designated
20505 performance area that is:
20506 (a) approved by the commission in accordance with rules made by the commission in
20507 accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
20508 Rulemaking Act;
20509 (b) configured so as to preclude a patron from:
20510 (i) touching the sexually oriented entertainer; or
20511 (ii) placing any money or object on or within the costume or the person of the sexually
20512 oriented entertainer; and
20513 (c) configured so as to preclude the sexually oriented entertainer from touching a
20514 patron.
20515 (5) A sexually oriented entertainer may not touch a patron:
20516 (a) during the sexually oriented entertainer's performance; or
20517 (b) while the sexually oriented entertainer is dressed in performance attire or costume.
20518 (6) A sexually oriented entertainer, while in the portion of the premises used by

20519 patrons, must be dressed in opaque clothing which covers and conceals the sexually oriented
20520 entertainer's performance attire or costume from the top of the breast to the knee.
20521 (7) A patron may not be on the stage or in the performance area while a sexually
20522 oriented entertainer is appearing or performing on the stage or in the performance area.
20523 (8) A patron may not:
20524 (a) touch a sexually oriented entertainer:
20525 (i) during the sexually oriented entertainer's performance; or
20526 (ii) while the sexually oriented entertainer is dressed in performance attire or costume;
20527 or
20528 (b) place money or any other object on or within the costume or the person of the
20529 sexually oriented entertainer.
20530 (9) A minor may not be on a premises described in Subsection (3) when a sexually
20531 oriented entertainer is performing on the premises.
20532 (10) A person who appears or performs for the entertainment of patrons on a premises
20533 or at an event regulated by the commission that is not a tavern or class D private club:
20534 (a) may not appear or perform in a state of nudity or a state of seminudity; and
20535 (b) may appear or perform in opaque clothing that completely covers the person's
20536 genitals, pubic area, and anus if the covering:
20537 (i) is not less than the following at its widest point:
20538 (A) four inches coverage width in the front of the human body; and
20539 (B) five inches coverage width in the back of the human body;
20540 (ii) does not taper to less than one inch wide at the narrowest point; and
20541 (iii) if covering a female, completely covers the breast below the top of the areola.
20542 Section 423. Section **32A-4-103** is amended to read:
20543 **32A-4-103. Qualifications.**
20544 (1) (a) The commission may not grant a restaurant liquor license to any person who has
20545 been convicted of:
20546 (i) a felony under any federal or state law;
20547 (ii) any violation of any federal or state law or local ordinance concerning the sale,
20548 manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages;
20549 (iii) any crime involving moral turpitude; or

20550 (iv) on two or more occasions within the five years before the day on which the license
20551 is granted, driving under the influence of alcohol, any drug, or the combined influence of
20552 alcohol and any drug.
20553 (b) In the case of a partnership, corporation, or limited liability company the
20554 proscription under Subsection (1)(a) applies if any of the following has been convicted of any
20555 offense described in Subsection (1)(a):
20556 (i) a partner;
20557 (ii) a managing agent;
20558 (iii) a manager;
20559 (iv) an officer;
20560 (v) a director;
20561 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
20562 the applicant corporation; or
20563 (vii) a member who owns at least 20% of the applicant limited liability company.
20564 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a
20565 supervisory or managerial capacity for a restaurant has been convicted of any offense described
20566 in Subsection (1)(a).
20567 (2) The commission may immediately suspend or revoke a restaurant liquor license if
20568 after the day on which the restaurant liquor license is granted, a person described in Subsection
20569 (1)(a), (b), or (c):
20570 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior
20571 to the license being granted; or
20572 (b) on or after the day on which the license is granted:
20573 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or
20574 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the
20575 combined influence of alcohol and any drug; and
20576 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
20577 influence of alcohol and any drug within five years before the day on which the person is
20578 convicted of the offense described in Subsection (2)(b)(ii)(A).
20579 (3) The director may take emergency action by immediately suspending the operation of
20580 a restaurant liquor license according to the procedures and requirements of [~~Title 63, Chapter~~

20581 ~~46b~~] Title 63G, Chapter 4, Administrative Procedures Act, for the period during which the
20582 criminal matter is being adjudicated if a person described in Subsection (1)(a), (b), or (c):
20583 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);
20584 or
20585 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
20586 any drug, or the combined influence of alcohol and any drug; and
20587 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
20588 influence of alcohol and any drug within five years before the day on which the person is
20589 arrested on a charge described in Subsection (3)(b)(i).
20590 (4) (a) (i) The commission may not grant a restaurant liquor license to any person who
20591 has had any type of license, agency, or permit issued under this title revoked within the last
20592 three years.
20593 (ii) The commission may not grant a restaurant liquor license to an applicant that is a
20594 partnership, corporation, or limited liability company if any partner, managing agent, manager,
20595 officer, director, stockholder who holds at least 20% of the total issued and outstanding stock
20596 of the applicant corporation, or member who owns at least 20% of the applicant limited
20597 liability company is or was:
20598 (A) a partner or managing agent of any partnership that had any type of license, agency,
20599 or permit issued under this title revoked within the last three years;
20600 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%
20601 of the total issued and outstanding stock of any corporation that had any type of license,
20602 agency, or permit issued under this title revoked within the last three years; or
20603 (C) a manager or member who owns or owned at least 20% of any limited liability
20604 company that had any type of license, agency, or permit issued under this title revoked within
20605 the last three years.
20606 (b) An applicant that is a partnership, corporation, or limited liability company may not
20607 be granted a restaurant liquor license if any of the following had any type of license, agency, or
20608 permit issued under this title revoked while acting in that person's individual capacity within
20609 the last three years:
20610 (i) a partner or managing agent of the applicant partnership;
20611 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the

20612 total issued and outstanding stock of the applicant corporation; or
20613 (iii) a manager or member who owns at least 20% of the applicant limited liability
20614 company.
20615 (c) A person acting in an individual capacity may not be granted a restaurant liquor
20616 license if that person was:
20617 (i) a partner or managing agent of a partnership that had any type of license, agency, or
20618 permit issued under this title revoked within the last three years;
20619 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
20620 total issued and outstanding stock of a corporation that had any type of license, agency, or
20621 permit issued under this title revoked within the last three years; or
20622 (iii) a manager or member of a limited liability company who owned at least 20% of
20623 the limited liability company that had any type of license, agency, or permit issued under this
20624 title revoked within the last three years.
20625 (5) (a) A minor may not be granted a restaurant liquor license.
20626 (b) The commission may not grant a restaurant liquor license to an applicant that is a
20627 partnership, corporation, or limited liability company if any of the following is a minor:
20628 (i) a partner or managing agent of the applicant partnership;
20629 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
20630 total issued and outstanding stock of the applicant corporation; or
20631 (iii) a manager or member who owns at least 20% of the applicant limited liability
20632 company.
20633 (6) If any person to whom a license has been issued under this part no longer possesses
20634 the qualifications required by this title for obtaining that license, the commission may suspend
20635 or revoke that license.
20636 Section 424. Section **32A-4-203** is amended to read:
20637 **32A-4-203. Qualifications.**
20638 (1) (a) The commission may not grant an airport lounge liquor license to any person
20639 who has been convicted of:
20640 (i) a felony under any federal or state law;
20641 (ii) any violation of any federal or state law or local ordinance concerning the sale,
20642 manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages;

20643 (iii) any crime involving moral turpitude; or
20644 (iv) on two or more occasions within the five years before the day on which the license
20645 is granted, driving under the influence of alcohol, any drug, or the combined influence of
20646 alcohol and any drug.
20647 (b) In the case of a partnership, corporation, or limited liability company the
20648 proscription under Subsection (1)(a) applies if any of the following has been convicted of any
20649 offense described in Subsection (1)(a):
20650 (i) a partner;
20651 (ii) a managing agent;
20652 (iii) a manager;
20653 (iv) an officer;
20654 (v) a director;
20655 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
20656 the applicant corporation; or
20657 (vii) a member who owns at least 20% of the limited liability company.
20658 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a
20659 supervisory or managerial capacity for an airport lounge has been convicted of any offense
20660 described in Subsection (1)(a).
20661 (2) The commission may immediately suspend or revoke an airport lounge license if
20662 after the day on which the airport lounge license is granted, a person described in Subsection
20663 (1)(a), (b), or (c):
20664 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior
20665 to the license being granted; or
20666 (b) on or after the day on which the license is granted:
20667 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or
20668 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the
20669 combined influence of alcohol and any drug; and
20670 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
20671 influence of alcohol and any drug within five years before the day on which the person is
20672 convicted of the offense described in Subsection (2)(b)(ii)(A).
20673 (3) The director may take emergency action by immediately suspending the operation of

20674 an airport lounge liquor license according to the procedures and requirements of [~~Title 63,~~
20675 ~~Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, for the period during which
20676 the criminal matter is being adjudicated if a person described in Subsection (1)(a), (b), or (c):
20677 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);
20678 or
20679 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
20680 any drug, or the combined influence of alcohol and any drug; and
20681 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
20682 influence of alcohol and any drug within five years before the day on which the person is
20683 arrested on a charge described in Subsection (3)(b)(i).
20684 (4) (a) (i) The commission may not grant an airport lounge liquor license to any person
20685 who has had any type of license, agency, or permit issued under this title revoked within the
20686 last three years.
20687 (ii) The commission may not grant an airport lounge liquor license to any applicant that
20688 is a partnership, corporation, or limited liability company if any partner, managing agent,
20689 manager, officer, director, stockholder who holds at least 20% of the total issued and
20690 outstanding stock of the applicant corporation, or member who owns at least 20% of the
20691 applicant limited liability company is or was:
20692 (A) a partner or managing agent of any partnership that had any type of license, agency,
20693 or permit issued under this title revoked within the last three years;
20694 (B) a managing agent, officer, director, or a stockholder who holds or held at least 20%
20695 of the total issued and outstanding stock of any corporation that had any type of license,
20696 agency, or permit issued under this title revoked within the last three years; or
20697 (C) a manager or member who owns or owned at least 20% of the limited liability
20698 company that had any type of license, agency, or permit issued under this title revoked within
20699 the last three years.
20700 (b) A corporation or partnership applicant may not be granted an airport lounge liquor
20701 license if any of the following had any type of license, agency, or permit issued under this title
20702 revoked while acting in that person's individual capacity within the last three years:
20703 (i) any partner or managing agent of the applicant partnership;
20704 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the

20705 total issued and outstanding stock of the applicant corporation; or
20706 (iii) any manager or member who owns at least 20% of the applicant limited liability
20707 company.
20708 (c) A person acting in an individual capacity may not be granted an airport lounge
20709 liquor license if that person was:
20710 (i) a partner or managing agent of a partnership that had any type of license, agency, or
20711 permit issued under this title revoked within the last three years;
20712 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
20713 total issued and outstanding stock of a corporation that had any type of license, agency, or
20714 permit issued under this title revoked within the last three years; or
20715 (iii) a manager or member who owns at least 20% of a limited liability company that
20716 had any type of license, agency, or permit issued under this title revoked within the last three
20717 years.
20718 (5) (a) A minor may not be granted an airport lounge liquor license.
20719 (b) The commission may not grant an airport lounge liquor license to an applicant that
20720 is a partnership, corporation, or limited liability company if any of the following is a minor:
20721 (i) a partner or managing agent of the applicant partnership;
20722 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
20723 total issued and outstanding stock of the applicant corporation; or
20724 (iii) a manager or member who owns at least 20% of the applicant limited liability
20725 company.
20726 (6) If any person to whom a license has been issued under this part no longer possesses
20727 the qualifications required by this title for obtaining that license, the commission may suspend
20728 or revoke that license.
20729 Section 425. Section **32A-4-304** is amended to read:
20730 **32A-4-304. Qualifications.**
20731 (1) (a) The commission may not grant a limited restaurant license to any person who
20732 has been convicted of:
20733 (i) a felony under any federal or state law;
20734 (ii) any violation of any federal or state law or local ordinance concerning the sale,
20735 manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages;

20736 (iii) any crime involving moral turpitude; or
20737 (iv) on two or more occasions within the five years before the day on which the license
20738 is granted, driving under the influence of alcohol, any drug, or the combined influence of
20739 alcohol and any drug.
20740 (b) In the case of a partnership, corporation, or limited liability company, the
20741 proscription under Subsection (1)(a) applies if any of the following has been convicted of any
20742 offense described in Subsection (1)(a):
20743 (i) a partner;
20744 (ii) a managing agent;
20745 (iii) a manager;
20746 (iv) an officer;
20747 (v) a director;
20748 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
20749 the applicant corporation; or
20750 (vii) a member who owns at least 20% of the applicant limited liability company.
20751 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a
20752 supervisory or managerial capacity for the limited restaurant has been convicted of any offense
20753 described in Subsection (1)(a).
20754 (2) The commission may immediately suspend or revoke a limited restaurant license if
20755 after the day on which the limited restaurant license is granted, a person described in
20756 Subsection (1)(a), (b), or (c):
20757 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior
20758 to the license being granted; or
20759 (b) on or after the day on which the license is granted:
20760 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or
20761 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the
20762 combined influence of alcohol and any drug; and
20763 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
20764 influence of alcohol and any drug within five years before the day on which the person is
20765 convicted of the offense described in Subsection (2)(b)(ii)(A).
20766 (3) The director may take emergency action by immediately suspending the operation

20767 of the limited restaurant license according to the procedures and requirements of [~~Title 63,~~
20768 ~~Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, for the period during which
20769 the criminal matter is being adjudicated if a person described in Subsection (1)(a), (b), or (c):
20770 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii) or (iii);
20771 or
20772 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
20773 any drug, or the combined influence of alcohol and any drug; and
20774 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
20775 influence of alcohol and any drug within five years before the day on which the person is
20776 arrested on a charge described in Subsection (3)(b)(i).
20777 (4) (a) (i) The commission may not grant a limited restaurant license to any person who
20778 has had any type of license, agency, or permit issued under this title revoked within the last
20779 three years.
20780 (ii) The commission may not grant a limited restaurant license to an applicant that is a
20781 partnership, corporation, or limited liability company if any partner, managing agent, manager,
20782 officer, director, stockholder who holds at least 20% of the total issued and outstanding stock
20783 of an applicant corporation, or member who owns at least 20% of an applicant limited liability
20784 company is or was:
20785 (A) a partner or managing agent of any partnership that had any type of license, agency,
20786 or permit issued under this title revoked within the last three years;
20787 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%
20788 of the total issued and outstanding stock of any corporation that had any type of license,
20789 agency, or permit issued under this title revoked within the last three years; or
20790 (C) a manager or member of any limited liability company who owns or owned at least
20791 20% of a limited liability company that had any type of license, agency, or permit issued under
20792 this title revoked within the last three years.
20793 (b) An applicant that is a partnership, corporation, or limited liability company may not
20794 be granted a limited restaurant license if any of the following had any type of license, agency,
20795 or permit issued under this title revoked while acting in their individual capacity within the last
20796 three years:
20797 (i) any partner or managing agent of the applicant partnership;

20798 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the
20799 total issued and outstanding stock of the applicant corporation; or
20800 (iii) any manager or member who owns at least 20% of the applicant limited liability
20801 company.
20802 (c) A person acting in an individual capacity may not be granted a limited restaurant
20803 license if that person was:
20804 (i) a partner or managing agent of a partnership that had any type of license, agency, or
20805 permit issued under this title revoked within the last three years;
20806 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
20807 total issued and outstanding stock of a corporation that had any type of license, agency, or
20808 permit issued under this title revoked within the last three years; or
20809 (iii) a manager or member of a limited liability company who owned at least 20% of
20810 the limited liability company that had any type of license, agency, or permit issued under this
20811 title revoked within the last three years.
20812 (5) (a) A minor may not be granted a limited restaurant license.
20813 (b) The commission may not grant a limited restaurant license to an applicant that is a
20814 partnership, corporation, or limited liability company if any of the following is a minor:
20815 (i) a partner or managing agent of the applicant partnership;
20816 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
20817 total issued and outstanding stock of the applicant corporation; or
20818 (iii) a manager or member who owns at least 20% of the applicant limited liability
20819 company.
20820 (6) If any person to whom a license has been issued under this part no longer possesses
20821 the qualifications required by this title for obtaining that license, the commission may suspend
20822 or revoke that license.
20823 Section 426. Section **32A-4-403** is amended to read:
20824 **32A-4-403. Qualifications.**
20825 (1) (a) The commission may not grant an on-premise banquet license to any person
20826 who has been convicted of:
20827 (i) a felony under any federal or state law;
20828 (ii) any violation of any federal or state law or local ordinance concerning the sale,

20829 manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages;
20830 (iii) any crime involving moral turpitude; or
20831 (iv) on two or more occasions within the five years before the day on which the license
20832 is granted, driving under the influence of alcohol, any drug, or the combined influence of
20833 alcohol and any drug.
20834 (b) In the case of a partnership, corporation, or limited liability company, the
20835 proscription under Subsection (1)(a) applies if any of the following has been convicted of any
20836 offense described in Subsection (1)(a):
20837 (i) a partner;
20838 (ii) a managing agent;
20839 (iii) a manager;
20840 (iv) an officer;
20841 (v) a director;
20842 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
20843 the applicant corporation; or
20844 (vii) a member who owns at least 20% of the applicant limited liability company.
20845 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a
20846 supervisory or managerial capacity for the on-premise banquet licensee has been convicted of
20847 any offense described in Subsection (1)(a).
20848 (2) The commission may immediately suspend or revoke an on-premise banquet
20849 license if after the day on which the on-premise banquet license is granted, a person described
20850 in Subsection (1)(a), (b), or (c):
20851 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior
20852 to the license being granted; or
20853 (b) on or after the day on which the license is granted:
20854 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or
20855 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the
20856 combined influence of alcohol and any drug; and
20857 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
20858 influence of alcohol and any drug within five years before the day on which the person is
20859 convicted of the offense described in Subsection (2)(b)(ii)(A).

20860 (3) The director may take emergency action by immediately suspending the operation
20861 of an on-premise banquet license according to the procedures and requirements of [~~Title 63,~~
20862 ~~Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, for the period during which
20863 the criminal matter is being adjudicated if a person described in Subsection (1)(a), (b), or (c):
20864 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);
20865 or
20866 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
20867 any drug, or the combined influence of alcohol and any drug; and
20868 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
20869 influence of alcohol and any drug within five years before the day on which the person is
20870 arrested on a charge described in Subsection (3)(b)(i).
20871 (4) (a) (i) The commission may not grant an on-premise banquet license to any person
20872 who has had any type of license, agency, or permit issued under this title revoked within the
20873 last three years.
20874 (ii) The commission may not grant an on-premise banquet license to an applicant that
20875 is a partnership, corporation, or limited liability company if any partner, managing agent,
20876 manager, officer, director, stockholder who holds at least 20% of the total issued and
20877 outstanding stock of an applicant corporation, or member who owns at least 20% of an
20878 applicant limited liability company is or was:
20879 (A) a partner or managing agent of any partnership that had any type of license, agency,
20880 or permit issued under this title revoked within the last three years;
20881 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%
20882 of the total issued and outstanding stock of any corporation that had any type of license,
20883 agency, or permit issued under this title revoked within the last three years; or
20884 (C) a manager or member who owns or owned at least 20% of any limited liability
20885 company that had any type of license, agency, or permit issued under this title revoked within
20886 the last three years.
20887 (b) An applicant that is a partnership, corporation, or limited liability company may not
20888 be granted an on-premise banquet license if any of the following had any type of license,
20889 agency, or permit issued under this title revoked while acting in their individual capacity within
20890 the last three years:

20891 (i) any partner or managing agent of the applicant partnership;
20892 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the
20893 total issued and outstanding stock of the applicant corporation; or
20894 (iii) any manager or member who owns at least 20% of the applicant limited liability
20895 company.
20896 (c) A person acting in an individual capacity may not be granted an on-premise banquet
20897 license if that person was:
20898 (i) a partner or managing agent of a partnership that had any type of license, agency, or
20899 permit issued under this title revoked within the last three years;
20900 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
20901 total issued and outstanding stock of a corporation that had any type of license, agency, or
20902 permit issued under this title revoked within the last three years; or
20903 (iii) a manager or member who owned at least 20% of the limited liability company
20904 that had any type of license, agency, or permit issued under this title revoked within the last
20905 three years.
20906 (5) (a) A minor may not be granted an on-premise banquet license.
20907 (b) The commission may not grant an on-premise banquet license to an applicant that is
20908 a partnership, corporation, or limited liability company if any of the following is a minor:
20909 (i) a partner or managing agent of the applicant partnership;
20910 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
20911 total issued and outstanding stock of the applicant corporation; or
20912 (iii) a manager or member who owns at least 20% of the applicant limited liability
20913 company.
20914 (6) If any person to whom a license has been issued under this part no longer possesses
20915 the qualifications required by this title for obtaining that license, the commission may suspend
20916 or revoke that license.
20917 Section 427. Section **32A-4-406** is amended to read:
20918 **32A-4-406. Operational restrictions.**
20919 Each person granted an on-premise banquet license and the employees and management
20920 personnel of the on-premise banquet licensee shall comply with this title, the rules of the
20921 commission, and the following conditions and requirements. Failure to comply may result in a

20922 suspension or revocation of the license or other disciplinary action taken against individual
20923 employees or management personnel.
20924 (1) A person involved in the sale or service of alcoholic beverages under the
20925 on-premise banquet license shall:
20926 (a) be under the supervision and direction of the on-premise banquet licensee; and
20927 (b) complete the seminar provided for in Section 62A-15-401.
20928 (2) (a) Liquor may not be purchased by the on-premise banquet licensee except from
20929 state stores or package agencies.
20930 (b) Liquor purchased in accordance with Subsection (2)(a) may be transported by the
20931 on-premise banquet licensee from the place of purchase to the licensed premises.
20932 (c) Payment for liquor shall be made in accordance with rules established by the
20933 commission.
20934 (3) Alcoholic beverages may be sold or provided at a banquet subject to the restrictions
20935 set forth in this Subsection (3).
20936 (a) An on-premise banquet licensee may sell or provide any primary spirituous liquor
20937 only in a quantity not to exceed one ounce per beverage dispensed through a calibrated metered
20938 dispensing system approved by the department in accordance with commission rules adopted
20939 under this title, except that:
20940 (i) spirituous liquor need not be dispensed through a calibrated metered dispensing
20941 system if used as a secondary flavoring ingredient in a beverage subject to the following
20942 restrictions:
20943 (A) the secondary ingredient may be dispensed only in conjunction with the purchase
20944 of a primary spirituous liquor;
20945 (B) the secondary ingredient may not be the only spirituous liquor in the beverage;
20946 (C) the on-premise banquet licensee shall designate a location where flavorings are
20947 stored on the floor plan provided to the department; and
20948 (D) all flavoring containers shall be plainly and conspicuously labeled "flavorings";
20949 (ii) spirituous liquor need not be dispensed through a calibrated metered dispensing
20950 system if used:
20951 (A) as a flavoring on desserts; and
20952 (B) in the preparation of flaming food dishes, drinks, and desserts;

20953 (iii) each attendee may have no more than 2.75 ounces of spirituous liquor at a time
20954 before the attendee; and
20955 (iv) each attendee may have no more than one spirituous liquor drink at a time before
20956 the attendee.
20957 (b) (i) (A) Wine may be sold and served by the glass or an individual portion not to
20958 exceed five ounces per glass or individual portion.
20959 (B) An individual portion may be served to an attendee in more than one glass as long
20960 as the total amount of wine does not exceed five ounces.
20961 (C) An individual portion of wine is considered to be one alcoholic beverage under
20962 Subsection (5)(c).
20963 (ii) Wine may be sold and served in containers not exceeding 1.5 liters at prices fixed
20964 by the commission.
20965 (iii) A wine service may be performed and a service charge assessed by the on-premise
20966 banquet licensee as authorized by commission rule for wine purchased on the banquet
20967 premises.
20968 (c) (i) Heavy beer may be served in original containers not exceeding one liter at prices
20969 fixed by the commission.
20970 (ii) A service charge may be assessed by the on-premise banquet licensee as authorized
20971 by commission rule for heavy beer purchased on the banquet premises.
20972 (d) (i) Except as provided in Subsection (3)(d)(ii), beer may be sold and served for
20973 on-premise consumption:
20974 (A) in an open container; and
20975 (B) on draft.
20976 (ii) Beer sold pursuant to Subsection (3)(d)(i) shall be in a size of container that does
20977 not exceed two liters, except that beer may not be sold to an individual attendee in a container
20978 size that exceeds one liter.
20979 (4) Alcoholic beverages may not be stored, served, or sold in any place other than as
20980 designated in the on-premise banquet licensee's application, except that additional locations in
20981 or on the premises of an on-premise banquet licensee may be approved in accordance with
20982 guidelines approved by the commission as provided in Subsection 32A-4-402(2).
20983 (5) (a) An attendee may only make alcoholic beverage purchases from and be served by

20984 a person employed, designated, and trained by the on-premise banquet licensee to sell and
20985 serve alcoholic beverages.
20986 (b) Notwithstanding Subsection (5)(a), an attendee who has purchased bottled wine
20987 from an employee of the on-premise banquet licensee may thereafter serve wine from the bottle
20988 to the attendee or others at the attendee's table.
20989 (c) Each attendee may have no more than two alcoholic beverages of any kind at a time
20990 before the attendee.
20991 (6) The alcoholic beverage storage area shall remain locked at all times other than
20992 those hours and days when alcoholic beverage sales are authorized by law.
20993 (7) (a) Except as provided in Subsection (7)(b), alcoholic beverages may be offered for
20994 sale, sold, served, or otherwise furnished from 10 a.m. to 1 a.m. seven days a week:
20995 (i) at a banquet; or
20996 (ii) in connection with room service.
20997 (b) Notwithstanding Subsection (7)(a), a sale or service of liquor may not occur at a
20998 banquet or in connection with room service until after the polls are closed on the day of:
20999 (i) a regular general election;
21000 (ii) a regular primary election; or
21001 (iii) a statewide special election.
21002 (8) Alcoholic beverages may not be sold, served, or otherwise furnished to any:
21003 (a) minor;
21004 (b) person actually, apparently, or obviously intoxicated;
21005 (c) known habitual drunkard; or
21006 (d) known interdicted person.
21007 (9) (a) (i) Liquor may be sold only at prices fixed by the commission.
21008 (ii) Liquor may not be sold at discount prices on any date or at any time.
21009 (b) Alcoholic beverages may not be sold at less than the cost of the alcoholic beverage
21010 to the licensee.
21011 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
21012 over consumption or intoxication.
21013 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain
21014 hours of the on-premise banquet licensee's business day such as a "happy hour."

21015 (e) The sale or service of more than one alcoholic beverage for the price of a single
21016 alcoholic beverage is prohibited.
21017 (f) An on-premise banquet licensee may not engage in a public promotion involving or
21018 offering free alcoholic beverages to the general public.
21019 (10) Alcoholic beverages may not be purchased for an attendee by:
21020 (a) the on-premise banquet licensee; or
21021 (b) any employee or agent of the on-premise banquet licensee.
21022 (11) An attendee of a banquet may not bring any alcoholic beverage into or onto, or
21023 remove any alcoholic beverage from the premises of a banquet.
21024 (12) (a) Except as otherwise provided in this title, the sale and service of alcoholic
21025 beverages by an on-premise banquet licensee at a banquet shall be made only for consumption
21026 at the location of the banquet.
21027 (b) The host of a banquet, an attendee, or any other person other than the on-premise
21028 banquet licensee or its employees, may not remove any alcoholic beverage from the premises
21029 of the banquet.
21030 (13) An on-premise banquet licensee employee shall remain at the banquet at all times
21031 when alcoholic beverages are being sold, served, or consumed at the banquet.
21032 (14) (a) An on-premise banquet licensee may not leave any unsold alcoholic beverages
21033 at the banquet following the conclusion of the banquet.
21034 (b) At the conclusion of a banquet, the on-premise banquet licensee or its employees,
21035 shall:
21036 (i) destroy any opened and unused alcoholic beverages that are not saleable, under
21037 conditions established by the department; and
21038 (ii) return to the on-premise banquet licensee's approved locked storage area any:
21039 (A) opened and unused alcoholic beverage that is saleable; and
21040 (B) unopened containers of alcoholic beverages.
21041 (15) Except as provided in Subsection (14), any open or sealed container of alcoholic
21042 beverages not sold or consumed at a banquet:
21043 (a) shall be stored by the on-premise banquet licensee in the licensee's approved locked
21044 storage area; and
21045 (b) may be used at more than one banquet.

21046 (16) An on-premise banquet licensee may not employ a minor to sell, serve, dispense,
21047 or otherwise furnish alcoholic beverages in connection with the licensee's banquet and room
21048 service activities.
21049 (17) An employee of an on-premise banquet licensee, while on duty, may not:
21050 (a) consume an alcoholic beverage; or
21051 (b) be intoxicated.
21052 (18) An on-premise banquet licensee shall prominently display at each banquet at
21053 which alcoholic beverages are sold or served:
21054 (a) a copy of the licensee's on-premise banquet license; and
21055 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
21056 drugs is a serious crime that is prosecuted aggressively in Utah."
21057 (19) An on-premise banquet licensee may not on the premises of the hotel, resort
21058 facility, sports center, or convention center:
21059 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
21060 Chapter 10, Part 11, Gambling;
21061 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
21062 Part 11, Gambling; or
21063 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
21064 the risking of something of value for a return or for an outcome when the return or outcome is
21065 based upon an element of chance, excluding the playing of an amusement device that confers
21066 only an immediate and unrecorded right of replay not exchangeable for value.
21067 (20) (a) An on-premise banquet licensee shall maintain accounting and such other
21068 records and documents as the commission or department may require.
21069 (b) An on-premise banquet licensee or person acting for the on-premise banquet
21070 licensee, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes the
21071 entries in any of the books of account or other documents of the on-premise banquet licensee
21072 required to be made, maintained, or preserved by this title or the rules of the commission for
21073 the purpose of deceiving the commission or department, or any of their officials or employees,
21074 is subject to:
21075 (i) the suspension or revocation of the on-premise banquet license; and
21076 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

21077 (21) (a) For the purpose described in Subsection (21)(b), an on-premise banquet
21078 licensee shall provide the department with advance notice of a scheduled banquet in
21079 accordance with rules made by the commission in accordance with [~~Title 63, Chapter 46a~~] Title
21080 63G, Chapter 3, Utah Administrative Rulemaking Act.
21081 (b) The advance notice required by Subsection (21)(a) is required to provide any of the
21082 following the opportunity to conduct a random inspection of a banquet:
21083 (i) an authorized representative of the commission or the department; or
21084 (ii) a law enforcement officer.
21085 (22) An on-premise banquet licensee shall maintain at least 50% of its total annual
21086 banquet gross receipts from the sale of food, not including:
21087 (a) mix for alcoholic beverages; and
21088 (b) charges in connection with the service of alcoholic beverages.
21089 (23) A person may not transfer an on-premise banquet license from one business
21090 location to another without prior written approval of the commission.
21091 (24) (a) An on-premise banquet licensee may not sell, transfer, assign, exchange,
21092 barter, give, or attempt in any way to dispose of the license to any other person, whether for
21093 monetary gain or not.
21094 (b) An on-premise banquet license has no monetary value for the purpose of any type
21095 of disposition.
21096 (25) (a) Room service of alcoholic beverages to a guest room of a hotel or resort
21097 facility shall be provided in person by an on-premise banquet licensee employee only to an
21098 adult guest in the guest room.
21099 (b) Alcoholic beverages may not be left outside a guest room for retrieval by a guest.
21100 (c) An on-premise banquet licensee may only provide alcoholic beverages for room
21101 service in sealed containers.
21102 Section 428. Section **32A-5-103** is amended to read:
21103 **32A-5-103. Qualifications.**
21104 (1) (a) The commission may not grant a private club license to any person who has
21105 been convicted of:
21106 (i) a felony under any federal or state law;
21107 (ii) any violation of any federal or state law or local ordinance concerning the sale,

21108 manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages;
21109 (iii) any crime involving moral turpitude; or
21110 (iv) on two or more occasions within the five years before the day on which the license
21111 is granted, driving under the influence of alcohol, any drug, or the combined influence of
21112 alcohol and any drug.
21113 (b) In the case of a partnership, corporation, or limited liability company, the
21114 proscription under Subsection (1)(a) applies if any of the following has been convicted of any
21115 offense described in Subsection (1)(a):
21116 (i) a partner;
21117 (ii) a managing agent;
21118 (iii) a manager;
21119 (iv) an officer;
21120 (v) a director;
21121 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
21122 the applicant corporation; or
21123 (vii) a member who owns at least 20% of the applicant limited liability company.
21124 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a
21125 supervisory or managerial capacity for a private club has been convicted of any offense
21126 described in Subsection (1)(a).
21127 (2) The commission may immediately suspend or revoke a private club license if after
21128 the day on which the private club license is granted, a person described in Subsection (1)(a),
21129 (b), or (c):
21130 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior
21131 to the license being granted; or
21132 (b) on or after the day on which the license is granted:
21133 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or
21134 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the
21135 combined influence of alcohol and any drug; and
21136 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
21137 influence of alcohol and any drug within five years before the day on which the person is
21138 convicted of the offense described in Subsection (2)(b)(ii)(A).

21139 (3) The director may take emergency action by immediately suspending the operation
21140 of a private club license according to the procedures and requirements of [~~Title 63, Chapter~~
21141 ~~46b~~] Title 63G, Chapter 4, Administrative Procedures Act, for the period during which the
21142 criminal matter is being adjudicated if a person described in Subsection (1)(a), (b), or (c):
21143 (a) is arrested on a charge for any offense described in Subsection (1)(a)(i), (ii), or (iii);
21144 or
21145 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
21146 any drug, or the combined influence of alcohol and any drug; and
21147 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
21148 influence of alcohol and any drug within five years before the day on which the person is
21149 arrested on a charge described in Subsection (3)(b)(i).
21150 (4) (a) (i) The commission may not grant a private club license to any person who has
21151 had any type of license, agency, or permit issued under this title revoked within the last three
21152 years.
21153 (ii) The commission may not grant a private club license to any applicant that is a
21154 partnership, corporation, or limited liability company if any partner, managing agent, manager,
21155 officer, director, stockholder who holds at least 20% of the total issued and outstanding stock
21156 of an applicant corporation, or member who owns at least 20% of an applicant limited liability
21157 company is or was:
21158 (A) a partner or managing agent of any partnership that had any type of license, agency,
21159 or permit issued under this title revoked within the last three years;
21160 (B) a managing agent, officer, director, or a stockholder who holds or held at least 20%
21161 of the total issued and outstanding stock of any corporation that had any type of license,
21162 agency, or permit issued under this title revoked within the last three years; or
21163 (C) a manager or member who owns or owned at least 20% of any limited liability
21164 company that had any type of license, agency, or permit issued under this title revoked within
21165 the last three years.
21166 (b) An applicant that is a partnership, corporation, or limited liability company may not
21167 be granted a private club license if any of the following had any type of license, agency, or
21168 permit issued under this title revoked while acting in that person's individual capacity within
21169 the last three years:

21170 (i) any partner or managing agent of the applicant partnership;
21171 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the
21172 total issued and outstanding stock of the applicant corporation; or
21173 (iii) any manager or member who owned at least 20% of the applicant limited liability
21174 company.
21175 (c) A person acting in an individual capacity may not be granted a private club license
21176 if that person was:
21177 (i) a partner or managing agent of a partnership that had any type of license, agency, or
21178 permit issued under this title revoked within the last three years;
21179 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
21180 total issued and outstanding stock of a corporation that had any type of license, agency, or
21181 permit issued under this title revoked within the last three years; or
21182 (iii) a manager or member of a limited liability company who owned at least 20% of
21183 the limited liability company that had any type of license, agency, or permit issued under this
21184 title revoked within the last three years.
21185 (5) (a) A minor may not be granted a private club license.
21186 (b) The commission may not grant a private club license to an applicant that is a
21187 partnership, corporation, or limited liability company if any of the following is a minor:
21188 (i) a partner or managing agent of the applicant partnership;
21189 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
21190 total issued and outstanding stock of the applicant corporation; or
21191 (iii) a manager or member who owns at least 20% of the applicant limited liability
21192 company.
21193 (6) If any person or entity to whom a license has been issued under this chapter no
21194 longer possesses the qualifications required by this title for obtaining that license, the
21195 commission may suspend or revoke that license.
21196 Section 429. Section **32A-6-103** is amended to read:
21197 **32A-6-103. Qualifications.**
21198 (1) Special use permits may be granted only to the following persons or organizations:
21199 (a) a religious wine use permit may be granted to a church or religious organization;
21200 (b) an industrial or manufacturing use permit may be granted to a person or

21201 organization engaged in an industrial or manufacturing pursuit;
21202 (c) a scientific or educational use permit may be granted to a person or organization
21203 engaged in a scientific or educational pursuit;
21204 (d) a health care facility use permit may be granted to a hospital or health care facility;
21205 and
21206 (e) a public service permit may be granted to an operator of an airline, railroad, or other
21207 public conveyance.
21208 (2) (a) The commission may not issue a special use permit to any person who has been
21209 convicted of:
21210 (i) a felony under any federal or state law;
21211 (ii) any violation of any federal or state law or local ordinance concerning the sale,
21212 manufacture, distribution, warehousing, adulteration, or transportation of alcoholic products;
21213 (iii) any crime involving moral turpitude; or
21214 (iv) on two or more occasions within the five years before the day on which the special
21215 use permit is granted, driving under the influence of alcohol, any drug, or the combined
21216 influence of alcohol and any drug.
21217 (b) In the case of a partnership, corporation, or limited liability company the
21218 proscription under Subsection (2)(a) applies if any of the following has been convicted of any
21219 offense described in Subsection (2)(a):
21220 (i) a partner;
21221 (ii) a managing agent;
21222 (iii) a manager;
21223 (iv) an officer;
21224 (v) a director;
21225 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
21226 an applicant corporation; or
21227 (vii) a member who owns at least 20% of an applicant limited liability company.
21228 (c) The proscription under Subsection (2)(a) applies if any person employed to act in a
21229 supervisory or managerial capacity for a special use permittee has been convicted of any
21230 offense described in Subsection (2)(a).
21231 (3) The commission may immediately suspend or revoke a special use permit if after

21232 the day on which the special use permit is granted, a person described in Subsection (2)(a), (b),
21233 or (c):
21234 (a) is found to have been convicted of any offense described in Subsection (2)(a) prior
21235 to the permit being granted; or
21236 (b) on or after the day on which the permit is granted:
21237 (i) is convicted of an offense described in Subsection (2)(a)(i), (ii), or (iii); or
21238 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the
21239 combined influence of alcohol and any drug; and
21240 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
21241 influence of alcohol and any drug within five years before the day on which the person is
21242 convicted of the offense described in Subsection (3)(b)(ii)(A).
21243 (4) The director may take emergency action by immediately suspending the operation
21244 of a special use permit according to the procedures and requirements of [~~Title 63, Chapter 46b~~]
21245 Title 63G, Chapter 4, Administrative Procedures Act, for the period during which the criminal
21246 matter is being adjudicated if a person described in Subsection (2)(a), (b), or (c):
21247 (a) is arrested on a charge described in Subsection (2)(a)(i), (ii), or (iii); or
21248 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
21249 any drug, or the combined influence of alcohol and any drug; and
21250 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
21251 influence of alcohol and any drug within five years before the day on which the person is
21252 arrested on a charge described in Subsection (4)(b)(i).
21253 (5) (a) (i) The commission may not grant a special use permit to any person who has
21254 had any type of license, agency, or permit issued under this title revoked within the last three
21255 years.
21256 (ii) The commission may not grant a special use permit to any applicant that is a
21257 partnership, corporation, or limited liability company if any partner, managing agent, manager,
21258 officer, director, stockholder who holds at least 20% of the total issued and outstanding stock
21259 of the applicant corporation, or member who owns at least 20% of the applicant limited
21260 liability company is or was:
21261 (A) a partner or managing agent of any partnership that had any type of license, agency,
21262 or permit issued under this title revoked within the last three years;

21263 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%
21264 of the total issued and outstanding stock of any corporation that had any type of license,
21265 agency, or permit issued under this title revoked within the last three years; or
21266 (C) a manager or member who owns or owned at least 20% of any limited liability
21267 company that had any type of license, agency, or permit issued under this title revoked within
21268 the last three years.
21269 (b) An applicant that is a partnership, corporation, or limited liability company may not
21270 be granted a special use permit if any of the following had any type of license, agency, or
21271 permit issued under this title revoked while acting in that person's individual capacity within
21272 the last three years:
21273 (i) any partner or managing agent of the applicant partnership;
21274 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the
21275 total issued and outstanding stock of the applicant corporation; or
21276 (iii) any manager or member who owns at least 20% of the applicant limited liability
21277 company.
21278 (c) A person acting in an individual capacity may not be granted a special use permit if
21279 that person was:
21280 (i) a partner or managing agent of a partnership that had any type of license, agency, or
21281 permit issued under this title revoked within the last three years;
21282 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
21283 total issued and outstanding stock of a corporation that had any type of license, agency, or
21284 permit issued under this title revoked within the last three years; or
21285 (iii) a manager or member who owned at least 20% of a limited liability company that
21286 had any type of license, agency, or permit revoked within the last three years.
21287 (6) (a) A minor may not be:
21288 (i) granted a special use permit; or
21289 (ii) employed by a permittee to handle alcoholic beverages.
21290 (b) The commission may not grant a special use permit to an applicant that is a
21291 partnership, corporation, or limited liability company if any of the following is a minor:
21292 (i) a partner or managing agent of the applicant partnership;
21293 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the

21294 total issued and outstanding stock of the applicant corporation; or
21295 (iii) a manager or member who owns at least 20% of the applicant limited liability
21296 company.
21297 (7) If any person to whom a permit has been issued under this chapter no longer
21298 possesses the qualifications required by this title for obtaining that permit, the commission may
21299 suspend or revoke that permit.
21300 Section 430. Section **32A-7-103** is amended to read:
21301 **32A-7-103. Qualifications.**
21302 (1) To qualify for a single event permit, the applicant shall have been in existence as a
21303 bona fide organization for at least one year prior to the date of application.
21304 (2) (a) The commission may not grant a single event permit to any person who has
21305 been convicted of:
21306 (i) a felony under any federal or state law;
21307 (ii) any violation of any federal or state law or local ordinance concerning the sale,
21308 manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages;
21309 (iii) any crime involving moral turpitude; or
21310 (iv) on two or more occasions within the last five years before the day on which the
21311 permit is granted, driving under the influence of alcohol, any drug, or the combined influence
21312 of alcohol and any drug.
21313 (b) In the case of a partnership, corporation, or limited liability company the
21314 proscription under Subsection (2)(a) applies if any of the following has been convicted of any
21315 offense described in Subsection (2)(a):
21316 (i) a partner;
21317 (ii) a managing agent;
21318 (iii) a manager;
21319 (iv) an officer;
21320 (v) a director;
21321 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
21322 an applicant corporation; or
21323 (vii) a member who owns at least 20% of an applicant limited liability company.
21324 (c) The proscription under Subsection (2)(a) applies if any person employed to act in a

21325 supervisory or managerial capacity for the single event permittee has been convicted of any
21326 offense described in Subsection (2)(a).
21327 (3) The commission may immediately suspend or revoke a single event permit if after
21328 the day on which the permit is granted, a person described in Subsection (2)(a), (b), or (c):
21329 (a) is found to have been convicted of any offense described in Subsection (2)(a) prior
21330 to the permit being granted; or
21331 (b) on or after the day on which the permit is granted:
21332 (i) is convicted of an offense described in Subsection (2)(a)(i), (ii), or (iii); or
21333 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the
21334 combined influence of alcohol and any drug; and
21335 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
21336 influence of alcohol and any drug within five years before the day on which the person is
21337 convicted of the offense described in Subsection (3)(b)(ii)(A).
21338 (4) The director may take emergency action by immediately revoking the permit
21339 according to the procedures and requirements of [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
21340 Administrative Procedures Act, if a person described in Subsection (2)(a), (b), or (c):
21341 (a) is arrested on a charge for an offense described in Subsection (2)(a)(i), (ii), or (iii);
21342 or
21343 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
21344 any drug, or the combined influence of alcohol and any drug; and
21345 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
21346 influence of alcohol and any drug within five years before the day on which the person is
21347 arrested on a charge described in Subsection (4)(b)(i).
21348 (5) (a) (i) The commission may not grant a single event permit to any person who has
21349 had any type of license, agency, or permit issued under this title revoked within the last three
21350 years.
21351 (ii) The commission may not grant a single event permit to any applicant that is a
21352 partnership, corporation, or limited liability company if any partner, managing agent, manager,
21353 officer, director, stockholder who holds at least 20% of the total issued and outstanding stock
21354 of the applicant corporation, or member who owns at least 20% of the applicant limited
21355 liability company is or was:

21356 (A) a partner or managing agent of any partnership that had any type of license, agency,
21357 or permit issued under this title revoked within the last three years;
21358 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%
21359 of the total issued and outstanding stock of any corporation that had any type of license,
21360 agency, or permit issued under this title revoked within the last three years; or
21361 (C) a manager or member who owns or owned at least 20% of any limited liability
21362 company that had a liquor license, agency, or permit revoked within the last three years.
21363 (b) An applicant that is a partnership, corporation, or limited liability company may not
21364 be granted a permit if any of the following had any type of license, agency, or permit issued
21365 under this title revoked while acting in that person's individual capacity within the last three
21366 years:
21367 (i) any partner or managing agent of the applicant partnership;
21368 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the
21369 total issued and outstanding stock of the applicant corporation; or
21370 (iii) any manager or member who owns at least 20% of the applicant limited liability
21371 company.
21372 (6) (a) A minor may not be:
21373 (i) granted a single event permit; or
21374 (ii) employed by a single event permittee to handle alcoholic beverages.
21375 (b) The commission may not grant a single event permit to an applicant that is a
21376 partnership, corporation, or limited liability company if any of the following is a minor:
21377 (i) a partner or managing agent of the applicant partnership;
21378 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
21379 total issued and outstanding stock of the applicant corporation; or
21380 (iii) a manager or member who owns at least 20% of the applicant limited liability
21381 company.
21382 (7) If a person to whom a permit has been issued under this chapter no longer possesses
21383 the qualifications required by this title for obtaining that permit, the commission may suspend
21384 or revoke that permit.
21385 Section 431. Section **32A-8-103** is amended to read:
21386 **32A-8-103. Qualifications.**

21387 (1) (a) The commission may not grant an alcoholic beverage manufacturing license to
21388 any person who has been convicted of:
21389 (i) a felony under any federal or state law;
21390 (ii) any violation of any federal or state law or local ordinance concerning the sale,
21391 manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages;
21392 (iii) any crime involving moral turpitude; or
21393 (iv) on two or more occasions within the five years before the day on which the license
21394 is granted, driving under the influence of alcohol, any drug, or the combined influence of
21395 alcohol and any drug.
21396 (b) In the case of a partnership, corporation, or limited liability company the
21397 proscription under Subsection (1)(a) applies if any of the following has been convicted of any
21398 offense described in Subsection (1)(a):
21399 (i) a partner;
21400 (ii) a managing agent;
21401 (iii) a manager;
21402 (iv) an officer;
21403 (v) a director;
21404 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
21405 the applicant corporation; or
21406 (vii) a member who owns at least 20% of the applicant limited liability company.
21407 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a
21408 supervisory or managerial capacity for the manufacturer has been convicted of any offense
21409 described in Subsection (1)(a).
21410 (2) The commission may immediately suspend or revoke an alcoholic beverage
21411 manufacturing license if after the day on which the alcoholic beverage manufacturing license is
21412 granted, a person described in Subsection (1)(a), (b), or (c):
21413 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior
21414 to the license being granted; or
21415 (b) on or after the day on which the license is granted:
21416 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or
21417 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the

21418 combined influence of alcohol and any drug; and
21419 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
21420 influence of alcohol and any drug within five years before the day on which the person is
21421 convicted of the offense described in Subsection (2)(b)(ii)(A).
21422 (3) The director may take emergency action by immediately suspending the operation
21423 of the licensee according to the procedures and requirements of [~~Title 63, Chapter 46b~~] Title
21424 63G, Chapter 4, Administrative Procedures Act, for the period during which the criminal
21425 matter is being adjudicated if a person described in Subsection (1)(a), (b), or (c):
21426 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);
21427 or
21428 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
21429 any drug, or the combined influence of alcohol and any drug; and
21430 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
21431 influence of alcohol and any drug within five years before the day on which the person is
21432 arrested on a charge described in Subsection (3)(b)(i).
21433 (4) (a) (i) The commission may not grant a manufacturing license to any person who
21434 has had any type of license, agency, or permit issued under this title revoked within the last
21435 three years.
21436 (ii) The commission may not grant a manufacturing license to any applicant that is a
21437 partnership, corporation, or limited liability company if any partner, managing agent, manager,
21438 officer, director, stockholder who holds at least 20% of the total issued and outstanding stock
21439 of the applicant corporation, or member who owns at least 20% of the applicant limited
21440 liability company is or was:
21441 (A) a partner or managing agent of any partnership that had any type of license, agency,
21442 or permit issued under this title revoked within the last three years;
21443 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%
21444 of the total issued and outstanding stock of any corporation that had any type of license,
21445 agency, or permit issued under this title revoked within the last three years; or
21446 (C) a manager or member who owns or owned at least 20% of the limited liability
21447 company that had any type of license, agency, or permit issued under this title revoked within
21448 the last three years.

21449 (b) An applicant that is a partnership, corporation, or limited liability company may not
21450 be granted a manufacturing license if any of the following had any type of license, agency, or
21451 permit issued under this title revoked while acting in that person's individual capacity within
21452 the last three years:
21453 (i) any partner or managing agent of the applicant partnership;
21454 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the
21455 total issued and outstanding stock of the applicant corporation; or
21456 (iii) any manager or member who owns at least 20% of the applicant limited liability
21457 company.
21458 (c) A person acting in an individual capacity may not be granted a manufacturing
21459 license if that person was:
21460 (i) a partner or managing agent of a partnership that had any type of license, agency, or
21461 permit issued under this title revoked within the last three years;
21462 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
21463 total issued and outstanding stock of a corporation that had any type of license, agency, or
21464 permit issued under this title revoked within the last three years; or
21465 (iii) a manager or member who owned at least 20% of a limited liability company that
21466 had any type of license, agency, or permit issued under this title revoked within the last three
21467 years.
21468 (5) (a) A minor may not be:
21469 (i) granted an alcoholic beverage manufacturing license; or
21470 (ii) employed by a manufacturing licensee to handle alcoholic beverages.
21471 (b) The commission may not grant an alcoholic beverage manufacturing license to an
21472 applicant that is a partnership, corporation, or limited liability company if any of the following
21473 is a minor:
21474 (i) a partner or managing agent of the applicant partnership;
21475 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
21476 total issued and outstanding stock of the applicant corporation; or
21477 (iii) a manager or member who owns at least 20% of the applicant limited liability
21478 company.
21479 (6) The commission may not grant an alcoholic beverage manufacturing license to any

21480 person who has not met any applicable federal requirements for the operation of wineries,
21481 distilleries, or breweries.
21482 (7) If any person to whom a license has been issued under this chapter no longer
21483 possesses the qualifications required by this title for obtaining that license, the commission
21484 may suspend or revoke that license.
21485 Section 432. Section **32A-8-503** is amended to read:
21486 **32A-8-503. Qualifications.**
21487 (1) (a) The commission may not grant a local industry representative license to any
21488 person who has been convicted of:
21489 (i) a felony under any federal or state law;
21490 (ii) any violation of any federal or state law or local ordinance concerning the sale,
21491 manufacture, distribution, importing, warehousing, adulteration, or transportation of alcoholic
21492 beverages;
21493 (iii) any crime involving moral turpitude; or
21494 (iv) on two or more occasions within the five years before the day on which the license
21495 is granted, driving under the influence of alcohol, any drug, or the combined influence of
21496 alcohol and any drug.
21497 (b) In the case of a partnership, corporation, or limited liability company the
21498 proscription under Subsection (1)(a) applies if any of the following has been convicted of any
21499 offense described in Subsection (1)(a):
21500 (i) a partner;
21501 (ii) a managing agent;
21502 (iii) a manager;
21503 (iv) an officer;
21504 (v) a director;
21505 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
21506 the applicant corporation; or
21507 (vii) a member who owns at least 20% of the applicant limited liability company.
21508 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a
21509 supervisory or managerial capacity for the local industry representative has been convicted of
21510 any offense described in Subsection (1)(a).

21511 (2) The commission may immediately suspend or revoke the local industry
21512 representative license if after the day on which the local industry representative license is
21513 granted, a person described in Subsection (1)(a), (b), or (c):
21514 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior
21515 to the license being granted; or
21516 (b) on or after the day on which the license is granted:
21517 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or
21518 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the
21519 combined influence of alcohol and any drug; and
21520 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
21521 influence of alcohol and any drug within five years before the day on which the person is
21522 convicted of the offense described in Subsection (2)(b)(ii)(A).
21523 (3) The director may take emergency action by immediately suspending the operation
21524 of the local industry representative license according to the procedures and requirements of
21525 [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, for the period
21526 during which the criminal matter is being adjudicated if a person described in Subsection
21527 (1)(a), (b), or (c):
21528 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);
21529 or
21530 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
21531 any drug, or the combined influence of alcohol and any drug; and
21532 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
21533 influence of alcohol and any drug within five years before the day on which the person is
21534 arrested on a charge described in Subsection (3)(b)(i).
21535 (4) (a) (i) The commission may not grant a local industry representative license to any
21536 individual who has had any type of license, agency, or permit issued under this title revoked
21537 within the last three years.
21538 (ii) The commission may not grant a local industry representative license to an
21539 applicant that is a partnership, corporation, or limited liability company if any partner,
21540 managing agent, manager, officer, director, stockholder who holds at least 20% of the total
21541 issued and outstanding stock of an applicant corporation, or member who owns at least 20% of

21542 an applicant limited liability company is or was:
21543 (A) a partner or managing agent of any partnership that had any type of license, agency,
21544 or permit issued under this title revoked within the last three years;
21545 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%
21546 of the total issued and outstanding stock of any corporation that had any type of license,
21547 agency, or permit issued under this title revoked within the last three years; or
21548 (C) a manager or member who owns or owned at least 20% of any limited liability
21549 company that had any type of license, agency, or permit issued under this title revoked within
21550 the last three years.
21551 (b) An applicant that is a partnership, corporation, or limited liability company may not
21552 be granted a local industry representative license if any of the following had any type of
21553 license, agency, or permit issued under this title revoked while acting in that person's individual
21554 capacity within the last three years:
21555 (i) any partner or managing agent of the applicant partnership;
21556 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the
21557 total issued and outstanding stock of the applicant corporation; or
21558 (iii) any manager or member who owns at least 20% of the applicant limited liability
21559 company.
21560 (c) A person acting in an individual capacity may not be granted an industry
21561 representative license if that person was:
21562 (i) a partner or managing agent of a partnership that had any type of license, agency, or
21563 permit issued under this title revoked within the last three years;
21564 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
21565 total issued and outstanding stock of a corporation that had any type of license, agency, or
21566 permit issued under this title revoked within the last three years; or
21567 (iii) a manager or member who owned at least 20% of a limited liability company that
21568 had any type of license, agency, or permit issued under this title revoked within the last three
21569 years.
21570 (5) (a) The commission may not grant a local industry representative license to a
21571 minor.
21572 (b) The commission may not grant a local industry representative license to an

21573 applicant that is a partnership, corporation, or limited liability company if any of the following
21574 is a minor:
21575 (i) a partner or managing agent of the applicant partnership;
21576 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
21577 total issued and outstanding stock of the applicant corporation; or
21578 (iii) a manager or member who owns at least 20% of the applicant limited liability
21579 company.
21580 (6) Except as otherwise provided, the commission may not grant a local industry
21581 representative license to:
21582 (a) any holder of any retail license issued under this title that sells spirituous liquor,
21583 wine, or heavy beer;
21584 (b) any employee or agent of any retail license issued under this title that sells
21585 spirituous liquor, wine, or heavy beer; or
21586 (c) any individual, partnership, corporation, or limited liability company who holds any
21587 interest in any retail license issued under this title that sells spirituous liquor, wine, or heavy
21588 beer.
21589 (7) If any individual, partnership, corporation, or limited liability company to whom a
21590 local industry representative license has been issued under this part no longer possesses the
21591 qualifications required by this title for obtaining that license, the commission may suspend or
21592 revoke that license.
21593 Section 433. Section **32A-9-103** is amended to read:
21594 **32A-9-103. Qualifications.**
21595 (1) (a) The commission may not grant a warehousing license to any person who has
21596 been convicted of:
21597 (i) a felony under any federal or state law;
21598 (ii) any federal or state law or local ordinance concerning the sale, manufacture,
21599 distribution, warehousing, adulteration, or transportation of alcoholic beverages;
21600 (iii) any crime involving moral turpitude; or
21601 (iv) on two or more occasions within the five years before the day on which the license
21602 is granted, driving under the influence of alcohol, any drug, or the combined influence of
21603 alcohol and any drug.

21604 (b) In the case of a partnership, corporation, or limited liability company the
21605 proscription under Subsection (1)(a) applies if any of the following has been convicted of any
21606 offense described in Subsection (1)(a):
21607 (i) a partner;
21608 (ii) a managing agent;
21609 (iii) a manager;
21610 (iv) an officer;
21611 (v) a director;
21612 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
21613 the applicant corporation; or
21614 (vii) a member who owns at least 20% of the applicant limited liability company.
21615 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a
21616 supervisory or managerial capacity for the warehouse has been convicted of any offense
21617 described in Subsection (1)(a).
21618 (2) The commission may immediately suspend or revoke a warehousing license if after
21619 the day on which the warehousing license is granted, a person described in Subsection (1)(a),
21620 (b), or (c):
21621 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior
21622 to the license being granted; or
21623 (b) on or after the day on which the license is granted:
21624 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or
21625 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the
21626 combined influence of alcohol and any drug; and
21627 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
21628 influence of alcohol and any drug within five years before the day on which the person is
21629 convicted of the offense described in Subsection (2)(b)(ii)(A).
21630 (3) The director may take emergency action by immediately suspending the operation
21631 of the warehousing license according to the procedures and requirements of [~~Title 63, Chapter~~
21632 ~~46b~~] Title 63G, Chapter 4, Administrative Procedures Act, for the period during which the
21633 criminal matter is being adjudicated if a person described in Subsection (1)(a), (b), or (c):
21634 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);

21635 or
21636 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
21637 any drug, or the combined influence of alcohol and any drug; and
21638 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
21639 influence of alcohol and any drug within five years before the day on which the person is
21640 arrested on a charge described in Subsection (3)(b)(i).
21641 (4) (a) (i) The commission may not grant a warehousing license to any person who has
21642 had any type of license, agency, or permit issued under this title revoked within the last three
21643 years.
21644 (ii) The commission may not grant a warehousing license to an applicant that is a
21645 partnership, corporation, or limited liability company if any partner, managing agent, manager,
21646 officer, director, stockholder who holds at least 20% of the total issued and outstanding stock
21647 of an applicant corporation, or member who owns at least 20% of an applicant limited liability
21648 company is or was:
21649 (A) a partner or managing agent of any partnership that had any type of license, agency,
21650 or permit issued under this title revoked within the last three years;
21651 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%
21652 of the total issued and outstanding stock of any corporation that had any type of license,
21653 agency, or permit issued under this title revoked within the last three years; or
21654 (C) a manager or member who owns or owned at least 20% of any limited liability
21655 company that had any type of license, agency, or permit issued under this title revoked within
21656 the last three years.
21657 (b) An applicant that is a partnership, corporation, or limited liability company may not
21658 be granted a warehousing license if any of the following had any type of license, agency, or
21659 permit issued under this title revoked while acting in that person's individual capacity within
21660 the last three years:
21661 (i) any partner or managing agent of the applicant partnership;
21662 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the
21663 total issued and outstanding stock of the applicant corporation; or
21664 (iii) any manager or member who owns at least 20% of the applicant limited liability
21665 company.

21666 (c) A person acting in an individual capacity may not be granted a warehousing license
21667 if that person was:
21668 (i) a partner or managing agent of a partnership that had any type of license, agency, or
21669 permit issued under this title revoked within the last three years;
21670 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
21671 total issued and outstanding stock of a corporation that had any type of license, agency, or
21672 permit issued under this title revoked within the last three years; or
21673 (iii) any manager or member who owned at least 20% of a limited liability company
21674 that had any type of license, agency, or permit issued under this title revoked within the last
21675 three years.
21676 (5) (a) A minor may not be:
21677 (i) granted a warehousing license; or
21678 (ii) employed by a warehouse to handle liquor.
21679 (b) The commission may not grant a warehousing license to an applicant that is a
21680 partnership, corporation, or limited liability company if any of the following is a minor:
21681 (i) a partner or managing agent of the applicant partnership;
21682 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
21683 total issued and outstanding stock of the applicant corporation; or
21684 (iii) a manager or member who owns at least 20% of the applicant limited liability
21685 company.
21686 (6) A person, through any officer, director, representative, agent, or employee, or
21687 otherwise, either directly or indirectly, may not hold at the same time both a warehousing
21688 license and any other kind of license, agency, or permit issued under Title 32A, Chapter 3, 4, 5,
21689 6, or 7, or Chapter 10, Part 2.
21690 (7) If any person to whom a license has been issued under this chapter no longer
21691 possesses the qualifications required by this title for obtaining that license, the commission
21692 may suspend or revoke that license.
21693 Section 434. Section **32A-10-203** is amended to read:
21694 **32A-10-203. Qualifications.**
21695 (1) (a) The commission may not grant an on-premise beer retailer license to any person
21696 who has been convicted of:

21697 (i) a felony under any federal or state law;
21698 (ii) any violation of any federal or state law or local ordinance concerning the sale,
21699 manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages;
21700 (iii) of any crime involving moral turpitude; or
21701 (iv) on two or more occasions within the five years before the day on which the license
21702 is granted, driving under the influence of alcohol, any drug, or the combined influence of
21703 alcohol and any drug.
21704 (b) In the case of a partnership, corporation, or limited liability company the
21705 proscription under Subsection (1)(a) applies if any of the following has been convicted of any
21706 offense described in Subsection (1)(a):
21707 (i) a partner;
21708 (ii) a managing agent;
21709 (iii) a manager;
21710 (iv) an officer;
21711 (v) a director;
21712 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
21713 the applicant corporation; or
21714 (vii) a manager or member who owns at least 20% of the applicant limited liability
21715 company.
21716 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a
21717 supervisory or managerial capacity for the on-premise beer retailer has been convicted of any
21718 offense described in Subsection (1)(a).
21719 (2) The commission may immediately suspend or revoke an on-premise beer retailer
21720 license if after the day on which the on-premise beer retailer license is granted, a person
21721 described in Subsection (1)(a), (b), or (c):
21722 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior
21723 to the license being granted; or
21724 (b) on or after the day on which the license is granted:
21725 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or
21726 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the
21727 combined influence of alcohol and any drug; and

21728 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
21729 influence of alcohol and any drug within five years before the day on which the person is
21730 convicted of the offense described in Subsection (2)(b)(ii)(A).
21731 (3) The director may take emergency action by immediately suspending the operation of
21732 an on-premise beer retailer license according to the procedures and requirements of [~~Title 63,~~
21733 ~~Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, for the period during which
21734 the criminal matter is being adjudicated if a person described in Subsection (1)(a), (b), or (c):
21735 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);
21736 or
21737 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
21738 any drug, or the combined influence of alcohol and any drug; and
21739 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
21740 influence of alcohol and any drug within five years before the day on which the person is
21741 arrested on a charge described in Subsection (3)(b)(i).
21742 (4) (a) (i) The commission may not grant an on-premise beer retailer license to any
21743 person who has had any type of license, agency, or permit issued under this title revoked within
21744 the last three years.
21745 (ii) The commission may not grant an on-premise beer retailer license to any applicant
21746 that is a partnership, corporation, or limited liability company if any partner, managing agent,
21747 manager, officer, director, stockholder who holds at least 20% of the total issued and
21748 outstanding stock of the applicant corporation, or member who owns at least 20% of the
21749 applicant limited liability company is or was:
21750 (A) a partner or managing agent of any partnership that had any type of license, agency,
21751 or permit issued under this title revoked within the last three years;
21752 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%
21753 of the total issued and outstanding stock of any corporation that had any type of license,
21754 agency, or permit issued under this title revoked within the last three years; or
21755 (C) a manager or member who owns or owned at least 20% of any limited liability
21756 company that had any type of license, agency, or permit issued under this title revoked within
21757 the last three years.
21758 (b) An applicant that is a partnership, corporation, or limited liability company may not

21759 be granted an on-premise beer retailer license if any of the following had any type of license,
21760 agency, or permit issued under this title revoked while acting in that person's individual
21761 capacity within the last three years:
21762 (i) any partner or managing agent of the applicant partnership;
21763 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the
21764 total issued and outstanding stock of the applicant corporation; or
21765 (iii) any manager or member company who owns at least 20% of the applicant limited
21766 liability company.
21767 (c) A person acting in an individual capacity may not be granted an on-premise beer
21768 retailer license if that person was:
21769 (i) a partner or managing agent of a partnership that had any type of license, agency, or
21770 permit issued under this title revoked within the last three years;
21771 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
21772 total issued and outstanding stock of a corporation that had any type of license, agency, or
21773 permit issued under this title revoked within the last three years; or
21774 (iii) a manager or member of any limited liability company who owned at least 20% of
21775 a limited liability company that had any type of license, agency, or permit issued under this title
21776 revoked within the last three years.
21777 (5) (a) A minor may not be granted an on-premise beer retailer license.
21778 (b) The commission may not grant a on-premise beer retailer license to an applicant
21779 that is a partnership, corporation, or limited liability company if any of the following is a
21780 minor:
21781 (i) a partner or managing agent of the applicant partnership;
21782 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
21783 total issued and outstanding stock of the applicant corporation; or
21784 (iii) a manager or member who owns at least 20% of the applicant limited liability
21785 company.
21786 (6) If any person to whom a license has been issued under this part no longer possesses
21787 the qualifications required by this title for obtaining that license, the commission may suspend
21788 or revoke that license.
21789 Section 435. Section **32A-10-303** is amended to read:

21790 **32A-10-303. Qualifications.**
21791 (1) (a) The commission may not grant a temporary special event beer permit to any
21792 person who has been convicted of:
21793 (i) a felony under any federal or state law;
21794 (ii) any violation of any federal or state law or local ordinance concerning the sale,
21795 manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages;
21796 (iii) any crime involving moral turpitude; or
21797 (iv) on two or more occasions within the five years before the day on which the permit
21798 is granted, driving under the influence of alcohol, any drug, or the combined influence of
21799 alcohol and any drug.
21800 (b) In the case of a partnership, corporation, or limited liability company, the
21801 proscription under Subsection (1)(a) applies if any of the following has been convicted of an
21802 offense described in Subsection (1)(a):
21803 (i) a partner;
21804 (ii) a managing agent;
21805 (iii) a manager;
21806 (iv) an officer;
21807 (v) a director;
21808 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
21809 the applicant corporation; or
21810 (vii) a member who owns at least 20% of the applicant limited liability company.
21811 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a
21812 supervisory or managerial capacity for the temporary special event beer permittee has been
21813 convicted of any offense as provided in Subsection (1)(a).
21814 (2) The commission may immediately suspend or revoke a temporary special event
21815 permit if after the day on which the permit is granted, a person described in Subsection (1)(a),
21816 (b), or (c):
21817 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior
21818 to the permit being granted; or
21819 (b) on or after the day on which the permit is granted:
21820 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

21821 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the
21822 combined influence of alcohol and any drug; and
21823 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
21824 influence of alcohol and any drug within five years before the day on which the person is
21825 convicted of the offense described in Subsection (2)(b)(ii)(A).
21826 (3) The director may take emergency action by immediately revoking the temporary
21827 special event permit according to the procedures and requirements of [~~Title 63, Chapter 46b~~]
21828 Title 63G, Chapter 4, Administrative Procedures Act, if a person described in Subsection
21829 (1)(a), (b), or (c):
21830 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);
21831 or
21832 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
21833 any drug, or the combined influence of alcohol and any drug; and
21834 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
21835 influence of alcohol and any drug within five years before the day on which the person is
21836 arrested on a charge described in Subsection (3)(b)(i).
21837 (4) (a) (i) The commission may not grant a temporary special event beer permit to any
21838 person who has had any type of license, agency, or permit issued under this title revoked within
21839 the last three years.
21840 (ii) The commission may not grant a temporary special event permit to an applicant
21841 that is a partnership, corporation, or limited liability company if any partner, managing agent,
21842 manager, officer, director, stockholder who holds at least 20% of the total issued and
21843 outstanding stock of an applicant corporation, or member who owns at least 20% of an
21844 applicant limited liability company is or was:
21845 (A) a partner or managing agent of any partnership that had any type of license, agency,
21846 or permit issued under this title revoked within the last three years;
21847 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%
21848 of the total issued and outstanding stock of any corporation that had any type of license,
21849 agency, or permit issued under this title revoked within the last three years; or
21850 (C) a manager or member who owns or owned at least 20% of any limited liability
21851 company that had any type of license, agency, or permit issued under this title revoked within

21852 the last three years.
21853 (b) An applicant that is a partnership, corporation, or limited liability company may not
21854 be granted a temporary special event permit if any of the following had any type of license,
21855 agency, or permit issued under this title revoked while acting in their individual capacity within
21856 the last three years:
21857 (i) any partner or managing agent of the applicant partnership;
21858 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the
21859 total issued and outstanding stock of the applicant corporation; or
21860 (iii) any manager or member who owns at least 20% of the applicant limited liability
21861 company.
21862 (c) A person acting in an individual capacity may not be granted a temporary special
21863 event permit if that person was:
21864 (i) a partner or managing agent of a partnership that had any type of license, agency, or
21865 permit issued under this title revoked within the last three years;
21866 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
21867 total issued and outstanding stock of a corporation that had any type of license, agency, or
21868 permit issued under this title revoked within the last three years; or
21869 (iii) a manager or member who owned at least 20% of the limited liability company
21870 that had any type of license, agency, or permit issued under this title revoked within the last
21871 three years.
21872 (5) (a) A minor may not be:
21873 (i) granted a temporary special event permit; or
21874 (ii) employed by a temporary special event permittee to handle alcoholic beverages.
21875 (b) The commission may not grant a temporary special event permit to an applicant
21876 that is a partnership, corporation, or limited liability company if any of the following is a
21877 minor:
21878 (i) a partner or managing agent of the applicant partnership;
21879 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
21880 total issued and outstanding stock of the applicant corporation; or
21881 (iii) a manager or member who owns at least 20% of the applicant limited liability
21882 company.

21883 (6) If any person to whom a permit has been issued under this part no longer possesses
21884 the qualifications required by this title for obtaining that permit, the commission may suspend
21885 or revoke that permit.
21886 Section 436. Section **32A-11-103** is amended to read:
21887 **32A-11-103. Qualifications.**
21888 (1) (a) The commission may not issue a beer wholesaling license to any person who
21889 has been convicted of:
21890 (i) a felony under any federal or state law;
21891 (ii) any violation of any federal or state law or local ordinance concerning the sale,
21892 manufacture, distribution, warehousing, adulteration, or transportation of alcoholic products;
21893 (iii) any crime involving moral turpitude; or
21894 (iv) on two or more occasions within the five years before the day on which the license
21895 is granted, driving under the influence of alcohol, any drug, or the combined influence of
21896 alcohol and any drug.
21897 (b) In the case of a partnership, corporation, or limited liability company, the
21898 proscription under Subsection (1)(a) applies if any of the following has been convicted of any
21899 offense described in Subsection (1)(a):
21900 (i) a partner;
21901 (ii) a managing agent;
21902 (iii) a manager;
21903 (iv) an officer;
21904 (v) a director;
21905 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
21906 the applicant corporation; or
21907 (vii) a member who owns at least 20% of the applicant limited liability company.
21908 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a
21909 supervisory or managerial capacity for the wholesaler has been convicted of any offense as
21910 provided in Subsection (1)(a).
21911 (2) The commission may immediately suspend or revoke a beer wholesaling license if
21912 after the day on which the beer wholesaling license is granted, a person described in Subsection
21913 (1)(a), (b), or (c):

21914 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior
21915 to the license being granted; or
21916 (b) on or after the day on which the license is granted:
21917 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or
21918 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the
21919 combined influence of alcohol and any drug; and
21920 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
21921 influence of alcohol and any drug within five years before the day on which the person is
21922 convicted of the offense described in Subsection (2)(b)(ii)(A).
21923 (3) The director may take emergency action by immediately suspending the operation
21924 of a beer wholesaling license according to the procedures and requirements of [~~Title 63,~~
21925 ~~Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, for the period during which
21926 the criminal matter is being adjudicated if a person described in Subsection (1)(a), (b), or (c):
21927 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);
21928 or
21929 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
21930 any drug, or the combined influence of alcohol and any drug; and
21931 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
21932 influence of alcohol and any drug within five years before the day on which the person is
21933 arrested on a charge described in Subsection (3)(b)(i).
21934 (4) (a) (i) The commission may not grant a beer wholesaling license to any person who
21935 has had any type of license, agency, or permit issued under this title revoked within the last
21936 three years.
21937 (ii) The commission may not grant a beer wholesaling license to an applicant that is a
21938 partnership, corporation, or limited liability company if any partner, managing agent, manager,
21939 officer, director, stockholder who holds at least 20% of the total issued and outstanding stock
21940 of the applicant corporation, or member who owns at least 20% of the applicant limited
21941 liability company is or was:
21942 (A) a partner or managing agent of any partnership that had any type of license, agency,
21943 or permit issued under this title revoked within the last three years;
21944 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%

21945 of the total issued and outstanding stock of any corporation that had any type of license,
21946 agency, or permit issued under this title revoked within the last three years; or
21947 (C) a manager or member who owns or owned at least 20% of any limited liability
21948 company that had any type of license, agency, or permit issued under this title revoked within
21949 the last three years.
21950 (b) An applicant that is a partnership, corporation, or limited liability company may not
21951 be granted a beer wholesaling license if any of the following had any type of license, agency, or
21952 permit issued under this title revoked while acting in that person's individual capacity within
21953 the last three years:
21954 (i) a partner or managing agent of the applicant partnership;
21955 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the
21956 total issued and outstanding stock of the applicant corporation; or
21957 (iii) any manager or member who owns at least 20% of the applicant limited liability
21958 company.
21959 (c) A person acting in an individual capacity may not be granted a beer wholesaling
21960 license if that person was:
21961 (i) a partner or managing agent of a partnership that had any type of license, agency, or
21962 permit issued under this title revoked within the last three years;
21963 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
21964 total issued and outstanding stock of a corporation that had any type of license, agency, or
21965 permit issued under this title revoked within the last three years; or
21966 (iii) a manager or member who owned at least 20% of the limited liability company
21967 that had any type of license, agency, or permit issued under this title revoked within the last
21968 three years.
21969 (5) (a) A minor may not be:
21970 (i) granted a beer wholesaling license; or
21971 (ii) employed by a licensee to handle beer.
21972 (b) The commission may not grant a beer wholesaling license to an applicant that is a
21973 partnership, corporation, or limited liability company if any of the following is a minor:
21974 (i) a partner or managing agent of the applicant partnership;
21975 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the

21976 total issued and outstanding stock of the applicant corporation; or
21977 (iii) a manager or member who owns at least 20% of the applicant limited liability
21978 company.
21979 (6) (a) A beer wholesaler may not be issued, directly or indirectly, nor hold, through
21980 any wholly or partially owned subsidiaries or otherwise, a brewery license or a retail beer
21981 license simultaneously with a wholesaling license.
21982 (b) A retail beer licensee may not be issued, directly or indirectly, nor hold, through
21983 any wholly or partially owned subsidiaries or otherwise, a wholesaling license.
21984 (7) The commission may not grant a beer wholesaling license to any person who has
21985 not met any applicable federal requirements for beer wholesaling.
21986 (8) If any person to whom a license has been issued under this chapter no longer
21987 possesses the qualifications required by this title for obtaining that license, the commission
21988 may suspend or revoke that license.
21989 Section 437. Section **32A-15a-103** is amended to read:
21990 **32A-15a-103. Rulemaking.**
21991 In accordance with this chapter and [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
21992 Administrative Rulemaking Act, the commission may make rules that govern the filing under
21993 this chapter of:
21994 (1) a formal objection to the renewal of a retail license; and
21995 (2) a request for hearing filed by a retail licensee.
21996 Section 438. Section **32A-15a-201** is amended to read:
21997 **32A-15a-201. Commission to prohibit nuisance activities by licensees -- License**
21998 **not renewed.**
21999 (1) In accordance with Section 32A-1-103, the commission shall require a retail
22000 licensee as a condition of being licensed under this title to operate in a manner so as not to
22001 endanger the public health, peace, safety, welfare, or morals of the community.
22002 (2) (a) In accordance with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
22003 Procedures Act, and Sections 32A-15a-202 and 32A-15a-203, the commission may deny the
22004 renewal of any retail license issued under this title if:
22005 (i) a formal objection to the renewal is filed; and
22006 (ii) the commission determines that the retail licensee has engaged in nuisance

22007 activities to such an extent that the nuisance activities have adversely impacted the public
22008 health, peace, safety, welfare, or morals of the neighboring community of the licensed
22009 premises.
22010 (b) In making a determination under this Subsection (2), the commission may consider:
22011 (i) the types of nuisance activities in which a licensee has engaged;
22012 (ii) the frequency or pattern of the nuisance activities; and
22013 (iii) the retail licensee's notice of and failure to abate or correct the nuisance activities.
22014 Section 439. Section **34-20-10** is amended to read:
22015 **34-20-10. Unfair labor practices -- Powers of board to prevent -- Procedure.**
22016 (1) (a) The board may prevent any person from engaging in any unfair labor practice,
22017 as listed in Section 34-20-8, affecting intrastate commerce or the orderly operation of industry.
22018 (b) This authority is exclusive and is not affected by any other means of adjustment or
22019 prevention that has been or may be established by agreement, code, law, or otherwise.
22020 (2) The board shall comply with the procedures and requirements of [~~Title 63, Chapter~~
22021 ~~46b~~] Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative proceedings.
22022 (3) When it is charged that any person has engaged in or is engaged in any unfair labor
22023 practice, the board, or any agent or agency designated by the board, may issue and serve a
22024 notice of agency action on that person.
22025 (4) (a) If, upon all the testimony taken, the board finds that any person named in the
22026 complaint has engaged in or is engaging in an unfair labor practice, the board shall state its
22027 findings of fact and shall issue and serve on the person an order to cease and desist from the
22028 unfair labor practice and to take other affirmative action designated by the commission,
22029 including reinstatement of employees with or without back pay, to effectuate the policies of
22030 this chapter.
22031 (b) The order may require the person to make periodic reports showing the extent to
22032 which it has complied with the order.
22033 (c) If, upon all the testimony taken, the board determines that no person named in the
22034 complaint has engaged in or is engaging in any unfair labor practice, the board shall state its
22035 findings of fact and shall issue an order dismissing the complaint.
22036 (5) (a) The board may petition the district court to enforce the order and for appropriate
22037 temporary relief or for a restraining order.

22038 (b) The board shall certify and file in the court:
22039 (i) a transcript of the entire record in the proceeding;
22040 (ii) the pleadings and testimony upon which the order was entered; and
22041 (iii) the findings and order of the board.
22042 (c) When the petition is filed, the board shall serve notice on all parties to the action.
22043 (d) Upon filing of the petition, the court has jurisdiction of the proceeding and of the
22044 question to be determined.
22045 (e) The court may grant temporary relief or a restraining order, and, based upon the
22046 pleadings, testimony, and proceedings set forth in the transcript, order that the board's order be
22047 enforced, modified, or set aside in whole or in part.
22048 (f) The court may not consider any objection that was not presented before the board,
22049 its member, agent, or agency, unless the failure or neglect to urge the objection is excused
22050 because of extraordinary circumstances.
22051 (g) The board's findings of fact, if supported by evidence, are conclusive.
22052 (h) (i) If either party applies to the court for leave to adduce additional evidence, and
22053 shows to the satisfaction of the court that the additional evidence is material and that there were
22054 reasonable grounds for the failure to adduce the evidence in the hearing before the board, its
22055 member, agent, or agency, the court may order additional evidence to be taken before the
22056 board, its member, agent, or agency, and to be made part of the transcript.
22057 (ii) The board may modify its findings as to the facts, or make new findings, because of
22058 the additional evidence taken and filed.
22059 (iii) The board shall file the modified or new findings, which, if supported by evidence,
22060 are conclusive, and shall file its recommendations, if any, for the modification or setting aside
22061 of its original order.
22062 Section 440. Section **34-23-104** is amended to read:
22063 **34-23-104. Duty of commission to establish hours and conditions -- Promulgation**
22064 **of rules.**
22065 (1) The commission shall ascertain and establish the hours and the conditions of labor
22066 and employment for any occupation in which minors are employed.
22067 (2) The commission may promulgate rules consistent with this chapter in accordance
22068 with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

22069 Section 441. Section **34-23-401** is amended to read:
22070 **34-23-401. Investigation by division -- Administrative penalty.**
22071 (1) The director of the division or the director's designee shall have authority to enter
22072 and inspect any place or establishment covered by this chapter and to have access to such
22073 records as may aid in the enforcement of this chapter.
22074 (2) The division may investigate any complaint under this chapter and may commence
22075 an administrative proceeding with a penalty of up to $500 per violation. Administrative
22076 proceedings conducted under this section shall be consistent with [~~Title 63, Chapter 46b, the~~]
22077 Title 63G, Chapter 4, Administrative Procedures Act.
22078 Section 442. Section **34-28-19** is amended to read:
22079 **34-28-19. Retaliation prohibited -- Administrative process -- Enforcement --**
22080 **Rulemaking.**
22081 (1) (a) An employer violates this chapter if the employer takes an action described in
22082 Subsection (1)(b) against an employee because:
22083 (i) the employee files a complaint or testifies in a proceeding relative to the
22084 enforcement of this chapter;
22085 (ii) the employee is going to file a complaint or testify in a proceeding relative to the
22086 enforcement of this chapter; or
22087 (iii) the employer believes that the employee may file a complaint or testify in any
22088 proceeding relative to the enforcement of this chapter.
22089 (b) Subsection (1)(a) applies to the following actions of an employer:
22090 (i) the discharge of an employee;
22091 (ii) the demotion of an employee; or
22092 (iii) any other form of retaliation against an employee in the terms, privileges, or
22093 conditions of employment.
22094 (2) (a) An employee claiming to be aggrieved by an action of the employer in violation
22095 of Subsection (1) may file with the division a request for agency action.
22096 (b) On receipt of a request for agency action under Subsection (2)(a), the division:
22097 (i) shall conduct an adjudicative proceeding pursuant to [~~Title 63, Chapter 46b~~] Title
22098 63G, Chapter 4, Administrative Procedures Act; and
22099 (ii) may attempt to reach a settlement between the parties through a settlement

22100 conference.
22101 (3) If the division determines that a violation has occurred, the division may require the
22102 employer to:
22103 (a) cease and desist any retaliatory action;
22104 (b) compensate the employee, which compensation may not exceed reimbursement for,
22105 and payment of, lost wages and benefits to the employee; or
22106 (c) do both (3)(a) and (b).
22107 (4) The division may enforce this section in accordance with Subsections 34-28-9(3)
22108 and (4).
22109 (5) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
22110 Administrative Rulemaking Act, the commission shall adopt rules, as required, to implement
22111 this section.
22112 Section 443. Section **34-40-104** is amended to read:
22113 **34-40-104. Exemptions.**
22114 (1) The minimum wage established in this chapter does not apply to:
22115 (a) any employee who is entitled to a minimum wage as provided in 29 U.S.C. Sec.
22116 201 et seq., the Fair Labor Standards Act of 1938, as amended;
22117 (b) outside sales persons;
22118 (c) an employee who is a member of the employer's immediate family;
22119 (d) companionship service for persons who, because of age or infirmity, are unable to
22120 care for themselves;
22121 (e) casual and domestic employees as defined by the commission;
22122 (f) seasonal employees of nonprofit camping programs, religious or recreation
22123 programs, and nonprofit educational and charitable organizations registered under Title 13,
22124 Chapter 22, Charitable Solicitations Act;
22125 (g) an individual employed by the United States of America;
22126 (h) any prisoner employed through the penal system;
22127 (i) any employee employed in agriculture if the employee:
22128 (i) is principally engaged in the range production of livestock;
22129 (ii) is employed as a harvest laborer and is paid on a piece rate basis in an operation
22130 that has been and is generally recognized by custom as having been paid on a piece rate basis in

22131 the region of employment;
22132 (iii) was employed in agriculture less than 13 weeks during the preceding calendar
22133 year; or
22134 (iv) is a retired or semiretired person performing part-time or incidental work as a
22135 condition of the employee's residence on a farm or ranch;
22136 (j) registered apprentices or students employed by the educational institution in which
22137 they are enrolled; or
22138 (k) any seasonal hourly employee employed by a seasonal amusement establishment
22139 with permanent structures and facilities if the other direct monetary compensation from tips,
22140 incentives, commissions, end-of-season bonus, or other forms of pay is sufficient to cause the
22141 average hourly rate of total compensation for the season of seasonal hourly employees who
22142 continue to work to the end of the operating season to equal the applicable minimum wage if
22143 the seasonal amusement establishment:
22144 (i) does not operate for more than seven months in any calendar year; or
22145 (ii) during the preceding calendar year its average receipts for any six months of that
22146 year were not more than 33-1/3% of its average receipts for the other six months of that year.
22147 (2) (a) Persons with a disability whose earnings or productive capacities are impaired
22148 by age, physical or mental deficiencies, or injury may be employed at wages that are lower than
22149 the minimum wage, provided the wage is related to the employee's productivity.
22150 (b) The commission may establish and regulate the wages paid or wage scales for
22151 persons with a disability.
22152 (3) The commission may establish or may set a lesser minimum wage for learners not
22153 to exceed the first 160 hours of employment.
22154 (4) (a) An employer of a tipped employee shall pay the tipped employee at least the
22155 minimum wage established by this chapter.
22156 (b) In computing a tipped employee's wage under this Subsection (4), an employer of a
22157 tipped employee:
22158 (i) shall pay the tipped employee at least the cash wage obligation as an hourly wage;
22159 and
22160 (ii) may compute the remainder of the tipped employee's wage using the tips or
22161 gratuities the tipped employee actually receives.

22162 (c) An employee shall retain all tips and gratuities except to the extent that the
22163 employee participates in a bona fide tip pooling or sharing arrangement with other tipped
22164 employees.
22165 (d) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
22166 Administrative Rulemaking Act, the commission shall by rule establish the cash wage
22167 obligation in conjunction with its review of the minimum wage under Section 34-40-103.
22168 Section 444. Section **34-40-105** is amended to read:
22169 **34-40-105. Grant of rulemaking authority.**
22170 In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
22171 Rulemaking Act, the commission may issue rules that are consistent with this chapter.
22172 Section 445. Section **34-40-202** is amended to read:
22173 **34-40-202. Enforcement.**
22174 The division shall enforce this chapter and investigate complaints under this chapter.
22175 The division may commence administrative proceedings in accordance with [~~Title 63, Chapter~~
22176 ~~46b, the~~] Title 63G, Chapter 4, Administrative Procedures Act, and may impose a penalty of up
22177 to $500 per violation of this chapter.
22178 Section 446. Section **34-41-103** is amended to read:
22179 **34-41-103. Policy requirements.**
22180 (1) (a) Before testing or retesting for the presence of drugs, a local governmental entity
22181 or state institution of higher education shall:
22182 (i) adopt a written policy or ordinance;
22183 (ii) distribute it to employees and volunteers; and
22184 (iii) make it available for review by prospective employees and prospective volunteers.
22185 (b) The local governmental entity or state institution of higher education may only test
22186 or retest for the presence of drugs by following the procedures and requirements of that
22187 ordinance or policy.
22188 (2) The collection and testing of samples shall be conducted in accordance with
22189 Section 34-41-104 and not necessarily limited to circumstances where there are indications of
22190 individual, job-related impairment of an employee or volunteer.
22191 (3) The use and disposition of all drug test results are subject to the limitations of [~~Title~~
22192 ~~63, Chapter 2~~] Title 63G, Chapter 2, Government Records Access and Management Act, and

22193 Americans with Disabilities Act of 1990, 42 U.S.C. 12101 through 12213.
22194 (4) An employee, prospective employee, volunteer, or prospective volunteer shall
22195 submit a split urine sample for testing or retesting.
22196 (5) A split urine sample shall consist of at least 45 ml of urine. The urine shall be
22197 divided into two specimen bottles, with at least 30 ml of urine in one bottle and at least 15 ml
22198 of urine in the other. If the test results of the 30 ml urine sample indicate the presence of drugs,
22199 the donor of the test shall have 72 hours from the time [~~he~~] the donor is so notified to request,
22200 at [~~his~~] the donor's option that the 15 ml urine sample be tested for the indicated drugs, the
22201 expense of which shall be divided equally between the donor and employer. In addition to the
22202 test results of the 30 ml urine sample, the test results of the 15 ml urine sample shall be
22203 considered at any subsequent disciplinary hearing if the requirements of this section and
22204 Section 34-41-104 have been complied with in the collection, handling, and testing of these
22205 samples.
22206 Section 447. Section **34A-1-104** is amended to read:
22207 **34A-1-104. Commission authority.**
22208 Within all other authority or responsibility granted to it by law, the commission may:
22209 (1) adopt rules when authorized by this title, or Title 34, Labor in General, in
22210 accordance with the procedures of [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
22211 Administrative Rulemaking Act;
22212 (2) conduct adjudicative proceedings in accordance with the procedures of [~~Title 63,~~
22213 ~~Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act;
22214 (3) license agencies in accordance with this title or Title 34, Labor in General;
22215 (4) employ and determine the compensation of clerical, legal, technical, investigative,
22216 and other employees necessary to carry out its policymaking, regulatory, and enforcement
22217 powers, rights, duties, and responsibilities under this title or Title 34, Labor in General;
22218 (5) administer and enforce all laws for the protection of the life, health, and safety, of
22219 employees;
22220 (6) ascertain and fix reasonable standards, and prescribe, modify, and enforce
22221 reasonable orders, for the adoption of safety devices, safeguards, and other means or methods
22222 of protection, to be as nearly uniform as possible, as necessary to carry out all laws and lawful
22223 orders relative to the protection of the life, health, and safety, of employees in employment and

22224 places of employment;
22225 (7) ascertain, fix, and order reasonable standards for the construction, repair, and
22226 maintenance of places of employment as shall make them safe;
22227 (8) investigate, ascertain, and determine reasonable classifications of persons,
22228 employments, and places of employment as necessary to carry out the purposes of this title or
22229 Title 34, Labor in General;
22230 (9) promote the voluntary arbitration, mediation, and conciliation of disputes between
22231 employers and employees;
22232 (10) ascertain and adopt reasonable standards and rules, prescribe and enforce
22233 reasonable orders, and take other actions appropriate for the protection of life, health, and
22234 safety of all persons with respect to all prospects, tunnels, pits, banks, open cut workings,
22235 quarries, strip mine operations, ore mills, and surface operations or any other mining operation,
22236 whether or not the relationship of employer and employee exists, but the commission may not
22237 assume jurisdiction or authority over adopted standards and regulations or perform any mining
22238 inspection or enforcement of mining rules and regulations so long as Utah's mining operations
22239 are governed by federal regulations;
22240 (11) develop processes to ensure that the commission responds to the full range of
22241 employee and employer clients; and
22242 (12) carry out the responsibilities assigned to it by statute.
22243 Section 448. Section **34A-1-106** is amended to read:
22244 **34A-1-106. Fees.**
22245 (1) Unless otherwise provided by statute, the commission may adopt a schedule of fees
22246 assessed for services provided by the commission by following the procedures and
22247 requirements of Section [~~63-38-3.2~~] 63J-1-303.
22248 (2) The commission shall submit each fee established under this section to the
22249 Legislature for its approval as part of the commission's annual appropriations request.
22250 Section 449. Section **34A-1-302** is amended to read:
22251 **34A-1-302. Presiding officers for adjudicative proceedings -- Subpoenas --**
22252 **Independent judgment -- Consolidation -- Record -- Notice of order.**
22253 (1) (a) The commissioner shall authorize the Division of Adjudication to call, assign a
22254 presiding officer, and conduct hearings and adjudicative proceedings when an application for a

22255 proceeding is filed with the Division of Adjudication under this title.
22256 (b) The director of the Division of Adjudication or the director's designee may issue
22257 subpoenas. Failure to respond to a properly issued subpoena may result in a contempt citation
22258 and offenders may be punished as provided in Section 78-32-15.
22259 (c) Witnesses subpoenaed under this section are allowed fees as provided by law for
22260 witnesses in the district court of the state. The witness fees shall be paid by the state unless the
22261 witness is subpoenaed at the instance of a party other than the commission.
22262 (d) A presiding officer assigned under this section may not participate in any case in
22263 which the presiding officer is an interested party. Each decision of a presiding officer shall
22264 represent the presiding officer's independent judgment.
22265 (2) If, in the judgment of the presiding officer having jurisdiction of the proceeding the
22266 consolidation would not be prejudicial to any party, when the same or substantially similar
22267 evidence is relevant and material to the matters in issue in more than one proceeding, the
22268 presiding officer may:
22269 (a) fix the same time and place for considering each matter;
22270 (b) jointly conduct hearings;
22271 (c) make a single record of the proceedings; and
22272 (d) consider evidence introduced with respect to one proceeding as introduced in the
22273 others.
22274 (3) (a) The commission shall keep a full and complete record of all adjudicative
22275 proceedings in connection with a disputed matter.
22276 (b) All testimony at any hearing shall be recorded but need not be transcribed. If a
22277 party requests transcription, the transcription shall be provided at the party's expense.
22278 (c) All records on appeals shall be maintained by the Division of Adjudication. The
22279 records shall include an appeal docket showing the receipt and disposition of the appeals.
22280 (4) A party in interest shall be given notice of the entry of a presiding officer's order or
22281 any order or award of the commission. The mailing of the copy of the order or award to the
22282 last-known address in the files of the commission of a party in interest and to the attorneys or
22283 agents of record in the case, if any, is considered to be notice of the order.
22284 (5) In any formal adjudicative proceeding, the presiding officer may take any action
22285 permitted under Section [~~63-46b-8~~] 63G-4-206.

22286 Section 450. Section **34A-1-303** is amended to read:
22287 **34A-1-303. Review of administrative decision.**
22288 (1) A decision entered by an administrative law judge under this title is the final order
22289 of the commission unless a further appeal is initiated:
22290 (a) under this title; and
22291 (b) in accordance with the rules of the commission governing the review.
22292 (2) (a) Unless otherwise provided, a person who is entitled to appeal a decision of an
22293 administrative law judge under this title may appeal the decision by filing a motion for review
22294 with the Division of Adjudication.
22295 (b) (i) Unless a party in interest to the appeal requests in accordance with Subsection
22296 (3) that the appeal be heard by the Appeals Board, the commissioner shall hear the review in
22297 accordance with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
22298 (ii) A decision of the commissioner is a final order of the commission unless set aside
22299 by the court of appeals.
22300 (c) (i) If in accordance with Subsection (3) a party in interest to the appeal requests that
22301 the appeal be heard by the Appeals Board, the Appeals Board shall hear the review in
22302 accordance with:
22303 (A) Section 34A-1-205; and
22304 (B) [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
22305 (ii) A decision of the Appeals Board is a final order of the commission unless set aside
22306 by the court of appeals.
22307 (3) A party in interest may request that an appeal be heard by the Appeals Board by
22308 filing the request with the Division of Adjudication:
22309 (a) as part of the motion for review; or
22310 (b) if requested by a party in interest who did not file a motion for review, within 20
22311 days of the date the motion for review is filed with the Division of Adjudication.
22312 (4) (a) On appeal, the commissioner or the Appeals Board may:
22313 (i) affirm the decision of an administrative law judge;
22314 (ii) modify the decision of an administrative law judge;
22315 (iii) return the case to an administrative law judge for further action as directed; or
22316 (iv) reverse the findings, conclusions, and decision of an administrative law judge.

22317 (b) The commissioner or Appeals Board may not conduct a trial de novo of the case.
22318 (c) The commissioner or Appeals Board may base its decision on:
22319 (i) the evidence previously submitted in the case; or
22320 (ii) on written argument or written supplemental evidence requested by the
22321 commissioner or Appeals Board.
22322 (d) The commissioner or Appeals Board may permit the parties to:
22323 (i) file briefs or other papers; or
22324 (ii) conduct oral argument.
22325 (e) The commissioner or Appeals Board shall promptly notify the parties to any
22326 proceedings before the commissioner or Appeals Board of its decision, including its findings
22327 and conclusions.
22328 (5) (a) Each decision of a member of the Appeals Board shall represent the member's
22329 independent judgment.
22330 (b) A member of the Appeals Board may not participate in any case in which the
22331 member is an interested party.
22332 (c) If a member of the Appeals Board may not participate in a case because the member
22333 is an interested party, the two members of the Appeals Board that may hear the case shall
22334 assign an individual to participate as a member of the board in that case if the individual:
22335 (i) is not an interested party in the case;
22336 (ii) was not previously assigned to:
22337 (A) preside over any proceeding related to the case; or
22338 (B) take any administrative action related to the case; and
22339 (iii) is representative of the following group that was represented by the member that
22340 may not hear the case under Subsection (5)(b):
22341 (A) employers;
22342 (B) employees; or
22343 (C) the public.
22344 (d) The two members of the Appeals Board may appoint an individual to participate as
22345 a member of the Appeals Board in a case if:
22346 (i) there is a vacancy on the board at the time the Appeals Board hears the review of
22347 the case;

22348 (ii) the individual appointed meets the conditions described in Subsections (5)(c)(i) and
22349 (ii); and
22350 (iii) the individual appointed is representative of the following group that was
22351 represented by the member for which there is a vacancy:
22352 (A) employers;
22353 (B) employees; or
22354 (C) the public.
22355 (6) If an order is appealed to the court of appeals after the party appealing the order has
22356 exhausted all administrative appeals, the court of appeals has jurisdiction to:
22357 (a) review, reverse, remand, or annul any order of the commissioner or Appeals Board;
22358 or
22359 (b) suspend or delay the operation or execution of the order of the commissioner or
22360 Appeals Board being appealed.
22361 Section 451. Section **34A-1-304** is amended to read:
22362 **34A-1-304. Rulemaking -- Electronic or similar methods of proceedings.**
22363 (1) (a) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
22364 Administrative Rulemaking Act, the commission shall make rules governing adjudicative
22365 procedures including the forms of notices and the manner of serving notice in all claims.
22366 (b) Except as provided in this title and [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
22367 Administrative Procedures Act, the rules made under this section are not required to conform
22368 to common law or statutory rules of evidence or other technical rules of procedure.
22369 (2) The rules made under this section shall include procedures to dispose of cases
22370 informally, or to expedite claims adjudication, narrow issues, and simplify the methods of
22371 proof at hearings.
22372 (3) The commission may by rule permit hearings or other adjudicative proceedings to
22373 be conducted, recorded, or published by means of electronic devices or other similar methods.
22374 Section 452. Section **34A-1-307** is amended to read:
22375 **34A-1-307. Action permitted in adjudicative proceedings.**
22376 For the purposes mentioned in this title, the commission may take any action permitted:
22377 (1) if a formal adjudicative proceeding, under Section [~~63-46b-7~~] 63G-4-205 or
22378 [~~63-46b-8~~] 63G-4-206; or

22379 (2) if an informal adjudicative proceeding, under Section [~~63-46b-5~~] 63G-4-203.
22380 Section 453. Section **34A-1-309** is amended to read:
22381 **34A-1-309. Attorney fees.**
22382 (1) In all cases coming before the commission in which attorneys have been employed,
22383 the commission is vested with full power to regulate and fix the fees of the attorneys.
22384 (2) In accordance with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
22385 Procedures Act, an attorney may file an application for hearing with the Division of
22386 Adjudication to appeal a decision or final order to the extent it concerns the award of attorney
22387 fees.
22388 (3) (a) The commission may award reasonable attorneys' fees on a contingency basis
22389 when disability or death benefits or interest on disability or death benefits are generated.
22390 (b) Attorney fees awarded under Subsection (3)(a) shall be paid by the employer or its
22391 insurance carrier out of the award of disability or death benefits, or interest on disability or
22392 death benefits.
22393 (4) (a) If the commission orders that only medical benefits be paid, the commission
22394 may award reasonable [~~attorneys' fee~~] attorney fees on a contingency basis for medical benefits
22395 ordered paid if:
22396 (i) the commission's informal dispute resolution mechanisms were fully used by the
22397 parties prior to adjudication; and
22398 (ii) at no time were disability or death benefits or interest on disability or death benefits
22399 at issue in the adjudication of the medical benefit claim.
22400 (b) Attorneys' fees awarded under Subsection (3)(a) shall be paid by the employer or its
22401 insurance carrier in addition to the payment of medical benefits ordered.
22402 Section 454. Section **34A-1-402** is amended to read:
22403 **34A-1-402. Publication of orders, rules, and rates.**
22404 (1) (a) The commission shall make available in proper form for distribution to the
22405 public, its orders and rules; and
22406 (b) furnish the information made available under Subsection (1) to any person upon
22407 request.
22408 (2) The commission may in accordance with Section [~~63-2-203~~] 63G-2-203 charge a
22409 fee for furnishing materials under this section.

22410 Section 455. Section **34A-2-111** is amended to read:
22411 **34A-2-111. Managed health care programs -- Other safety programs.**
22412 (1) As used in this section:
22413 (a) (i) "Health care provider" means a person who furnishes treatment or care to
22414 persons who have suffered bodily injury.
22415 (ii) "Health care provider" includes:
22416 (A) a hospital;
22417 (B) a clinic;
22418 (C) an emergency care center;
22419 (D) a physician;
22420 (E) a nurse;
22421 (F) a nurse practitioner;
22422 (G) a physician's assistant;
22423 (H) a paramedic; or
22424 (I) an emergency medical technician.
22425 (b) "Physician" means any health care provider licensed under:
22426 (i) Title 58, Chapter 5a, Podiatric Physician Licensing Act;
22427 (ii) Title 58, Chapter 24a, Physical Therapist Practice Act;
22428 (iii) Title 58, Chapter 67, Utah Medical Practice Act;
22429 (iv) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
22430 (v) Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act;
22431 (vi) Title 58, Chapter 70a, Physician Assistant Act;
22432 (vii) Title 58, Chapter 71, Naturopathic Physician Practice Act;
22433 (viii) Title 58, Chapter 72, Acupuncture Licensing Act; and
22434 (ix) Title 58, Chapter 73, Chiropractic Physician Practice Act.
22435 (c) "Preferred health care facility" means a facility:
22436 (i) that is a health care facility as defined in Section 26-21-2; and
22437 (ii) designated under a managed health care program.
22438 (d) "Preferred provider physician" means a physician designated under a managed
22439 health care program.
22440 (e) "Self-insured employer" is as defined in Section 34A-2-201.5.

22441 (2) (a) A self-insured employer and insurance carrier may adopt a managed health care
22442 program to provide employees the benefits of this chapter or Chapter 3, Utah Occupational
22443 Disease Act, beginning January 1, 1993. The plan shall comply with this Subsection (2).
22444 (b) (i) A preferred provider program may be developed if the preferred provider
22445 program allows a selection by the employee of more than one physician in the health care
22446 specialty required for treating the specific problem of an industrial patient.
22447 (ii) (A) Subject to the requirements of this section, if a preferred provider program is
22448 developed by an insurance carrier or self-insured employer, an employee is required to use:
22449 (I) preferred provider physicians; and
22450 (II) preferred health care facilities.
22451 (B) If a preferred provider program is not developed, an employee may have free
22452 choice of health care providers.
22453 (iii) The failure to do the following may, if the employee has been notified of the
22454 preferred provider program, result in the employee being obligated for any charges in excess of
22455 the preferred provider allowances:
22456 (A) use a preferred health care facility; or
22457 (B) initially receive treatment from a preferred provider physician.
22458 (iv) Notwithstanding the requirements of Subsections (2)(b)(i) through (iii), a
22459 self-insured employer or other employer may:
22460 (A) (I) (Aa) have its own health care facility on or near its worksite or premises; and
22461 (Bb) continue to contract with other health care providers; or
22462 (II) operate a health care facility; and
22463 (B) require employees to first seek treatment at the provided health care or contracted
22464 facility.
22465 (v) An employee subject to a preferred provider program or employed by an employer
22466 having its own health care facility may procure the services of any qualified health care
22467 provider:
22468 (A) for emergency treatment, if a physician employed in the preferred provider
22469 program or at the health care facility is not available for any reason;
22470 (B) for conditions the employee in good faith believes are nonindustrial; or
22471 (C) when an employee living in a rural area would be unduly burdened by traveling to:

22472 (I) a preferred provider physician; or
22473 (II) preferred health care facility.
22474 (c) (i) (A) An employer, insurance carrier, or self-insured employer may enter into
22475 contracts with the following for the purposes listed in Subsection (2)(c)(i)(B):
22476 (I) health care providers;
22477 (II) medical review organizations; or
22478 (III) vendors of medical goods, services, and supplies including medicines.
22479 (B) A contract described in Subsection (1)(c)(i)(A) may be made for the following
22480 purposes:
22481 (I) insurance carriers or self-insured employers may form groups in contracting for
22482 managed health care services with health care providers;
22483 (II) peer review;
22484 (III) methods of utilization review;
22485 (IV) use of case management;
22486 (V) bill audit;
22487 (VI) discounted purchasing; and
22488 (VII) the establishment of a reasonable health care treatment protocol program
22489 including the implementation of medical treatment and quality care guidelines that are:
22490 (Aa) scientifically based;
22491 (Bb) peer reviewed; and
22492 (Cc) consistent with standards for health care treatment protocol programs that the
22493 commission shall establish by rules made in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
22494 Chapter 3, Utah Administrative Rulemaking Act, including the authority of the commission to
22495 approve a health care treatment protocol program before it is used or disapprove a health care
22496 treatment protocol program that does not comply with this Subsection (2)(c)(i)(B)(VII).
22497 (ii) An insurance carrier may make any or all of the factors in Subsection (2)(c)(i) a
22498 condition of insuring an entity in its insurance contract.
22499 (3) (a) In addition to a managed health care program, an insurance carrier may require
22500 an employer to establish a work place safety program if the employer:
22501 (i) has an experience modification factor of 1.00 or higher, as determined by the
22502 National Council on Compensation Insurance; or

22503 (ii) is determined by the insurance carrier to have a three-year loss ratio of 100% or
22504 higher.
22505 (b) A workplace safety program may include:
22506 (i) a written workplace accident and injury reduction program that:
22507 (A) promotes safe and healthful working conditions; and
22508 (B) is based on clearly stated goals and objectives for meeting those goals; and
22509 (ii) a documented review of the workplace accident and injury reduction program each
22510 calendar year delineating how procedures set forth in the program are met.
22511 (c) A written workplace accident and injury reduction program permitted under
22512 Subsection (3)(b)(i) should describe:
22513 (i) how managers, supervisors, and employees are responsible for implementing the
22514 program;
22515 (ii) how continued participation of management will be established, measured, and
22516 maintained;
22517 (iii) the methods used to identify, analyze, and control new or existing hazards,
22518 conditions, and operations;
22519 (iv) how the program will be communicated to all employees so that the employees are
22520 informed of work-related hazards and controls;
22521 (v) how workplace accidents will be investigated and corrective action implemented;
22522 and
22523 (vi) how safe work practices and rules will be enforced.
22524 (d) For the purposes of a workplace accident and injury reduction program of an
22525 eligible employer described in Subsection 34A-2-103(7)(f), the workplace accident and injury
22526 reduction program shall:
22527 (i) include the provisions described in Subsections (3)(b) and (c), except that the
22528 employer shall conduct a documented review of the workplace accident and injury reduction
22529 program at least semiannually delineating how procedures set forth in the workplace accident
22530 and injury reduction program are met; and
22531 (ii) require a written agreement between the employer and all contractors and
22532 subcontractors on a project that states that:
22533 (A) the employer has the right to control the manner or method by which the work is

22534 executed;
22535 (B) if a contractor, subcontractor, or any employee of a contractor or subcontractor
22536 violates the workplace accident and injury reduction program, the employer maintains the right
22537 to:
22538 (I) terminate the contract with the contractor or subcontractor;
22539 (II) remove the contractor or subcontractor from the work site; or
22540 (III) require that the contractor or subcontractor not permit an employee that violates
22541 the workplace accident and injury reduction program to work on the project for which the
22542 employer is procuring work; and
22543 (C) the contractor or subcontractor shall provide safe and appropriate equipment
22544 subject to the right of the employer to:
22545 (I) inspect on a regular basis the equipment of a contractor or subcontractor; and
22546 (II) require that the contractor or subcontractor repair, replace, or remove equipment
22547 the employer determines not to be safe or appropriate.
22548 (4) The premiums charged to any employer who fails or refuses to establish a
22549 workplace safety program pursuant to Subsection (3)(b)(i) or (ii) may be increased by 5% over
22550 any existing current rates and premium modifications charged that employer.
22551 Section 456. Section **34A-2-203** is amended to read:
22552 **34A-2-203. Payment of premiums for workers' compensation.**
22553 (1) Until June 30, 2007, a department, commission, board, or other agency of the state
22554 shall pay the insurance premium on its employees direct to the Workers' Compensation Fund.
22555 (2) Beginning July 1, 2007, the state shall secure the payment of workers'
22556 compensation benefits for its employees:
22557 (a) by:
22558 (i) insuring, and keeping insured, the payment of this compensation with the Workers'
22559 Compensation Fund;
22560 (ii) insuring, and keeping insured, the payment of this compensation with any stock
22561 corporation or mutual association authorized to transact the business of workers' compensation
22562 insurance in this state; or
22563 (iii) paying direct compensation as a self-insured employer in the amount, in the
22564 manner, and when due as provided for in this chapter or Chapter 3, Utah Occupational Disease

22565 Act;
22566 (b) in accordance with Title 63A, Chapter 4, Risk Management; and
22567 (c) subject to Subsection (3).
22568 (3) (a) If the state determines to secure the payment of workers' compensation benefits
22569 for its employees by paying direct compensation as a self-insured employer in the amount, in
22570 the manner, and due as provided for in this chapter or Chapter 3, Utah Occupational Disease
22571 Act, the state is:
22572 (i) exempt from Section 34A-2-202.5 and Subsection 34A-2-704(14); and
22573 (ii) required to pay a premium assessment as provided in Section 34A-2-202.
22574 (b) If the state chooses to pay workers' compensation benefits for its employees
22575 through insuring under Subsection (2)(a)(i) or (ii), the state shall obtain that insurance in
22576 accordance with [~~Title 63, Chapter 56~~] Title 63G, Chapter 6, Utah Procurement Code.
22577 Section 457. Section **34A-2-205** is amended to read:
22578 **34A-2-205. Notification of workers' compensation insurance coverage to division**
22579 **-- Cancellation requirements -- Penalty for violation.**
22580 (1) (a) Every insurance carrier writing workers' compensation insurance coverage in
22581 this state or for this state, regardless of the state in which the policy is written, shall file
22582 notification of that coverage with the division or its designee within 30 days after the inception
22583 date of the policy in the form prescribed by the division.
22584 (b) A policy described in Subsection (1)(a) is in effect from inception until canceled by
22585 filing with the division or its designee a notification of cancellation in the form prescribed by
22586 the division within ten days after the cancellation of a policy.
22587 (c) Failure to notify the division or its designee under Subsection (1)(b) will result in
22588 the continued liability of the carrier until the date that notice of cancellation is received by the
22589 division or its designee.
22590 (d) Filings shall be made within 30 days of:
22591 (i) the reinstatement of a policy;
22592 (ii) the changing or addition of a name or address of the insured; or
22593 (iii) the merger of an insured with another entity.
22594 (e) All filings under this section shall include:
22595 (i) the name of the insured;

22596 (ii) the principal business address;
22597 (iii) any and all assumed name designations;
22598 (iv) the address of all locations within this state where business is conducted; and
22599 (v) all federal employer identification numbers or federal tax identification numbers.
22600 (2) Noncompliance with this section is grounds for revocation of an insurance carrier's
22601 certificate of authority in addition to the grounds specified in Title 31A, Insurance Code.
22602 (3) The division may assess an insurer up to $150, payable to the Uninsured
22603 Employers' Fund, if the insurer fails to comply with this section.
22604 (4) (a) The notification of workers' compensation insurance coverage required to be
22605 filed under Subsection (1) is a protected record under Section [~~63-2-304~~] 63G-2-305.
22606 (b) The commission or any of its divisions may not disclose the information described
22607 in Subsection (4)(a) except as provided in:
22608 (i) [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records Access and
22609 Management Act, for a protected record; or
22610 (ii) Subsection (4)(c), notwithstanding whether [~~Title 63, Chapter 2~~] Title 63G,
22611 Chapter 2, Government Records Access and Management Act, permits disclosure.
22612 (c) The commission may disclose the information described in Subsection (4)(a) if:
22613 (i) the information is disclosed on an individual case basis related to a single employer;
22614 (ii) the information facilitates the:
22615 (A) coverage of subcontractors by identifying the insurance carrier providing workers'
22616 compensation coverage for an employer;
22617 (B) filing of a claim by an employee; or
22618 (C) payment of services rendered on an employee's claim by a medical practitioner; and
22619 (iii) promotes the purposes of this chapter or Chapter 3, Utah Occupational Disease
22620 Act.
22621 (d) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
22622 Administrative Rulemaking Act, the commission shall make rules concerning when
22623 information may be disclosed under Subsection (4)(c).
22624 Section 458. Section **34A-2-211** is amended to read:
22625 **34A-2-211. Notice of noncompliance to employer -- Enforcement power of**
22626 **division -- Penalty.**

22627 (1) (a) In addition to the remedies specified in Section 34A-2-210, if the division has
22628 reason to believe that an employer is conducting business without securing the payment of
22629 benefits in one of the three ways provided in Section 34A-2-201, the division may give that
22630 employer written notice of the noncompliance by certified mail to the last-known address of the
22631 employer.
22632 (b) If the employer does not remedy the default within 15 days after delivery of the
22633 notice, the division may issue an order requiring the employer to appear before the division and
22634 show cause why the employer should not be ordered to comply with Section 34A-2-201.
22635 (c) If it is found that the employer has failed to provide for the payment of benefits in
22636 one of the three ways provided in Section 34A-2-201, the division may require any employer to
22637 comply with Section 34A-2-201.
22638 (2) (a) Notwithstanding Subsection (1), the division may impose a penalty against the
22639 employer under this Subsection (2):
22640 (i) subject to the notice and other requirements of [~~Title 63, Chapter 46b~~] Title 63G,
22641 Chapter 4, Administrative Procedures Act; and
22642 (ii) if the division believes that an employer of one or more employees is conducting
22643 business without securing the payment of benefits in one of the three ways provided in Section
22644 34A-2-201.
22645 (b) The penalty imposed under Subsection (2)(a) shall be the greater of:
22646 (i) $1,000; or
22647 (ii) three times the amount of the premium the employer would have paid for workers'
22648 compensation insurance based on the rate filing of the Workers' Compensation Fund, during
22649 the period of noncompliance.
22650 (c) For purposes of Subsection (2)(b)(ii), the premium is calculated by applying rates
22651 and rate multipliers to the payroll basis under Subsection (2)(d), using the highest rated
22652 employee class code applicable to the employer's operations.
22653 (d) The payroll basis for the purpose of calculating the premium penalty shall be 150%
22654 of the state's average weekly wage multiplied by the highest number of workers employed by
22655 the employer during the period of the employer's noncompliance multiplied by the number of
22656 weeks of the employer's noncompliance up to a maximum of 156 weeks.
22657 (3) The penalty imposed under Subsection (2) shall be deposited in the Uninsured

22658 Employers' Fund created by Section 34A-2-704 and used for the purposes of that fund.
22659 (4) (a) An employer who disputes the determination, imposition, or amount of a
22660 penalty imposed under Subsection (2) shall request a hearing before an administrative law
22661 judge within 30 days of the date of issuance of the administrative action imposing the penalty
22662 or the administrative action becomes a final order of the commission.
22663 (b) The employer's request for a hearing under Subsection (4)(a) shall specify the facts
22664 and grounds that are the basis of the employer's objection to the determination, imposition, or
22665 amount of the penalty.
22666 (c) An administrative law judge's decision under this Subsection (4) may be reviewed
22667 pursuant to Part 8, Adjudication.
22668 (5) (a) After a penalty has been issued and becomes a final order of the commission the
22669 division on behalf of the commission may file an abstract for any uncollected penalty in the
22670 district court.
22671 (b) The abstract filed under Subsection (5)(a) shall state:
22672 (i) the amount of the uncollected penalty;
22673 (ii) reasonable attorneys' fees;
22674 (iii) costs of collection; and
22675 (iv) court costs.
22676 (c) The filed abstract shall have the effect of a judgment of that court.
22677 (6) Any administrative action issued by the division under this section shall:
22678 (a) be in writing;
22679 (b) be sent by certified mail to the last-known address of the employer;
22680 (c) state the findings and administrative action of the division; and
22681 (d) specify its effective date, which may be immediate or may be at a later date.
22682 (7) The final order of the commission under this section, upon application by the
22683 division on behalf of the commission made on or after the effective date of the order to a court
22684 of general jurisdiction in any county in this state, may be enforced by an order to comply
22685 entered ex parte and without notice by the court.
22686 Section 459. Section **34A-2-407** is amended to read:
22687 **34A-2-407. Reporting of industrial injuries -- Regulation of health care providers**
22688 **-- Funeral expenses.**

22689 (1) As used in this section, "physician" is as defined in Section 34A-2-111.
22690 (2) (a) Any employee sustaining an injury arising out of and in the course of
22691 employment shall provide notification to the employee's employer promptly of the injury.
22692 (b) If the employee is unable to provide the notification required by Subsection (2)(a),
22693 the following may provide notification of the injury to the employee's employer:
22694 (i) the employee's next-of-kin; or
22695 (ii) the employee's attorney.
22696 (c) An employee claiming benefits under this chapter, or Chapter 3, Utah Occupational
22697 Disease Act, shall comply with rules adopted by the commission regarding disclosure of
22698 medical records of the employee medically relevant to the industrial accident or occupational
22699 disease claim.
22700 (3) (a) An employee is barred for any claim of benefits arising from an injury if the
22701 employee fails to notify within the time period described in Subsection (3)(b):
22702 (i) the employee's employer in accordance with Subsection (2); or
22703 (ii) the division.
22704 (b) The notice required by Subsection (3)(a) shall be made within:
22705 (i) 180 days of the day on which the injury occurs; or
22706 (ii) in the case of an occupational hearing loss, the time period specified in Section
22707 34A-2-506.
22708 (4) The following constitute notification of injury required by Subsection (2):
22709 (a) an employer's or physician's injury report filed with:
22710 (i) the division;
22711 (ii) the employer; or
22712 (iii) the employer's insurance carrier; or
22713 (b) the payment of any medical or disability benefits by:
22714 (i) the employer; or
22715 (ii) the employer's insurance carrier.
22716 (5) (a) In the form prescribed by the division, each employer shall file a report with the
22717 division of any:
22718 (i) work-related fatality; or
22719 (ii) work-related injury resulting in:

22720 (A) medical treatment;
22721 (B) loss of consciousness;
22722 (C) loss of work;
22723 (D) restriction of work; or
22724 (E) transfer to another job.
22725 (b) The employer shall file the report required by Subsection (5)(a) within seven days
22726 after:
22727 (i) the occurrence of a fatality or injury;
22728 (ii) the employer's first knowledge of the fatality or injury; or
22729 (iii) the employee's notification of the fatality or injury.
22730 (c) (i) An employer shall file a subsequent report with the division of any previously
22731 reported injury that later results in death.
22732 (ii) The subsequent report required by this Subsection (5)(c) shall be filed with the
22733 division within seven days following:
22734 (A) the death; or
22735 (B) the employer's first knowledge or notification of the death.
22736 (d) A report is not required to be filed under this Subsection (5) for minor injuries,
22737 such as cuts or scratches that require first-aid treatment only, unless:
22738 (i) a treating physician files a report with the division in accordance with Subsection
22739 (9); or
22740 (ii) a treating physician is required to file a report with the division in accordance with
22741 Subsection (9).
22742 (6) An employer required to file a report under Subsection (5) shall provide the
22743 employee with:
22744 (a) a copy of the report submitted to the division; and
22745 (b) a statement, as prepared by the division, of the employee's rights and
22746 responsibilities related to the industrial injury.
22747 (7) Each employer shall maintain a record in a manner prescribed by the division of all:
22748 (a) work-related fatalities; or
22749 (b) work-related injuries resulting in:
22750 (i) medical treatment;

22751 (ii) loss of consciousness;
22752 (iii) loss of work;
22753 (iv) restriction of work; or
22754 (v) transfer to another job.
22755 (8) (a) Except as provided in Subsection (8)(b), an employer who refuses or neglects to
22756 make reports, to maintain records, or to file reports with the division as required by this section
22757 is:
22758 (i) guilty of a class C misdemeanor; and
22759 (ii) subject to a civil assessment:
22760 (A) imposed by the division, subject to the requirements of [~~Title 63, Chapter 46b~~]
22761 Title 63G, Chapter 4, Administrative Procedures Act; and
22762 (B) that may not exceed $500.
22763 (b) An employer is not subject to the civil assessment or guilty of a class C
22764 misdemeanor under this Subsection (8) if:
22765 (i) the employer submits a report later than required by this section; and
22766 (ii) the division finds that the employer has shown good cause for submitting a report
22767 later than required by this section.
22768 (c) A civil assessment collected under this Subsection (8) shall be deposited into the
22769 Uninsured Employers' Fund created in Section 34A-2-704.
22770 (9) (a) A physician attending an injured employee shall comply with rules established
22771 by the commission regarding:
22772 (i) fees for physician's services;
22773 (ii) disclosure of medical records of the employee medically relevant to the employee's
22774 industrial accident or occupational disease claim; and
22775 (iii) reports to the division regarding:
22776 (A) the condition and treatment of an injured employee; or
22777 (B) any other matter concerning industrial cases that the physician is treating.
22778 (b) A physician who is associated with, employed by, or bills through a hospital is
22779 subject to Subsection (9)(a).
22780 (c) A hospital providing services for an injured employee is not subject to the
22781 requirements of Subsection (9)(a) except for rules made by the commission that are described

22782 in Subsection (9)(a)(ii) or (iii).
22783 (d) The commission's schedule of fees may reasonably differentiate remuneration to be
22784 paid to providers of health services based on:
22785 (i) the severity of the employee's condition;
22786 (ii) the nature of the treatment necessary; and
22787 (iii) the facilities or equipment specially required to deliver that treatment.
22788 (e) This Subsection (9) does not prohibit a contract with a provider of health services
22789 relating to the pricing of goods and services.
22790 (10) A copy of the initial report filed under Subsection (9)(a)(iii) shall be furnished to:
22791 (a) the division;
22792 (b) the employee; and
22793 (c) (i) the employer; or
22794 (ii) the employer's insurance carrier.
22795 (11) (a) Except as provided in Subsection (11)(b), a person subject to Subsection
22796 (9)(a)(iii) who fails to comply with Subsection (9)(a)(iii) is guilty of a class C misdemeanor for
22797 each offense.
22798 (b) A person subject to Subsection (9)(a)(iii) is not guilty of a class C misdemeanor
22799 under this Subsection (11), if:
22800 (i) the person files a late report; and
22801 (ii) the division finds that there is good cause for submitting a late report.
22802 (12) (a) Subject to appellate review under Section 34A-1-303, the commission has
22803 exclusive jurisdiction to hear and determine:
22804 (i) whether goods provided to or services rendered to an employee are compensable
22805 pursuant to this chapter or Chapter 3, Utah Occupational Disease Act, including:
22806 (A) medical, nurse, or hospital services;
22807 (B) medicines; and
22808 (C) artificial means, appliances, or prosthesis;
22809 (ii) the reasonableness of the amounts charged or paid for a good or service described
22810 in Subsection (12)(a)(i); and
22811 (iii) collection issues related to a good or service described in Subsection (12)(a)(i).
22812 (b) Except as provided in Subsection (12)(a), Subsection 34A-2-211(7), or Section

22813 34A-2-212, a person may not maintain a cause of action in any forum within this state other
22814 than the commission for collection or payment for goods or services described in Subsection
22815 (12)(a) that are compensable under this chapter or Chapter 3, Utah Occupational Disease Act.
22816 Section 460. Section **34A-2-704** is amended to read:
22817 **34A-2-704. Uninsured Employers' Fund.**
22818 (1) (a) There is created an Uninsured Employers' Fund. The Uninsured Employers'
22819 Fund has the purpose of assisting in the payment of workers' compensation benefits to any
22820 person entitled to the benefits, if:
22821 (i) that person's employer:
22822 (A) is individually, jointly, or severally liable to pay the benefits; and
22823 (B) (I) becomes or is insolvent;
22824 (II) appoints or has appointed a receiver; or
22825 (III) otherwise does not have sufficient funds, insurance, sureties, or other security to
22826 cover workers' compensation liabilities; and
22827 (ii) the employment relationship between that person and the person's employer is
22828 localized within the state as provided in Subsection (20).
22829 (b) The Uninsured Employers' Fund succeeds to all monies previously held in the
22830 Default Indemnity Fund.
22831 (c) If it becomes necessary to pay benefits, the Uninsured Employers' Fund is liable for
22832 all obligations of the employer as set forth in this chapter and Chapter 3, Utah Occupational
22833 Disease Act, with the exception of penalties on those obligations.
22834 (2) (a) Monies for the Uninsured Employers' Fund shall be deposited into the
22835 Uninsured Employers' Fund in accordance with this chapter and Subsection 59-9-101(2).
22836 (b) The commissioner shall appoint an administrator of the Uninsured Employers'
22837 Fund.
22838 (c) (i) The state treasurer is the custodian of the Uninsured Employers' Fund.
22839 (ii) The administrator shall make provisions for and direct distribution from the
22840 Uninsured Employers' Fund.
22841 (3) Reasonable costs of administering the Uninsured Employers' Fund or other fees
22842 required to be paid by the Uninsured Employers' Fund may be paid from the Uninsured
22843 Employers' Fund.

22844 (4) The state treasurer shall:
22845 (a) receive workers' compensation premium assessments from the State Tax
22846 Commission; and
22847 (b) invest the Uninsured Employers' Fund to ensure maximum investment return for
22848 both long and short term investments in accordance with Section 51-7-12.5.
22849 (5) (a) The administrator may employ, retain, or appoint counsel to represent the
22850 Uninsured Employers' Fund in all proceedings brought to enforce claims against or on behalf of
22851 the Uninsured Employers' Fund.
22852 (b) If requested by the commission, the following shall aid in the representation of the
22853 Uninsured Employers' Fund:
22854 (i) the attorney general; or
22855 (ii) the city attorney, or county attorney of the locality in which:
22856 (A) any investigation, hearing, or trial under this chapter or Chapter 3, Utah
22857 Occupational Disease Act, is pending;
22858 (B) the employee resides; or
22859 (C) an employer:
22860 (I) resides; or
22861 (II) is doing business.
22862 (6) To the extent of the compensation and other benefits paid or payable to or on behalf
22863 of an employee or the employee's dependents from the Uninsured Employers' Fund, the
22864 Uninsured Employers' Fund, by subrogation, has all the rights, powers, and benefits of the
22865 employee or the employee's dependents against the employer failing to make the compensation
22866 payments.
22867 (7) (a) The receiver, trustee, liquidator, or statutory successor of an employer meeting a
22868 condition listed in Subsection (1)(a)(i)(B) is bound by settlements of covered claims by the
22869 Uninsured Employers' Fund.
22870 (b) The court with jurisdiction shall grant all payments made under this section a
22871 priority equal to that to which the claimant would have been entitled in the absence of this
22872 section against the assets of the employer meeting a condition listed in Subsection (1)(a)(i)(B).
22873 (c) The expenses of the Uninsured Employers' Fund in handling claims shall be
22874 accorded the same priority as the liquidator's expenses.

22875 (8) (a) The administrator shall periodically file the information described in Subsection
22876 (8)(b) with the receiver, trustee, or liquidator of:
22877 (i) an employer that meets a condition listed in Subsection (1)(a)(i)(B);
22878 (ii) a public agency insurance mutual, as defined in Section 31A-1-103, that meets a
22879 condition listed in Subsection (1)(a)(i)(B); or
22880 (iii) an insolvent insurance carrier.
22881 (b) The information required to be filed under Subsection (8)(a) is:
22882 (i) statements of the covered claims paid by the Uninsured Employers' Fund; and
22883 (ii) estimates of anticipated claims against the Uninsured Employers' Fund.
22884 (c) The filings under this Subsection (8) shall preserve the rights of the Uninsured
22885 Employers' Fund for claims against the assets of the employer that meets a condition listed in
22886 Subsection (1)(a)(i)(B).
22887 (9) When any injury or death for which compensation is payable from the Uninsured
22888 Employers' Fund has been caused by the wrongful act or neglect of another person not in the
22889 same employment, the Uninsured Employers' Fund has the same rights as allowed under
22890 Section 34A-2-106.
22891 (10) The Uninsured Employers' Fund, subject to approval of the administrator, shall
22892 discharge its obligations by:
22893 (a) adjusting its own claims; or
22894 (b) contracting with an adjusting company, risk management company, insurance
22895 company, or other company that has expertise and capabilities in adjusting and paying workers'
22896 compensation claims.
22897 (11) (a) For the purpose of maintaining the Uninsured Employers' Fund, an
22898 administrative law judge, upon rendering a decision with respect to any claim for workers'
22899 compensation benefits in which an employer that meets a condition listed in Subsection
22900 (1)(a)(i)(B) was duly joined as a party, shall:
22901 (i) order the employer that meets a condition listed in Subsection (1)(a)(i)(B) to
22902 reimburse the Uninsured Employers' Fund for all benefits paid to or on behalf of an injured
22903 employee by the Uninsured Employers' Fund along with interest, costs, and attorneys' fees; and
22904 (ii) impose a penalty against the employer that meets a condition listed in Subsection
22905 (1)(a)(i)(B) of 15% of the value of the total award in connection with the claim that shall be

22906 paid into the Uninsured Employers' Fund.
22907 (b) Awards may be docketed as other awards under this chapter and Chapter 3, Utah
22908 Occupational Disease Act.
22909 (12) The liability of the state, the commission, and the state treasurer, with respect to
22910 payment of any compensation benefits, expenses, fees, or disbursement properly chargeable
22911 against the Uninsured Employers' Fund, is limited to the assets in the Uninsured Employers'
22912 Fund, and they are not otherwise in any way liable for the making of any payment.
22913 (13) The commission may make reasonable rules for the processing and payment of
22914 claims for compensation from the Uninsured Employers' Fund.
22915 (14) (a) (i) If it becomes necessary for the Uninsured Employers' Fund to pay benefits
22916 under this section to an employee described in Subsection (14)(a)(ii), the Uninsured Employers'
22917 Fund may assess all other self-insured employers amounts necessary to pay:
22918 (A) the obligations of the Uninsured Employers' Fund subsequent to a condition listed
22919 in Subsection (1)(a)(i)(B) occurring;
22920 (B) the expenses of handling covered claims subsequent to a condition listed in
22921 Subsection (1)(a)(i)(B) occurring;
22922 (C) the cost of examinations under Subsection (15); and
22923 (D) other expenses authorized by this section.
22924 (ii) This Subsection (14) applies to benefits paid to an employee of:
22925 (A) a self-insured employer, as defined in Section 34A-2-201.5, that meets a condition
22926 listed in Subsection (1)(a)(i)(B); or
22927 (B) if the self-insured employer that meets a condition described in Subsection
22928 (1)(a)(i)(B) is a public agency insurance mutual, a member of the public agency insurance
22929 mutual.
22930 (b) The assessments of each self-insured employer shall be in the proportion that the
22931 manual premium of the self-insured employer for the preceding calendar year bears to the
22932 manual premium of all self-insured employers for the preceding calendar year.
22933 (c) Each self-insured employer shall be notified of the self-insured employer's
22934 assessment not later than 30 days before the day on which the assessment is due.
22935 (d) (i) A self-insured employer may not be assessed in any year an amount greater than
22936 2% of that self-insured employer's manual premium for the preceding calendar year.

22937 (ii) If the maximum assessment does not provide in any one year an amount sufficient
22938 to make all necessary payments from the Uninsured Employers' Fund for one or more
22939 self-insured employers that meet a condition listed in Subsection (1)(a)(i)(B), the unpaid
22940 portion shall be paid as soon as funds become available.
22941 (e) All self-insured employers are liable under this section for a period not to exceed
22942 three years after the day on which the Uninsured Employers' Fund first pays benefits to an
22943 employee described in Subsection (14)(a)(ii) for the self-insured employer that meets a
22944 condition listed in Subsection (1)(a)(i)(B).
22945 (f) This Subsection (14) does not apply to claims made against a self-insured employer
22946 that meets a condition listed in Subsection (1)(a)(i)(B) if the condition listed in Subsection
22947 (1)(a)(i)(B) occurred prior to July 1, 1986.
22948 (15) (a) The following shall notify the division of any information indicating that any
22949 of the following may be insolvent or in a financial condition hazardous to its employees or the
22950 public:
22951 (i) a self-insured employer; or
22952 (ii) if the self-insured employer is a public agency insurance mutual, a member of the
22953 public agency insurance mutual.
22954 (b) Upon receipt of the notification described in Subsection (15)(a) and with good
22955 cause appearing, the division may order an examination of:
22956 (i) that self-insured employer; or
22957 (ii) if the self-insured employer is a public agency insurance mutual, a member of the
22958 public agency mutual.
22959 (c) The cost of the examination ordered under Subsection (15)(b) shall be assessed
22960 against all self-insured employers as provided in Subsection (14).
22961 (d) The results of the examination ordered under Subsection (15)(b) shall be kept
22962 confidential.
22963 (16) (a) In any claim against an employer by the Uninsured Employers' Fund, or by or
22964 on behalf of the employee to whom or to whose dependents compensation and other benefits
22965 are paid or payable from the Uninsured Employers' Fund, the burden of proof is on the
22966 employer or other party in interest objecting to the claim.
22967 (b) The claim described in Subsection (16)(a) is presumed to be valid up to the full

22968 amount of workers' compensation benefits claimed by the employee or the employee's
22969 dependents.
22970 (c) This Subsection (16) applies whether the claim is filed in court or in an adjudicative
22971 proceeding under the authority of the commission.
22972 (17) A partner in a partnership or an owner of a sole proprietorship may not recover
22973 compensation or other benefits from the Uninsured Employers' Fund if:
22974 (a) the person is not included as an employee under Subsection 34A-2-104(3); or
22975 (b) the person is included as an employee under Subsection 34A-2-104(3), but:
22976 (i) the person's employer fails to insure or otherwise provide adequate payment of
22977 direct compensation; and
22978 (ii) the failure described in Subsection (17)(b)(i) is attributable to an act or omission
22979 over which the person had or shared control or responsibility.
22980 (18) A director or officer of a corporation may not recover compensation or other
22981 benefits from the Uninsured Employers' Fund if the director or officer is excluded from
22982 coverage under Subsection 34A-2-104(4).
22983 (19) The Uninsured Employers' Fund:
22984 (a) shall be:
22985 (i) used in accordance with this section only for:
22986 (A) the purpose of assisting in the payment of workers' compensation benefits in
22987 accordance with Subsection (1); and
22988 (B) in accordance with Subsection (3), payment of:
22989 (I) reasonable costs of administering the Uninsured Employers' Fund; or
22990 (II) fees required to be paid by the Uninsured Employers' Fund; and
22991 (ii) expended according to processes that can be verified by audit; and
22992 (b) may not be used for:
22993 (i) administrative costs unrelated to the Uninsured Employers' Fund; or
22994 (ii) any activity of the commission other than an activity described in Subsection
22995 (19)(a).
22996 (20) (a) For purposes of Subsection (1), an employment relationship is localized in the
22997 state if:
22998 (i) (A) the employer who is liable for the benefits has a business premise in the state;

22999 and
23000 (B) (I) the contract for hire is entered into in the state; or
23001 (II) the employee regularly performs work duties in the state for the employer who is
23002 liable for the benefits; or
23003 (ii) the employee is:
23004 (A) a resident of the state; and
23005 (B) regularly performs work duties in the state for the employer who is liable for the
23006 benefits.
23007 (b) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
23008 Administrative Rulemaking Act, the commission shall by rule define what constitutes regularly
23009 performing work duties in the state.
23010 Section 461. Section **34A-2-801** is amended to read:
23011 **34A-2-801. Initiating adjudicative proceedings -- Procedure for review of**
23012 **administrative action.**
23013 (1) (a) To contest an action of the employee's employer or its insurance carrier
23014 concerning a compensable industrial accident or occupational disease alleged by the employee,
23015 any of the following shall file an application for hearing with the Division of Adjudication:
23016 (i) the employee; or
23017 (ii) a representative of the employee, the qualifications of whom are defined in rule by
23018 the commission.
23019 (b) To appeal the imposition of a penalty or other administrative act imposed by the
23020 division on the employer or its insurance carrier for failure to comply with this chapter or
23021 Chapter 3, Utah Occupational Disease Act, any of the following shall file an application for
23022 hearing with the Division of Adjudication:
23023 (i) the employer;
23024 (ii) the insurance carrier; or
23025 (iii) a representative of either the employer or the insurance carrier, the qualifications
23026 of whom are defined in rule by the commission.
23027 (c) A person providing goods or services described in Subsections 34A-2-407(12) and
23028 34A-3-108(12) may file an application for hearing in accordance with Section 34A-2-407 or
23029 34A-3-108.

23030 (d) An attorney may file an application for hearing in accordance with Section
23031 34A-1-309.
23032 (2) Unless a party in interest appeals the decision of an administrative law judge in
23033 accordance with Subsection (3), the decision of an administrative law judge on an application
23034 for hearing filed under Subsection (1) is a final order of the commission 30 days after the date
23035 the decision is issued.
23036 (3) (a) A party in interest may appeal the decision of an administrative law judge by
23037 filing a motion for review with the Division of Adjudication within 30 days of the date the
23038 decision is issued.
23039 (b) Unless a party in interest to the appeal requests under Subsection (3)(c) that the
23040 appeal be heard by the Appeals Board, the commissioner shall hear the review.
23041 (c) A party in interest may request that an appeal be heard by the Appeals Board by
23042 filing the request with the Division of Adjudication:
23043 (i) as part of the motion for review; or
23044 (ii) if requested by a party in interest who did not file a motion for review, within 20
23045 days of the date the motion for review is filed with the Division of Adjudication.
23046 (d) A case appealed to the Appeals Board shall be decided by the majority vote of the
23047 Appeals Board.
23048 (4) All records on appeals shall be maintained by the Division of Adjudication. Those
23049 records shall include an appeal docket showing the receipt and disposition of the appeals on
23050 review.
23051 (5) Upon appeal, the commissioner or Appeals Board shall make its decision in
23052 accordance with Section 34A-1-303.
23053 (6) The commissioner or Appeals Board shall promptly notify the parties to any
23054 proceedings before it of its decision, including its findings and conclusions.
23055 (7) The decision of the commissioner or Appeals Board is final unless within 30 days
23056 after the date the decision is issued further appeal is initiated under the provisions of this
23057 section or [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
23058 (8) (a) Within 30 days after the date the decision of the commissioner or Appeals
23059 Board is issued, any aggrieved party may secure judicial review by commencing an action in
23060 the court of appeals against the commissioner or Appeals Board for the review of the decision

23061 of the commissioner or Appeals Board.
23062 (b) In an action filed under Subsection (8)(a):
23063 (i) any other party to the proceeding before the commissioner or Appeals Board shall
23064 be made a party; and
23065 (ii) the commission shall be made a party.
23066 (c) A party claiming to be aggrieved may seek judicial review only if the party has
23067 exhausted the party's remedies before the commission as provided by this section.
23068 (d) At the request of the court of appeals, the commission shall certify and file with the
23069 court all documents and papers and a transcript of all testimony taken in the matter together
23070 with the decision of the commissioner or Appeals Board.
23071 Section 462. Section **34A-5-102** is amended to read:
23072 **34A-5-102. Definitions.**
23073 As used in this chapter:
23074 (1) "Apprenticeship" means a program for the training of apprentices including a
23075 program providing the training of those persons defined as apprentices by Section 35A-6-102.
23076 (2) "Bona fide occupational qualification" means a characteristic applying to an
23077 employee:
23078 (a) that is necessary to the operation; or
23079 (b) is the essence of the employee's employer's business.
23080 (3) "Court" means:
23081 (a) the district court in the judicial district of the state in which the asserted unfair
23082 employment practice occurred; or
23083 (b) if this court is not in session at that time, a judge of the court described in
23084 Subsection (3)(a).
23085 (4) "Director" means the director of the division.
23086 (5) "Disability" means a physical or mental disability as defined and covered by the
23087 Americans with Disabilities Act of 1990, 42 U.S.C. 12102.
23088 (6) "Division" means the Division of Antidiscrimination and Labor.
23089 (7) "Employee" means any person applying with or employed by an employer.
23090 (8) (a) "Employer" means:
23091 (i) the state;

23092 (ii) any political subdivision;
23093 (iii) a board, commission, department, institution, school district, trust, or agent of the
23094 state or its political subdivisions; or
23095 (iv) a person employing 15 or more employees within the state for each working day
23096 in each of 20 calendar weeks or more in the current or preceding calendar year.
23097 (b) "Employer" does not include:
23098 (i) a religious organization or association;
23099 (ii) a religious corporation sole; or
23100 (iii) any corporation or association constituting a wholly owned subsidiary or agency of
23101 any religious organization or association or religious corporation sole.
23102 (9) "Employment agency" means any person:
23103 (a) undertaking to procure employees or opportunities to work for any other person; or
23104 (b) holding itself out to be equipped to take an action described in Subsection (9)(a).
23105 (10) "Joint apprenticeship committee" means any association of representatives of a
23106 labor organization and an employer providing, coordinating, or controlling an apprentice
23107 training program.
23108 (11) "Labor organization" means any organization that exists for the purpose in whole
23109 or in part of:
23110 (a) collective bargaining;
23111 (b) dealing with employers concerning grievances, terms or conditions of employment;
23112 or
23113 (c) other mutual aid or protection in connection with employment.
23114 (12) "National origin" means the place of birth, domicile, or residence of an individual
23115 or of an individual's ancestors.
23116 (13) "On-the-job-training" means any program designed to instruct a person who, while
23117 learning the particular job for which the person is receiving instruction:
23118 (a) is also employed at that job; or
23119 (b) may be employed by the employer conducting the program during the course of the
23120 program, or when the program is completed.
23121 (14) "Person" means one or more individuals, partnerships, associations, corporations,
23122 legal representatives, trusts or trustees, receivers, the state and all political subdivisions and

23123 agencies of the state.
23124 (15) "Presiding officer" means the same as that term is defined in Section [~~63-46b-2~~]
23125 63G-4-103.
23126 (16) "Prohibited employment practice" means a practice specified as discriminatory,
23127 and therefore unlawful, in Section 34A-5-106.
23128 (17) "Retaliate" means the taking of adverse action by an employer, employment
23129 agency, labor organization, apprenticeship program, on-the-job training program, or vocational
23130 school against one of its employees, applicants, or members because the employee, applicant,
23131 or member:
23132 (a) has opposed any employment practice prohibited under this chapter; or
23133 (b) filed charges, testified, assisted, or participated in any way in any proceeding,
23134 investigation, or hearing under this chapter.
23135 (18) "Vocational school" means any school or institution conducting a course of
23136 instruction, training, or retraining to prepare individuals to follow an occupation or trade, or to
23137 pursue a manual, technical, industrial, business, commercial, office, personal services, or other
23138 nonprofessional occupations.
23139 Section 463. Section **34A-5-107** is amended to read:
23140 **34A-5-107. Procedure for aggrieved person to file claim -- Investigations --**
23141 **Adjudicative proceedings -- Settlement -- Reconsideration -- Determination.**
23142 (1) (a) Any person claiming to be aggrieved by a discriminatory or prohibited
23143 employment practice may, or that person's attorney or agent may, make, sign, and file with the
23144 division a request for agency action.
23145 (b) Every request for agency action shall be verified under oath or affirmation.
23146 (c) A request for agency action made under this section shall be filed within 180 days
23147 after the alleged discriminatory or prohibited employment practice occurred.
23148 (d) The division may transfer a request for agency action filed with the division
23149 pursuant to this section to the federal Equal Employment Opportunity Commission in
23150 accordance with the provisions of any work-share agreement that is:
23151 (i) between the division and the Equal Employment Opportunity Commission; and
23152 (ii) in effect on the day on which the request for agency action is transferred.
23153 (2) Any employer, labor organization, joint apprenticeship committee, or vocational

23154 school who has an employee or member who refuses or threatens to refuse to comply with this
23155 chapter may file with the division a request for agency action asking the division for assistance
23156 to obtain the employee's or member's compliance by conciliation or other remedial action.
23157 (3) (a) Before a hearing is set or held as part of any adjudicative proceeding, the
23158 division shall promptly assign an investigator to attempt a settlement between the parties by
23159 conference, conciliation, or persuasion.
23160 (b) If no settlement is reached, the investigator shall make a prompt impartial
23161 investigation of all allegations made in the request for agency action.
23162 (c) The division and its staff, agents, and employees:
23163 (i) shall conduct every investigation in fairness to all parties and agencies involved;
23164 and
23165 (ii) may not attempt a settlement between the parties if it is clear that no discriminatory
23166 or prohibited employment practice has occurred.
23167 (d) An aggrieved party may withdraw the request for agency action prior to the
23168 issuance of a final order.
23169 (4) (a) If the initial attempts at settlement are unsuccessful, and the investigator
23170 uncovers insufficient evidence during the investigation to support the allegations of a
23171 discriminatory or prohibited employment practice set out in the request for agency action, the
23172 investigator shall formally report these findings to the director or the director's designee.
23173 (b) Upon receipt of the investigator's report described in Subsection (4)(a), the director
23174 or the director's designee may issue a determination and order for dismissal of the adjudicative
23175 proceeding.
23176 (c) A party may make a written request to the Division of Adjudication for an
23177 evidentiary hearing to review de novo the director's or the director's designee's determination
23178 and order within 30 days of the date the determination and order for dismissal is issued.
23179 (d) If the director or the director's designee receives no timely request for a hearing, the
23180 determination and order issued by the director or the director's designee becomes the final order
23181 of the commission.
23182 (5) (a) If the initial attempts at settlement are unsuccessful and the investigator
23183 uncovers sufficient evidence during the investigation to support the allegations of a
23184 discriminatory or prohibited employment practice set out in the request for agency action, the

23185 investigator shall formally report these findings to the director or the director's designee.
23186 (b) (i) Upon receipt of the investigator's report described in Subsection (5)(a), the
23187 director or the director's designee may issue a determination and order based on the
23188 investigator's report.
23189 (ii) A determination and order issued under this Subsection (5)(b) shall:
23190 (A) direct the respondent to cease any discriminatory or prohibited employment
23191 practice; and
23192 (B) provide relief to the aggrieved party as the director or the director's designee
23193 determines is appropriate.
23194 (c) A party may file a written request to the Division of Adjudication for an evidentiary
23195 hearing to review de novo the director's or the director's designee's determination and order
23196 within 30 days of the date the determination and order is issued.
23197 (d) If the director or the director's designee receives no timely request for a hearing, the
23198 determination and order issued by the director or the director's designee in accordance with
23199 Subsection (5)(b) becomes the final order of the commission.
23200 (6) In any adjudicative proceeding to review the director's or the director's designee's
23201 determination that a prohibited employment practice has occurred, the division shall present the
23202 factual and legal basis of the determination or order issued under Subsection (5).
23203 (7) (a) Prior to commencement of an evidentiary hearing:
23204 (i) the party filing the request for agency action may reasonably and fairly amend any
23205 allegation; and
23206 (ii) the respondent may amend its answer.
23207 (b) An amendment permitted under this Subsection (7) may be made:
23208 (i) during or after a hearing; and
23209 (ii) only with permission of the presiding officer.
23210 (8) (a) If, upon all the evidence at a hearing, the presiding officer finds that a
23211 respondent has not engaged in a discriminatory or prohibited employment practice, the
23212 presiding officer shall issue an order dismissing the request for agency action containing the
23213 allegation of a discriminatory or prohibited employment practice.
23214 (b) The presiding officer may order that the respondent be reimbursed by the
23215 complaining party for the respondent's attorneys' fees and costs.

23216 (9) If upon all the evidence at the hearing, the presiding officer finds that a respondent
23217 has engaged in a discriminatory or prohibited employment practice, the presiding officer shall
23218 issue an order requiring the respondent to:
23219 (a) cease any discriminatory or prohibited employment practice; and
23220 (b) provide relief to the complaining party, including:
23221 (i) reinstatement;
23222 (ii) back pay and benefits;
23223 (iii) attorneys' fees; and
23224 (iv) costs.
23225 (10) Conciliation between the parties is to be urged and facilitated at all stages of the
23226 adjudicative process.
23227 (11) (a) Either party may file with the Division of Adjudication a written request for
23228 review before the commissioner or Appeals Board of the order issued by the presiding officer
23229 in accordance with:
23230 (i) Section [~~63-46b-12~~] 63G-4-301; and
23231 (ii) Chapter 1, Part 3, Adjudicative Proceedings.
23232 (b) If there is no timely request for review, the order issued by the presiding officer
23233 becomes the final order of the commission.
23234 (12) An order of the commission under Subsection (11)(a) is subject to judicial review
23235 as provided in:
23236 (a) Section [~~63-46b-16~~] 63G-4-403; and
23237 (b) Chapter 1, Part 3, Adjudicative Proceedings.
23238 (13) The commission shall have authority to make rules concerning procedures under
23239 this chapter in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
23240 Administrative Rulemaking Act.
23241 (14) The commission and its staff may not divulge or make public any information
23242 gained from any investigation, settlement negotiation, or proceeding before the commission
23243 except as provided in Subsections (14)(a) through (d).
23244 (a) Information used by the director or the director's designee in making any
23245 determination may be provided to all interested parties for the purpose of preparation for and
23246 participation in proceedings before the commission.

23247 (b) General statistical information may be disclosed provided the identities of the
23248 individuals or parties are not disclosed.
23249 (c) Information may be disclosed for inspection by the attorney general or other legal
23250 representatives of the state or the commission.
23251 (d) Information may be disclosed for information and reporting requirements of the
23252 federal government.
23253 (15) The procedures contained in this section are the exclusive remedy under state law
23254 for employment discrimination based upon:
23255 (a) race;
23256 (b) color;
23257 (c) sex;
23258 (d) retaliation;
23259 (e) pregnancy, childbirth, or pregnancy-related conditions;
23260 (f) age;
23261 (g) religion;
23262 (h) national origin; or
23263 (i) disability.
23264 (16) (a) The commencement of an action under federal law for relief based upon any
23265 act prohibited by this chapter bars the commencement or continuation of any adjudicative
23266 proceeding before the commission in connection with the same claims under this chapter.
23267 (b) The transfer of a request for agency action to the Equal Employment Opportunity
23268 Commission in accordance with Subsection (1)(d) is considered the commencement of an
23269 action under federal law for purposes of Subsection (16)(a).
23270 (c) Nothing in this Subsection (16) is intended to alter, amend, modify, or impair the
23271 exclusive remedy provision set forth in Subsection (15).
23272 Section 464. Section **34A-5-108** is amended to read:
23273 **34A-5-108. Judicial enforcement of division findings.**
23274 (1) The commission or the attorney general at the request of the commission shall
23275 commence an action under Section [~~63-46b-19~~] 63G-4-501 for civil enforcement of a final
23276 order of the commission issued under Subsection 34A-5-107(11) if:
23277 (a) the order finds that there is reasonable cause to believe that a respondent has

23278 engaged or is engaging in discriminatory or prohibited employment practices made unlawful by
23279 this chapter;
23280 (b) counsel to the commission or the attorney general determines after reasonable
23281 inquiry that the order is well grounded in fact and is warranted by existing law;
23282 (c) the respondent has not received an order of automatic stay or discharge from the
23283 United States Bankruptcy Court; and
23284 (d) (i) the commission has not accepted a conciliation agreement to which the
23285 aggrieved party and respondent are parties; or
23286 (ii) the respondent has not conciliated or complied with the final order of the
23287 commission within 30 days from the date the order is issued.
23288 (2) If the respondent seeks judicial review of the final order under Section [~~63-46b-16~~]
23289 63G-4-403, pursuant to Section [~~63-46b-18~~] 63G-4-405 the commission may stay seeking civil
23290 enforcement pending the completion of the judicial review.
23291 Section 465. Section **34A-6-103** is amended to read:
23292 **34A-6-103. Definitions.**
23293 As used in this chapter:
23294 (1) "Administrator" means the director of the Division of Occupational Safety and
23295 Health.
23296 (2) "Amendment" means such modification or change in a code, standard, rule, or
23297 order intended for universal or general application.
23298 (3) "Commission" means the Labor Commission.
23299 (4) "Council" means the Utah Occupational Safety and Health Advisory Council.
23300 (5) "Division" means the Division of Occupational Safety and Health.
23301 (6) "Employee" includes any person suffered or permitted to work by an employer.
23302 (7) "Employer" means:
23303 (a) the state;
23304 (b) each county, city, town, and school district in the state; and
23305 (c) every person, firm, and private corporation, including public utilities, having one or
23306 more workers or operatives regularly employed in the same business, or in or about the same
23307 establishment, under any contract of hire.
23308 (8) "Hearing" means a proceeding conducted by the commission.

23309 (9) "Imminent danger" means a danger exists which reasonably could be expected to
23310 cause an occupational disease, death, or serious physical harm immediately, or before the
23311 danger could be eliminated through enforcement procedures under this chapter.
23312 (10) "National consensus standard" means any occupational safety and health standard
23313 or modification:
23314 (a) adopted by a nationally recognized standards-producing organization under
23315 procedures where it can be determined by the administrator and division that persons interested
23316 and affected by the standard have reached substantial agreement on its adoption;
23317 (b) formulated in a manner which affords an opportunity for diverse views to be
23318 considered; and
23319 (c) designated as such a standard by the Secretary of the United States Department of
23320 Labor.
23321 (11) "Person" means the general public, one or more individuals, partnerships,
23322 associations, corporations, legal representatives, trustees, receivers, and the state and its
23323 political subdivisions.
23324 (12) "Publish" means publication in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
23325 Chapter 3, Utah Administrative Rulemaking Act.
23326 (13) "Secretary" means the Secretary of the United States Department of Labor.
23327 (14) "Standard" means an occupational health and safety standard or group of standards
23328 which requires conditions, or the adoption or use of one or more practices, means, methods,
23329 operations, or processes, reasonably necessary to provide safety and healthful employment and
23330 places of employment.
23331 (15) "Variance" means a special, limited modification or change in the code or
23332 standard applicable to the particular establishment of the employer or person petitioning for the
23333 modification or change.
23334 (16) "Workplace" means any place of employment.
23335 Section 466. Section **34A-6-105** is amended to read:
23336 **34A-6-105. Procedures -- Adjudicative proceedings.**
23337 The commission, the division, and the administrator shall comply with the procedures
23338 and requirements of [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures
23339 Act, in any adjudicative proceedings that they conduct under this chapter.

23340 Section 467. Section **34A-6-202** is amended to read:
23341 **34A-6-202. Standards -- Procedure for issuance, modification, or revocation by**
23342 **division -- Emergency temporary standard -- Variances from standards -- Statement of**
23343 **reasons for administrator's actions -- Judicial review -- Priority for establishing**
23344 **standards.**
23345 (1) (a) The division, as soon as practicable, shall issue as standards any national
23346 consensus standard, any adopted federal standard, or any adopted Utah standard, unless it
23347 determines that issuance of the standard would not result in improved safety or health.
23348 (b) All codes, standards, and rules adopted under Subsection (1)(a) shall take effect 30
23349 days after publication unless otherwise specified.
23350 (c) If any conflict exists between standards, the division shall issue the standard that
23351 assures the greatest protection of safety or health for affected employees.
23352 (2) The division may issue, modify, or revoke any standard as follows:
23353 (a) (i) Whenever the administrator determines upon the basis of information submitted
23354 in writing by an interested person, a representative of any organization of employers or
23355 employees, a nationally recognized standards-producing organization, the Department of
23356 Health, or a state agency or political subdivision, or on information developed by the division
23357 or otherwise available, that a rule should be promulgated to promote the objectives of this
23358 chapter, the administrator may request recommendations from the advisory council.
23359 (ii) The administrator shall provide the advisory council with proposals, together with
23360 all pertinent factual information developed by the division, or otherwise available, including
23361 the results of research, demonstrations, and experiments.
23362 (iii) The advisory council shall submit to the administrator its recommendations
23363 regarding the rule to be promulgated within a period as prescribed by the administrator.
23364 (b) The division shall publish a proposed rule issuing, modifying, or revoking an
23365 occupational safety or health standard and shall afford interested parties an opportunity to
23366 submit written data or comments as prescribed by [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
23367 Utah Administrative Rulemaking Act. When the administrator determines that a rule should be
23368 issued, the division shall publish the proposed rule after the submission of the advisory
23369 council's recommendations or the expiration of the period prescribed by the administrator for
23370 submission.

23371 (c) The administrator, in issuing standards for toxic materials or harmful physical
23372 agents under this subsection, shall set the standard which most adequately assures, to the extent
23373 feasible, on the basis of the best available evidence, that no employee will suffer material
23374 impairment of health or functional capacity even if the employee has regular exposure to the
23375 hazard during an employee's working life. Development of standards under this subsection
23376 shall be based upon research, demonstrations, experiments, and other information deemed
23377 appropriate. In addition to the attainment of the highest degree of health and safety protection
23378 for the employee, other considerations shall be the latest available scientific data in the field,
23379 the feasibility of the standards, and experience under this and other health and safety laws.
23380 Whenever practicable, the standard shall be expressed in terms of objective criteria and of the
23381 performance desired.
23382 (d) (i) Any employer may apply to the administrator for a temporary order granting a
23383 variance from a standard issued under this section. Temporary orders shall be granted only if
23384 the employer:
23385 (A) files an application which meets the requirements of Subsection (2)(d)(iv);
23386 (B) establishes that the employer is unable to comply with a standard by its effective
23387 date because of unavailability of professional or technical personnel or of materials and
23388 equipment needed for compliance with the standard or because necessary construction or
23389 alteration of facilities cannot be completed by the effective date;
23390 (C) establishes that the employer is taking all available steps to safeguard the
23391 employer's employees against hazards; and
23392 (D) establishes that the employer has an effective program for compliance as quickly as
23393 practicable.
23394 (ii) Any temporary order shall prescribe the practices, means, methods, operations, and
23395 processes which the employer must adopt and use while the order is in effect and state in detail
23396 the employer's program for compliance with the standard. A temporary order may be granted
23397 only after notice to employees and an opportunity for a public hearing; provided, that the
23398 administrator may issue one interim order effective until a decision is made after public
23399 hearing.
23400 (iii) A temporary order may not be in effect longer than the period reasonably required
23401 by the employer to achieve compliance. In no case shall the period of a temporary order

23402 exceed one year.
23403 (iv) An application for a temporary order under Subsection (2)(d) shall contain:
23404 (A) a specification of the standard or part from which the employer seeks a variance;
23405 (B) a representation by the employer, supported by representations from qualified
23406 persons having first-hand knowledge of the facts represented, that the employer is unable to
23407 comply with the standard or some part of the standard;
23408 (C) a detailed statement of the reasons the employer is unable to comply;
23409 (D) a statement of the measures taken and anticipated with specific dates, to protect
23410 employees against the hazard;
23411 (E) a statement of when the employer expects to comply with the standard and what
23412 measures the employer has taken and those anticipated, giving specific dates for compliance;
23413 and
23414 (F) a certification that the employer has informed the employer's employees of the
23415 application by:
23416 (I) giving a copy to their authorized representative;
23417 (II) posting a statement giving a summary of the application and specifying where a
23418 copy may be examined at the place or places where notices to employees are normally posted;
23419 and
23420 (III) by other appropriate means.
23421 (v) The certification required under Subsection (2)(d)(iv) shall contain a description of
23422 how employees have been informed.
23423 (vi) The information to employees required under Subsection (2)(d)(v) shall inform the
23424 employees of their right to petition the division for a hearing.
23425 (vii) The administrator is authorized to grant a variance from any standard or some part
23426 of the standard when the administrator determines that it is necessary to permit an employer to
23427 participate in a research and development project approved by the administrator to demonstrate
23428 or validate new and improved techniques to safeguard the health or safety of workers.
23429 (e) (i) Any standard issued under this subsection shall prescribe the use of labels or
23430 other forms of warning necessary to ensure that employees are apprised of all hazards, relevant
23431 symptoms and emergency treatment, and proper conditions and precautions of safe use or
23432 exposure. When appropriate, a standard shall prescribe suitable protective equipment and

23433 control or technological procedures for use in connection with such hazards and provide for
23434 monitoring or measuring employee exposure at such locations and intervals, and in a manner
23435 necessary for the protection of employees. In addition, any such standard shall prescribe the
23436 type and frequency of medical examinations or other tests which shall be made available by the
23437 employer, or at [~~his~~] the employer's cost, to employees exposed to hazards in order to most
23438 effectively determine whether the health of employees is adversely affected by exposure. If
23439 medical examinations are in the nature of research as determined by the division, the
23440 examinations may be furnished at division expense. The results of such examinations or tests
23441 shall be furnished only to the division; and, at the request of the employee, to the employee's
23442 physician.
23443 (ii) The administrator may by rule make appropriate modifications in requirements for
23444 the use of labels or other forms of warning, monitoring or measuring, and medical
23445 examinations warranted by experience, information, or medical or technological developments
23446 acquired subsequent to the promulgation of the relevant standard.
23447 (f) Whenever a rule issued by the administrator differs substantially from an existing
23448 national consensus standard, the division shall publish a statement of the reasons why the rule
23449 as adopted will better effectuate the purposes of this chapter than the national consensus
23450 standard.
23451 (g) Whenever a rule, standard, or national consensus standard is modified by the
23452 secretary so as to make less restrictive the federal Williams-Steiger Occupational Safety and
23453 Health Act of 1970, the less restrictive modification shall be immediately applicable to this
23454 chapter and shall be immediately implemented by the division.
23455 (3) (a) The administrator shall provide an emergency temporary standard to take
23456 immediate effect upon publication if the administrator determines that:
23457 (i) employees are exposed to grave danger from exposure to substances or agents
23458 determined to be toxic or physically harmful or from new hazards; and
23459 (ii) that the standard is necessary to protect employees from danger.
23460 (b) An emergency standard shall be effective until superseded by a standard issued in
23461 accordance with the procedures prescribed in Subsection (3)(c).
23462 (c) Upon publication of an emergency standard the division shall commence a
23463 proceeding in accordance with Subsection (2) and the standard as published shall serve as a

23464 proposed rule for the proceedings. The division shall issue a standard under Subsection (3) no
23465 later than 120 days after publication of the emergency standard.
23466 (4) (a) Any affected employer may apply to the division for a rule or order for a
23467 variance from a standard issued under this section. Affected employees shall be given notice of
23468 each application and may participate in a hearing. The administrator shall issue a rule or order
23469 if the administrator determines on the record, after opportunity for an inspection where
23470 appropriate and a hearing, that the proponent of the variance has demonstrated by a
23471 preponderance of the evidence that the conditions, practices, means, methods, operations, or
23472 processes used or proposed to be used by an employer will provide employment and a
23473 workplace to the employer's employees that are as safe and healthful as those which would
23474 prevail if the employer complied with the standard.
23475 (b) The rule or order issued under Subsection (4)(a) shall prescribe the conditions the
23476 employer must maintain, and the practices, means, methods, operations and processes that the
23477 employer must adopt and use to the extent they differ from the standard in question.
23478 (c) A rule or order issued under Subsection (4)(a) may be modified or revoked upon
23479 application by an employer, employees, or by the administrator on its own motion, in the
23480 manner prescribed for its issuance under Subsection (4) at any time after six months from its
23481 issuance.
23482 (5) The administrator shall include a statement of reasons for the administrator's actions
23483 when the administrator:
23484 (a) issues any code, standard, rule, or order;
23485 (b) grants any exemption or extension of time; or
23486 (c) compromises, mitigates, or settles any penalty assessed under this chapter.
23487 (6) Any person adversely affected by a standard issued under this section, at any time
23488 prior to 60 days after a standard is issued, may file a petition challenging its validity with the
23489 district court having jurisdiction for judicial review. A copy of the petition shall be served
23490 upon the division by the petitioner. The filing of a petition shall not, unless otherwise ordered
23491 by the court, operate as a stay of the standard. The determinations of the division shall be
23492 conclusive if supported by substantial evidence on the record as a whole.
23493 (7) In determining the priority for establishing standards under this section, the division
23494 shall give due regard to the urgency of the need for mandatory safety and health standards for

23495 particular industries, trades, crafts, occupations, businesses, workplaces or work environments.
23496 The administrator shall also give due regard to the recommendations of the Department of
23497 Health about the need for mandatory standards in determining the priority for establishing the
23498 standards.
23499 Section 468. Section **34A-6-301** is amended to read:
23500 **34A-6-301. Inspection and investigation of workplace, worker injury, illness, or**
23501 **complaint -- Warrants -- Attendance of witnesses -- Recordkeeping by employers --**
23502 **Employer and employee representatives -- Request for inspection -- Compilation and**
23503 **publication of reports and information -- Rules.**
23504 (1) (a) The division or its representatives, upon presenting appropriate credentials to
23505 the owner, operator, or agent in charge, may:
23506 (i) enter without delay at reasonable times any workplace where work is performed by
23507 an employee of an employer;
23508 (ii) inspect and investigate during regular working hours and at other reasonable times
23509 in a reasonable manner, any workplace, worker injury, occupational disease, or complaint and
23510 all pertinent methods, operations, processes, conditions, structures, machines, apparatus,
23511 devices, equipment, and materials in the workplace; and
23512 (iii) question privately any such employer, owner, operator, agent, or employee.
23513 (b) The division, upon an employer's refusal to permit an inspection, may seek a
23514 warrant pursuant to the Utah Rules of Criminal Procedure.
23515 (2) (a) The division or its representatives may require the attendance and testimony of
23516 witnesses and the production of evidence under oath.
23517 (b) Witnesses shall receive fees and mileage in accordance with Section 78-46-28.
23518 (c) (i) If any person fails or refuses to obey an order of the division to appear, any
23519 district court within the jurisdiction of which such person is found, or resides or transacts
23520 business, upon the application by the division, shall have jurisdiction to issue to any person an
23521 order requiring that person to:
23522 (A) appear to produce evidence if, as, and when so ordered; and
23523 (B) give testimony relating to the matter under investigation or in question.
23524 (ii) Any failure to obey an order of the court described in this Subsection (2)(c) may be
23525 punished by the court as a contempt.

23526 (3) (a) The commission shall make rules in accordance with [~~Title 63, Chapter 46a~~]
23527 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requiring employers:
23528 (i) to keep records regarding activities related to this chapter considered necessary for
23529 enforcement or for the development of information about the causes and prevention of
23530 occupational accidents and diseases; and
23531 (ii) through posting of notices or other means, to inform employees of their rights and
23532 obligations under this chapter including applicable standards.
23533 (b) The commission shall make rules in accordance with [~~Title 63, Chapter 46a~~] Title
23534 63G, Chapter 3, Utah Administrative Rulemaking Act, requiring employers to keep records
23535 regarding any work-related death and injury and any occupational disease as provided in this
23536 Subsection (3)(b).
23537 (i) Each employer shall investigate or cause to be investigated all work-related injuries
23538 and occupational diseases and any sudden or unusual occurrence or change of conditions that
23539 pose an unsafe or unhealthful exposure to employees.
23540 (ii) Each employer shall, within eight hours of occurrence, notify the division of any:
23541 (A) work-related fatality;
23542 (B) disabling, serious, or significant injury; or
23543 (C) occupational disease incident.
23544 (iii) (A) Each employer shall file a report with the Division of Industrial Accidents
23545 within seven days after the occurrence of an injury or occupational disease, after the employer's
23546 first knowledge of the occurrence, or after the employee's notification of the same, in the form
23547 prescribed by the Division of Industrial Accidents, of any work-related fatality or any
23548 work-related injury or occupational disease resulting in:
23549 (I) medical treatment;
23550 (II) loss of consciousness;
23551 (III) loss of work;
23552 (IV) restriction of work; or
23553 (V) transfer to another job.
23554 (B) (I) Each employer shall file a subsequent report with the Division of Industrial
23555 Accidents of any previously reported injury or occupational disease that later resulted in death.
23556 (II) The subsequent report shall be filed with the Division of Industrial Accidents

23557 within seven days following the death or the employer's first knowledge or notification of the
23558 death.
23559 (iv) A report is not required for minor injuries, such as cuts or scratches that require
23560 first-aid treatment only, unless a treating physician files, or is required to file, the Physician's
23561 Initial Report of Work Injury or Occupational Disease with the Division of Industrial
23562 Accidents.
23563 (v) A report is not required:
23564 (A) for occupational diseases that manifest after the employee is no longer employed
23565 by the employer with which the exposure occurred; or
23566 (B) where the employer is not aware of an exposure occasioned by the employment
23567 which results in a compensable occupational disease as defined by Section 34A-3-103.
23568 (vi) Each employer shall provide the employee with:
23569 (A) a copy of the report submitted to the Division of Industrial Accidents; and
23570 (B) a statement, as prepared by the Division of Industrial Accidents, of the employee's
23571 rights and responsibilities related to the industrial injury or occupational disease.
23572 (vii) Each employer shall maintain a record in a manner prescribed by the commission
23573 of all work-related fatalities or work-related injuries and of all occupational diseases resulting
23574 in:
23575 (A) medical treatment;
23576 (B) loss of consciousness;
23577 (C) loss of work;
23578 (D) restriction of work; or
23579 (E) transfer to another job.
23580 (viii) The commission shall make rules in accordance with [~~Title 63, Chapter 46a~~] Title
23581 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this Subsection (3)(b)
23582 consistent with nationally recognized rules or standards on the reporting and recording of
23583 work-related injuries and occupational diseases.
23584 (c) (i) The commission shall make rules in accordance with [~~Title 63, Chapter 46a~~]
23585 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requiring employers to keep
23586 records regarding exposures to potentially toxic materials or harmful physical agents required
23587 to be measured or monitored under Section 34A-6-202.

23588 (ii) (A) The rules made under Subsection (3)(c)(i) shall provide for employees or their
23589 representatives:
23590 (I) to observe the measuring or monitoring; and
23591 (II) to have access to the records of the measuring or monitoring, and to records that
23592 indicate their exposure to toxic materials or harmful agents.
23593 (B) Each employer shall promptly notify employees being exposed to toxic materials or
23594 harmful agents in concentrations that exceed prescribed levels and inform any such employee
23595 of the corrective action being taken.
23596 (4) Information obtained by the division shall be obtained with a minimum burden
23597 upon employers, especially those operating small businesses.
23598 (5) A representative of the employer and a representative authorized by employees
23599 shall be given an opportunity to accompany the division's authorized representative during the
23600 physical inspection of any workplace. If there is no authorized employee representative, the
23601 division's authorized representative shall consult with a reasonable number of employees
23602 concerning matters of health and safety in the workplace.
23603 (6) (a) (i) (A) Any employee or representative of employees who believes that a
23604 violation of an adopted safety or health standard exists that threatens physical harm, or that an
23605 imminent danger exists, may request an inspection by giving notice to the division's authorized
23606 representative of the violation or danger. The notice shall be:
23607 (I) in writing, setting forth with reasonable particularity the grounds for notice; and
23608 (II) signed by the employee or representative of employees.
23609 (B) A copy of the notice shall be provided the employer or the employer's agent no
23610 later than at the time of inspection.
23611 (C) Upon request of the person giving notice, the person's name and the names of
23612 individual employees referred to in the notice shall not appear in the copy or on any record
23613 published, released, or made available pursuant to Subsection (7).
23614 (ii) (A) If upon receipt of the notice the division's authorized representative determines
23615 there are reasonable grounds to believe that a violation or danger exists, the authorized
23616 representative shall make a special inspection in accordance with this section as soon as
23617 practicable to determine if a violation or danger exists.
23618 (B) If the division's authorized representative determines there are no reasonable

23619 grounds to believe that a violation or danger exists, the authorized representative shall notify
23620 the employee or representative of the employees in writing of that determination.
23621 (b) (i) Prior to or during any inspection of a workplace, any employee or representative
23622 of employees employed in the workplace may notify the division or its representative of any
23623 violation of a standard that they have reason to believe exists in the workplace.
23624 (ii) The division shall:
23625 (A) by rule, establish procedures for informal review of any refusal by a representative
23626 of the division to issue a citation with respect to any alleged violation; and
23627 (B) furnish the employees or representative of employees requesting review a written
23628 statement of the reasons for the division's final disposition of the case.
23629 (7) (a) The division may compile, analyze, and publish, either in summary or detailed
23630 form, all reports or information obtained under this section, subject to the limitations set forth
23631 in Section 34A-6-306.
23632 (b) The commission shall make rules in accordance with [~~Title 63, Chapter 46a~~] Title
23633 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to carry out its
23634 responsibilities under this chapter, including rules for information obtained under this section,
23635 subject to the limitations set forth in Section 34A-6-306.
23636 (8) Any employer who refuses or neglects to make reports, to maintain records, or to
23637 file reports with the commission as required by this section is guilty of a class C misdemeanor
23638 and subject to citation under Section 34A-6-302 and a civil assessment as provided under
23639 Section 34A-6-307, unless the commission finds that the employer has shown good cause for
23640 submitting a report later than required by this section.
23641 Section 469. Section **34A-6-304** is amended to read:
23642 **34A-6-304. Procedure for review of order entered by administrative law judge --**
23643 **Continuing jurisdiction of commission.**
23644 (1) (a) Administrative law judges assigned by the director of the Division of
23645 Adjudication shall hear and determine any proceeding assigned to them by the Division of
23646 Adjudication.
23647 (b) The administrative law judge shall enter the administrative law judge's findings of
23648 fact, conclusions of law, and order not later than 30 days after final receipt of all matters
23649 concerned in the hearing.

23650 (c) The findings of fact, conclusions of law, and order of the administrative law judge
23651 shall become the final order of the commission unless objections are made in accordance with
23652 Subsection (2).
23653 (2) (a) Any party of interest who is dissatisfied with the order entered by an
23654 administrative law judge may obtain a review by appealing the decision in accordance with
23655 Section [~~63-46b-12~~] 63G-4-301 and Chapter 1, Part 3, Adjudicative Proceedings.
23656 (b) The commissioner or Appeals Board shall make its decision in accordance with
23657 Section 34A-1-303.
23658 (c) The decision of the commission is final unless judicial review is requested in
23659 accordance with Chapter 1, Part 3, Adjudicative Proceedings.
23660 (d) To the extent that new facts are provided, the commission has continuing
23661 jurisdiction to amend, reverse, or enhance prior orders.
23662 Section 470. Section **34A-6-307** is amended to read:
23663 **34A-6-307. Civil and criminal penalties.**
23664 (1) The commission may assess civil penalties against any employer who has received
23665 a citation under Section 34A-6-302 as follows:
23666 (a) Except as provided in Subsections (1)(b) through (d), the commission may assess
23667 up to $7,000 for each cited violation.
23668 (b) The commission may not assess less than $250 nor more than $7,000 for each cited
23669 serious violation. A violation is serious only if:
23670 (i) it arises from a condition, practice, method, operation, or process in the workplace
23671 of which the employer knows or should know through the exercise of reasonable diligence; and
23672 (ii) there is a substantial possibility that the condition, practice, method, operation, or
23673 process could result in death or serious physical harm.
23674 (c) The commission may not assess less than $5,000 nor more than $70,000 for each
23675 cited willful violation.
23676 (d) The commission may assess up to $70,000 for each cited violation if the employer
23677 has previously been found to have violated the same standards, code, rule, or order.
23678 (e) After the expiration of the time permitted to an employer to correct a cited
23679 violation, the commission may assess up to $7,000 for each day the violation continues
23680 uncorrected.

23681 (2) The commission may assess a civil penalty of up to $7,000 for each violation of any
23682 posting requirement under this chapter.
23683 (3) In deciding the amount to assess for a civil penalty, the commission shall consider
23684 all relevant factors, including:
23685 (a) the size of the employer's business;
23686 (b) the nature of the violation;
23687 (c) the employer's good faith or lack of good faith; and
23688 (d) the employer's previous record of compliance or noncompliance with this chapter.
23689 (4) Any civil penalty collected under this chapter shall be paid into the General Fund.
23690 (5) Criminal penalties under this chapter are as follows:
23691 (a) Any employer who willfully violates any standard, code, rule, or order issued under
23692 Section 34A-6-202, or any rule made under this chapter, is guilty of a class A misdemeanor if
23693 the violation caused the death of an employee. If the violation causes the death of more than
23694 one employee, each death is considered a separate offense.
23695 (b) Any person who gives advance notice of any inspection conducted under this
23696 chapter without authority from the administrator or the administrator's representatives is guilty
23697 of a class A misdemeanor.
23698 (c) Any person who knowingly makes a false statement, representation, or certification
23699 in any application, record, report, plan, or other document filed or required to be maintained
23700 under this chapter is guilty of a class A misdemeanor.
23701 (6) After a citation issued under this chapter and an opportunity for a hearing under
23702 [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, the division may
23703 file an abstract for any uncollected citation penalty in the district court. The filed abstract shall
23704 have the effect of a judgment of that court. The abstract shall state the amount of the
23705 uncollected citation penalty, reasonable attorneys' fees as set by commission rule, and court
23706 costs.
23707 Section 471. Section **34A-7-104** is amended to read:
23708 **34A-7-104. Fees.**
23709 The owner or user of a boiler required by this part to be inspected shall pay to the
23710 commission fees for inspection or for permits to operate in amounts set by the commission
23711 pursuant to Section [~~63-38-3.2~~] 63J-1-303.

23712 Section 472. Section **34A-7-203** is amended to read:
23713 **34A-7-203. Requirements for operating an elevator or escalators -- Inspection --**
23714 **Division duties.**
23715 (1) An elevator or escalator may not operate in this state unless:
23716 (a) the owner or operator of the elevator or escalator obtains an inspection certificate
23717 under Subsection (3); and
23718 (b) the inspection certificate described in Subsection (1)(a) has not:
23719 (i) expired under Subsection (3); or
23720 (ii) been suspended under Section 34A-7-204.
23721 (2) An elevator or escalator used or proposed to be used in this state shall be inspected
23722 as to its safety to operate in accordance with the safety code:
23723 (a) every two years; or
23724 (b) more frequently than every two years if the division determines that more frequent
23725 inspections are necessary.
23726 (3) (a) If upon inspection an elevator or escalator is safe to operate in accordance with
23727 the safety code, the inspector shall issue to the owner or operator an inspection certificate.
23728 (b) An inspection certificate issued under Subsection (3)(a) shall expire two years from
23729 the date the inspection certificate is issued.
23730 (4) An inspector employed by the division under this part shall at all times meet
23731 nationally recognized standards of qualifications for inspectors of elevators and escalators, as
23732 defined by rule by the division.
23733 (5) The owner or operator of an elevator or escalator that is used in the state shall pay
23734 to the commission a fee in amounts set by the commission pursuant to Section [~~63-38-3.2~~]
23735 63J-1-303:
23736 (a) for inspection; and
23737 (b) for an inspection certificate.
23738 (6) The division:
23739 (a) shall provide for the inspection of elevators and escalators in accordance with this
23740 section;
23741 (b) shall adopt by rule one or more nationally recognized standards or other safety
23742 codes to be used in inspecting elevators or escalators; and

23743 (c) may adopt amendments to the safety code adopted under Subsection (6)(b).
23744 Section 473. Section **34A-8-111** is amended to read:
23745 **34A-8-111. Rulemaking authority.**
23746 The commission may provide for the administration of this chapter by rule in
23747 accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
23748 Rulemaking Act.
23749 Section 474. Section **34A-8-112** is amended to read:
23750 **34A-8-112. Administrative review.**
23751 The employer and the injured worker may apply to the Division of Adjudication for
23752 resolution of any issue of law or fact arising under this chapter in accordance with [~~Title 63,~~
23753 ~~Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
23754 Section 475. Section **35A-1-104** is amended to read:
23755 **35A-1-104. Department authority.**
23756 Within all other authority or responsibility granted to it by law, the department may:
23757 (1) adopt rules when authorized by this title, in accordance with the procedures of
23758 [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
23759 (2) purchase, as authorized or required by law, services that the department is
23760 responsible to provide for legally eligible persons;
23761 (3) conduct adjudicative proceedings in accordance with the procedures of [~~Title 63,~~
23762 ~~Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act;
23763 (4) establish eligibility standards for its programs, not inconsistent with state or federal
23764 law or regulations;
23765 (5) take necessary steps, including legal action, to recover money or the monetary value
23766 of services provided to a recipient who is not eligible;
23767 (6) administer oaths, certify to official acts, issue subpoenas to compel witnesses and
23768 the production of books, accounts, documents, and other records necessary as evidence;
23769 (7) acquire, manage, and dispose of any real or personal property needed or owned by
23770 the department, not inconsistent with state law;
23771 (8) receive gifts, grants, devises, and donations or their proceeds, crediting the program
23772 designated by the donor, and using the gift, grant, devise, or donation for the purposes
23773 requested by the donor, as long as the request conforms to state and federal policy;

23774 (9) accept and employ volunteer labor or services;
23775 (10) reimburse volunteers for necessary expenses, when the department considers that
23776 reimbursement to be appropriate;
23777 (11) carry out the responsibility assigned by the State Workforce Services Plan
23778 developed by the State Council on Workforce Services;
23779 (12) provide training and educational opportunities for its staff;
23780 (13) examine and audit the expenditures of any public funds provided to a local
23781 authority, agency, or organization that contracts with or receives funds from those authorities or
23782 agencies;
23783 (14) accept and administer grants from the federal government and from other sources,
23784 public or private;
23785 (15) employ and determine the compensation of clerical, legal, technical, investigative,
23786 and other employees necessary to carry out its policymaking, regulatory, and enforcement
23787 powers, rights, duties, and responsibilities under this title;
23788 (16) establish and conduct free employment agencies, and bring together employers
23789 seeking employees and working people seeking employment, and make known the
23790 opportunities for employment in this state;
23791 (17) collect, collate, and publish statistical and other information relating to employees,
23792 employers, employments, and places of employment, and other statistics as it considers proper;
23793 (18) encourage the expansion and use of apprenticeship programs meeting state or
23794 federal standards for apprenticeship programs;
23795 (19) develop processes to ensure that the department responds to the full range of
23796 employee and employer clients; and
23797 (20) carry out the responsibilities assigned to it by statute.
23798 Section 476. Section **35A-1-106** is amended to read:
23799 **35A-1-106. Fees.**
23800 (1) Unless otherwise provided by statute, the department may adopt a schedule of fees
23801 assessed for services provided by the department by following the procedures and requirements
23802 of Section [~~63-38-3.2~~] 63J-1-303.
23803 (2) The department shall submit each fee established under this section to the
23804 Legislature for its approval as part of the department's annual appropriations request.

23805 Section 477. Section **35A-1-301** is amended to read:
23806 **35A-1-301. Presiding officers for adjudicative proceedings -- Subpoenas --**
23807 **Independent judgment -- Consolidation -- Record -- Notice of order.**
23808 (1) (a) The executive director shall authorize the Division of Adjudication to call,
23809 assign a presiding officer, and conduct hearings and adjudicative proceedings when an
23810 application for a proceeding is filed with the Division of Adjudication under this title.
23811 (b) The director of the Division of Adjudication or the director's designee may issue
23812 subpoenas. Failure to respond to a properly issued subpoena may result in a contempt citation
23813 and offenders may be punished as provided in Section 78-32-15.
23814 (c) Witnesses subpoenaed under this section are allowed fees as provided by law for
23815 witnesses in the district court of the state. The fees shall be paid as follows:
23816 (i) The witness fees shall be paid by the state unless the witness is subpoenaed at the
23817 instance of a party other than the department.
23818 (ii) Notwithstanding Subsection (1)(c)(i), if the subpoena is issued under Chapter 4,
23819 Employment Security Act, the fees are part of the expense of administering that chapter.
23820 (d) A presiding officer assigned under this section may not participate in any case in
23821 which the presiding officer is an interested party. Each decision of a presiding officer shall
23822 represent the presiding officer's independent judgment.
23823 (2) In the judgment of the presiding officer having jurisdiction of the proceedings the
23824 consolidation would not be prejudicial to any party, when the same or substantially similar
23825 evidence is relevant and material to the matters in issue in more than one proceeding:
23826 (a) the presiding officer may fix the same time and place for considering each matter;
23827 (b) jointly conduct hearings;
23828 (c) make a single record of the proceedings; and
23829 (d) consider evidence introduced with respect to one proceeding as introduced in the
23830 others.
23831 (3) (a) The director shall keep a full and complete record of all adjudicative proceedings
23832 in connection with a disputed matter.
23833 (b) All testimony at any hearing shall be recorded but need not be transcribed unless
23834 the disputed matter is appealed. If a party requests transcription, the transcription shall be
23835 provided at the party's expense.

23836 (c) All records on appeals shall be maintained in the offices of the Division of
23837 Adjudication. The records shall include an appeal docket showing the receipt and disposition
23838 of the appeals.
23839 (4) A party in interest shall be given notice of the entry of a presiding officer's order or
23840 any order or award of the department. The mailing of the copy of the order or award to the
23841 last-known address in the files of the department of a party in interest and to the attorneys or
23842 agents of record in the case, if any, is considered to be notice of the order.
23843 (5) In any formal adjudication proceeding, the presiding officer may take any action
23844 permitted under Section [~~63-46b-8~~] 63G-4-206.
23845 Section 478. Section **35A-1-303** is amended to read:
23846 **35A-1-303. Rulemaking.**
23847 (1) (a) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
23848 Administrative Rulemaking Act, the department shall make rules governing adjudicative
23849 procedures including the forms of notices and the manner of serving notice in all claims.
23850 (b) Except as provided in this title and [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
23851 Administrative Procedures Act, the rules made under this section are not required to conform
23852 to common law or statutory rules of evidence or other technical rules of procedure.
23853 (2) The rules made under this section shall include procedures to dispose of cases
23854 informally, or to expedite claims adjudication, narrow issues, and simplify the methods of
23855 proof at hearings.
23856 (3) Any rule made concerning proceedings before the Workforce Appeals Board shall
23857 be made in consultation with the Workforce Appeals Board.
23858 Section 479. Section **35A-3-105** is amended to read:
23859 **35A-3-105. Determination of eligibility and responsibility -- Information from**
23860 **State Tax Commission.**
23861 (1) The division may have access to relevant information contained in the income tax
23862 returns of a client, applicant, or person who has a duty to support a client in determining:
23863 (a) eligibility for public assistance;
23864 (b) payment responsibilities for institutional care; or
23865 (c) any other administrative purpose consistent with this chapter.
23866 (2) The information requested by the division shall be:

23867 (a) provided by the State Tax Commission on forms furnished by the division; and
23868 (b) treated as a private record under [~~Title 63, Chapter 2~~] Title 63G, Chapter 2,
23869 Government Records Access and Management Act, by the division.
23870 Section 480. Section **35A-3-111** is amended to read:
23871 **35A-3-111. Collection of overpayments.**
23872 (1) The department is responsible for the recovery of overpayments required in Section
23873 35A-3-603.
23874 (2) Excess property liens required in the various programs not transferred to the federal
23875 government shall remain a condition of eligibility in public assistance programs.
23876 (3) A client can appeal an initial department determination that there has been an
23877 overpayment under rules made by the department in accordance with [~~Title 63, Chapter 46a~~]
23878 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
23879 Section 481. Section **35A-3-207** is amended to read:
23880 **35A-3-207. Community based prevention programs.**
23881 (1) As used in this section:
23882 (a) "political subdivision" means a town, city, county, or school district;
23883 (b) "qualified sponsor" means a:
23884 (i) political subdivision;
23885 (ii) community nonprofit, religious, or charitable organization;
23886 (iii) regional or statewide nonprofit organization; or
23887 (iv) private for profit or nonprofit child care organization with experience and expertise
23888 in operating community-based prevention programs described in Subsection (2) and that are
23889 licensed under Title 62A, Chapter 2.
23890 (2) Within appropriations from the Legislature, the department may provide grants to
23891 qualified sponsors for community-based prevention programs that:
23892 (a) support parents in their primary care giving role to children;
23893 (b) provide positive alternatives to idleness for school-aged children when school is not
23894 in session; and
23895 (c) support other community-based prevention programs.
23896 (3) In awarding grants under this section, the department shall:
23897 (a) request proposals for funding from potential qualified sponsors; and

23898 (b) comply with the requirements of Subsection (4).
23899 (4) In awarding these grants, the department shall ensure that each dollar of funds from
23900 political subdivisions or private funds is matched for each dollar received from the department.
23901 The value of in-kind contributions such as materials, supplies, paid labor, volunteer labor, and
23902 the incremental increase in building maintenance and operation expenses incurred attributable
23903 to the prevention program may be considered in meeting this match requirement.
23904 (5) In awarding a grant under this section, the department shall consider:
23905 (a) the cash portion of the proposed match in relation to the financial resources of the
23906 qualified sponsor; and
23907 (b) the extent to which the qualified sponsor has:
23908 (i) consulted and collaborated with parents of children who are likely to participate,
23909 local parent-teacher organizations, other parent organizations, and the appropriate local
23910 interagency council established under Section [~~63-75-5.7~~] 63M-9-301;
23911 (ii) identified at risk factors that will be ameliorated through the proposed prevention
23912 program;
23913 (iii) identified protective factors and developmental assets that will be supported and
23914 strengthened through the proposed prevention program; and
23915 (iv) the financial support of parents and the organizations specified in Subsection
23916 (5)(b)(i).
23917 (6) At least 50 percent of the grants awarded under this section shall be awarded to
23918 organizations described in Subsection (1)(b)(iv).
23919 (7) No federal funds shall be used as matching funds under this act.
23920 Section 482. Section **35A-3-302** is amended to read:
23921 **35A-3-302. Eligibility requirements.**
23922 (1) The program of cash assistance provided under this part is known as the Family
23923 Employment Program.
23924 (2) (a) The division shall submit a state plan to the Secretary of the United States
23925 Department of Health and Human Services to obtain federal funding under the Temporary
23926 Assistance for Needy Families Block Grant.
23927 (b) The division shall make the plan consistent with this part and federal law.
23928 (c) If a discrepancy arises between a provision of the state plan and this part, this part

23929 supersedes the provision in the state plan.
23930 (3) The services and supports under this part are for both one-parent and two-parent
23931 families.
23932 (4) To be eligible for cash assistance under this part, a family shall:
23933 (a) have at least one minor dependent child; or
23934 (b) have a parent who is in the third trimester of a pregnancy.
23935 (5) (a) In an appropriations act, the Legislature shall determine annually the maximum
23936 monthly dollar amount of cash assistance for families based on family size.
23937 (b) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
23938 Administrative Rulemaking Act, the department shall establish rules for eligibility and the
23939 amount of cash assistance a family is eligible to receive under this part based on:
23940 (i) family size;
23941 (ii) family income;
23942 (iii) income disregards; and
23943 (iv) other relevant factors.
23944 (6) The division shall disregard money on deposit in an Individual Development
23945 Account established under Section 35A-3-312 in determining eligibility.
23946 (7) The department shall provide for an appeal of a determination of eligibility in
23947 accordance with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
23948 Section 483. Section **35A-3-310** is amended to read:
23949 **35A-3-310. Child care services.**
23950 (1) A parent client may receive assistance for child care under this part for a minor
23951 child in the care and custody of the parent client, unless the other parent in a two-parent family:
23952 (a) is capable of caring for the family's child;
23953 (b) is not employed; and
23954 (c) has not entered into an employment plan with the division.
23955 (2) The division shall encourage a parent client to obtain child care at no cost from a
23956 parent, sibling, relative, or other suitable provider.
23957 (3) Within appropriations from the Legislature and in accordance with [~~Title 63,~~
23958 ~~Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may
23959 make rules governing eligibility for child care services for a minor child in the care and custody

23960 of a parent who does not receive cash assistance under this part.
23961 Section 484. Section **35A-3-602** is amended to read:
23962 **35A-3-602. Definitions.**
23963 As used in this part:
23964 (1) "Adjudicative proceeding" means an action or proceeding of the department
23965 described in Section [~~63-46b-1~~] 63G-4-102.
23966 (2) "Administrative order" means an order issued by the department involving an
23967 overpayment of public assistance.
23968 (3) "Court order" means a judgment or order of any court of this state, another state, or
23969 the federal government that involves an overpayment of public assistance.
23970 (4) "Department" means the Department of Workforce Services.
23971 (5) "Notice of agency action" means the notice required to commence an adjudicative
23972 proceeding as described in Section [~~63-46b-3~~] 63G-4-201.
23973 (6) "Obligor" means an individual who is liable to the state under Section 35A-3-603
23974 and applicable federal statutes and regulations, or an individual against whom an
23975 administrative or judicial order determining overpayment has been obtained.
23976 (7) (a) "Overpayment" means money, public assistance, or any other thing of value
23977 provided under a state or federally funded benefit program to the extent that the person
23978 receiving the thing of value is not entitled to receive it or is not entitled to receive it at the level
23979 provided.
23980 (b) It includes money paid to a provider under this title in connection with public
23981 assistance or any other publicly funded assistance program to the extent that the provider
23982 receives payment:
23983 (i) for goods or services not provided; or
23984 (ii) in excess of the amount to which the provider is entitled.
23985 Section 485. Section **35A-3-604** is amended to read:
23986 **35A-3-604. Obligor presumed to have notice of department's rights -- Authority**
23987 **to administer oaths, issue subpoenas, and compel witnesses and production of documents**
23988 **-- Recovery of attorney fees, costs, and interest -- Rulemaking authority -- Administrative**
23989 **procedures.**
23990 (1) An obligor is presumed to have received notice of the rights of the department

23991 under this part upon engaging in this state in any of the acts described in Subsections
23992 35A-3-603(4) and (5) or Section 76-8-1203, 76-8-1204, or 76-8-1205.
23993 (2) For the purposes of this part, the department may administer oaths and certify
23994 official acts, issue subpoenas, and compel witnesses and the production of business records,
23995 documents, and evidence.
23996 (3) (a) Except when an overpayment results from administrative error, the department
23997 may recover from the obligor:
23998 (i) reasonable attorneys' fees;
23999 (ii) costs incurred in pursuing administrative remedies under this part; and
24000 (iii) interest at the rate of 1% a month accruing from the date an administrative or
24001 judicial order is issued determining the amount due under this part.
24002 (b) The department may recover interest, attorneys' fees, and costs, if notice of the
24003 assessment has been included in a notice of agency action issued in conformity with [~~Title 63,~~
24004 ~~Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
24005 (4) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
24006 Administrative Rulemaking Act, the department may make, amend, and enforce rules to carry
24007 out the provisions of this part.
24008 (5) Service of all notices and orders under this part shall comply with [~~Title 63,~~
24009 ~~Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, the Utah Rules of Civil
24010 Procedure, or rules made by the department that meet standards required by due process.
24011 Section 486. Section **35A-4-202** is amended to read:
24012 **35A-4-202. Employing units.**
24013 As used in this chapter:
24014 (1) (a) "Employing unit" means:
24015 (i) any individual or type of organization that has or subsequent to January 1, 1935, had
24016 one or more individuals performing services for it within the state including any:
24017 (A) partnership;
24018 (B) association;
24019 (C) trust;
24020 (D) estate;
24021 (E) joint stock company;

24022 (F) insurance company;
24023 (G) limited liability company;
24024 (H) limited liability partnership;
24025 (I) joint venture;
24026 (J) corporation, whether domestic or foreign;
24027 (K) the receiver, trustee in bankruptcy, trustee or successor of any entity listed in
24028 Subsections (1)(a)(i)(A) through (J);
24029 (L) the legal representative of a deceased person; or
24030 (M) a tribal unit; or
24031 (ii) any properly and legally registered professional employer organization, commonly
24032 known as an employee leasing company, as defined by Section 58-59-102.
24033 (b) The department may adopt rules specific to a professional employer organization
24034 pursuant to [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
24035 (c) All individuals performing services within this state for any employing unit that
24036 maintains two or more separate establishments within this state are considered to be
24037 performing services for a single employing unit for all the purposes of this chapter.
24038 (d) Each individual employed to perform or to assist in performing the work of any
24039 person in the service of an employing unit is considered to be engaged by the employing unit
24040 for all the purposes of this chapter whether the individual was hired or paid directly by the
24041 employing unit or by the person, provided the employing unit had actual or constructive
24042 knowledge of the work.
24043 (2) "Hospital" means an institution that is licensed, certified, or approved by the
24044 Department of Health as a hospital.
24045 (3) "Institution of higher education," for the purposes of this section, means an
24046 educational institution that:
24047 (a) (i) admits, as regular students only, individuals having a certificate of graduation
24048 from a high school or the recognized equivalent of a certificate;
24049 (ii) is legally authorized in this state to provide a program of education beyond high
24050 school;
24051 (iii) provides:
24052 (A) an educational program for which it awards a bachelor's or higher degree;

24053 (B) a program that is acceptable for full credit toward a bachelor's or higher degree;
24054 (C) a program of postgraduate or postdoctoral studies; or
24055 (D) a program of training to prepare students for gainful employment in a recognized
24056 occupation; and
24057 (iv) is a public or other nonprofit institution.
24058 (b) All colleges and universities in this state are institutions of higher education for
24059 purposes of this section.
24060 Section 487. Section **35A-4-304** is amended to read:
24061 **35A-4-304. Special provisions regarding transfers of unemployment experience**
24062 **and assignment rates.**
24063 (1) As used in this section:
24064 (a) "Knowingly" means having actual knowledge of or acting with deliberate ignorance
24065 or reckless disregard for the prohibition involved.
24066 (b) "Person" has the meaning given that term by Section 7701(a)(1) of the Internal
24067 Revenue Code of 1986.
24068 (c) "Trade or business" includes the employer's workforce.
24069 (d) "Violate or attempt to violate" includes intent to evade, misrepresentation, or
24070 willful nondisclosure.
24071 (2) Notwithstanding any other provision of this chapter, Subsections (3) and (4) shall
24072 apply regarding assignment of rates and transfers of unemployment experience.
24073 (3) (a) If an employer transfers its trade or business, or a portion of its trade or
24074 business, to another employer and, at the time of the transfer, there is common ownership,
24075 management, or control of the employers, then the unemployment experience attributable to
24076 each employer shall be combined into a common experience rate calculation.
24077 (b) The contribution rates of the employers shall be recalculated and made effective
24078 upon the date of the transfer of trade or business as determined by division rule in accordance
24079 with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
24080 (c) (i) If one or more of the employers is a qualified employer at the time of the
24081 transfer, then all employing units that are party to a transfer described in Subsection (3)(a) of
24082 this section shall be assigned an overall contribution rate under Subsection 35A-4-303(4)(d),
24083 using combined unemployment experience rating factors, for the rate year during which the

24084 transfer occurred and for the subsequent three rate years.
24085 (ii) If none of the employing units is a qualified employer at the time of the transfer,
24086 then all employing units that are party to the transfer described in Subsection (3)(a) shall be
24087 assigned the highest overall contribution rate applicable at the time of the transfer to any
24088 employer who is party to the acquisition for the rate year during which the transfer occurred
24089 and for subsequent rate years until the time when one or more of the employing units is a
24090 qualified employer.
24091 (iii) Once one or more employing units described in Subsection (3)(c)(ii) is a qualified
24092 employer, all the employing units shall be assigned an overall rate under Subsection
24093 35A-4-303(4)(d), using combined unemployment experience rating factors for subsequent rate
24094 years, not to exceed three years following the year of the transfer.
24095 (d) The transfer of some or all of an employer's workforce to another employer shall be
24096 considered a transfer of its trade or business when, as the result of the transfer, the transferring
24097 employer no longer performs trade or business with respect to the transferred workforce, and
24098 the trade or business is now performed by the employer to whom the workforce is transferred.
24099 (4) (a) Whenever a person is not an employer under this chapter at the time it acquires
24100 the trade or business of an employer, the unemployment experience of the acquired business
24101 shall not be transferred to that person if the division finds that the person acquired the business
24102 solely or primarily for the purpose of obtaining a lower rate of contributions.
24103 (b) The person shall be assigned the applicable new employer rate under Subsection
24104 35A-4-303(5).
24105 (c) In determining whether the business was acquired solely or primarily for the
24106 purpose of obtaining a lower rate of contributions, the division shall use objective factors
24107 which may include:
24108 (i) the cost of acquiring the business;
24109 (ii) whether the person continued the business enterprise of the acquired business;
24110 (iii) how long the business enterprise was continued; or
24111 (iv) whether a substantial number of new employees were hired for performance of
24112 duties unrelated to the business activity conducted prior to acquisition.
24113 (5) (a) If a person knowingly violates or attempts to violate Subsection (3) or (4) or any
24114 other provision of this chapter related to determining the assignment of a contribution rate, or if

24115 a person knowingly advises another person in a way that results in a violation of any of those
24116 subsections or provisions, the person is subject to the following penalties:
24117 (i) (A) If the person is an employer, then the employer shall be assigned an overall
24118 contribution rate of 5.4% for the rate year during which the violation or attempted violation
24119 occurred and for the subsequent rate year.
24120 (B) If the person's business is already at 5.4% for any year, or if the amount of increase
24121 in the person's rate would be less than 2% for that year, then a penalty surcharge of
24122 contributions of 2% of taxable wages shall be imposed for the rate year during which the
24123 violation or attempted violation occurred and for the subsequent rate year.
24124 (ii) (A) If the person is not an employer, the person shall be subject to a civil penalty of
24125 not more than $5,000.
24126 (B) The fine shall be deposited in the penalty and interest account established under
24127 Section 35A-4-506.
24128 (b) (i) In addition to the penalty imposed by Subsection (5)(a), a violation of this
24129 section may be prosecuted as unemployment insurance fraud.
24130 (ii) The determination of the degree of an offense shall be measured by the total value
24131 of all contributions avoided or reduced or contributions sought to be avoided or reduced by the
24132 unlawful conduct as applied to the degrees listed under Subsection 76-8-1301(2)(a).
24133 (6) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
24134 Administrative Rulemaking Act, the division shall make rules to identify the transfer or
24135 acquisition of a business for purposes of this section.
24136 (7) This section shall be interpreted and applied in a manner that meets the minimum
24137 requirements contained in any guidance or regulations issued by the United States Department
24138 of Labor.
24139 Section 488. Section **35A-4-312** is amended to read:
24140 **35A-4-312. Records.**
24141 (1) (a) Each employing unit shall keep true and accurate work records containing any
24142 information the department may prescribe by rule.
24143 (b) The records shall be open to inspection and subject to being copied by the division
24144 or its authorized representatives at a reasonable time and as often as may be necessary.
24145 (c) The employing unit shall make the records available in the state for three years after

24146 the calendar year in which the services were rendered.
24147 (2) The division may require from an employing unit any sworn or unsworn reports
24148 with respect to persons employed by it that the division considers necessary for the effective
24149 administration of this chapter.
24150 (3) Except as provided in this section or in Sections 35A-4-103 and 35A-4-106,
24151 information obtained under this chapter or obtained from an individual may not be published or
24152 open to public inspection in any manner revealing the employing unit's or individual's identity.
24153 (4) (a) The information obtained by the division under this section may not be used in
24154 court or admitted into evidence in an action or proceeding, except:
24155 (i) in an action or proceeding arising out of this chapter;
24156 (ii) in an action or proceeding by the Labor Commission to enforce the provisions of
24157 Title 34, Chapter 23, Employment of Minors, Chapter 28, Payment of Wages, Chapter 40, Utah
24158 Minimum Wage Act, or Title 34A, Utah Labor Code, provided the Labor Commission enters
24159 into a written agreement with the division under Subsection (6)(b); or
24160 (iii) under the terms of a court order obtained under Subsection [~~63-2-202~~]
24161 63G-2-202(7) and Section [~~63-2-207~~] 63G-2-207 of the Government Records Access and
24162 Management Act.
24163 (b) The information obtained by the division under this section shall be disclosed to:
24164 (i) a party to an unemployment insurance hearing before an administrative law judge of
24165 the department or a review by the Workforce Appeals Board to the extent necessary for the
24166 proper presentation of the party's case; or
24167 (ii) an employer, upon request in writing for any information concerning claims for
24168 benefits with respect to the employer's former employees.
24169 (5) The information obtained by the division under this section may be disclosed to:
24170 (a) an employee of the department in the performance of the employee's duties in
24171 administering this chapter or other programs of the department;
24172 (b) an employee of the Labor Commission for the purpose of carrying out the programs
24173 administered by the Labor Commission;
24174 (c) an employee of the governor's office and other state governmental agencies
24175 administratively responsible for statewide economic development, to the extent necessary for
24176 economic development policy analysis and formulation;

24177 (d) an employee of other governmental agencies that are specifically identified and
24178 authorized by federal or state law to receive the information for the purposes stated in the law
24179 authorizing the employee of the agency to receive the information;
24180 (e) an employee of a governmental agency or workers' compensation insurer to the
24181 extent the information will aid in the detection or avoidance of duplicate, inconsistent, or
24182 fraudulent claims against a workers' compensation program, public assistance funds, or the
24183 recovery of overpayments of workers' compensation or public assistance funds;
24184 (f) an employee of a law enforcement agency to the extent the disclosure is necessary
24185 to avoid a significant risk to public safety or in aid of a felony criminal investigation;
24186 (g) an employee of the State Tax Commission or the Internal Revenue Service for the
24187 purposes of audit verification or simplification, state or federal tax compliance, verification of
24188 Standard Industry Codes, and statistics;
24189 (h) an employee or contractor of the department or an educational institution, or other
24190 governmental entity engaged in workforce investment and development activities under the
24191 Workforce Investment Act of 1998 for the purpose of coordinating services with the
24192 department, evaluating the effectiveness of those activities, and measuring performance;
24193 (i) an employee of the Governor's Office of Economic Development, for the purpose of
24194 periodically publishing in the Directory of Business and Industry, the name, address, telephone
24195 number, number of employees by range, Standard Industrial Code, and type of ownership of
24196 Utah employers;
24197 (j) the public for any purpose following a written waiver by all interested parties of
24198 their rights to nondisclosure; or
24199 (k) an individual whose wage data has been submitted to the department by an
24200 employer, so long as no information other than the individual's wage data and the identity of
24201 the party who submitted the information is provided to the individual.
24202 (6) Disclosure of private information under Subsection (4)(a)(ii) or Subsection (5),
24203 with the exception of Subsections (5)(a) and (f), shall be made only if:
24204 (a) the division determines that the disclosure will not have a negative effect on the
24205 willingness of employers to report wage and employment information or on the willingness of
24206 individuals to file claims for unemployment benefits; and
24207 (b) the agency enters into a written agreement with the division in accordance with

24208 rules made by the department.
24209 (7) (a) The employees of a division of the department other than the Workforce
24210 Development and Information Division and the Unemployment Insurance Division or an
24211 agency receiving private information from the division under this chapter are subject to the
24212 same requirements of privacy and confidentiality and to the same penalties for misuse or
24213 improper disclosure of the information as employees of the division.
24214 (b) Use of private information obtained from the department by a person, or for a
24215 purpose other than one authorized in Subsection (4) or (5) violates Subsection 76-8-1301(4).
24216 Section 489. Section **35A-4-401** is amended to read:
24217 **35A-4-401. Benefits -- Weekly benefit amount -- Computation of benefits --**
24218 **Department to prescribe rules -- Notification of benefits -- Bonuses.**
24219 (1) (a) Benefits are payable from the fund to an individual who is or becomes
24220 unemployed and eligible for benefits.
24221 (b) All benefits shall be paid through the employment offices or other agencies
24222 designated by the division in accordance with rules the department may prescribe in accordance
24223 with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
24224 (2) (a) An individual's "weekly benefit amount" is an amount equal to 1/26th,
24225 disregarding any fraction of $1, of the individual's total wages for insured work paid during that
24226 quarter of the base period in which the total wages were highest.
24227 (b) The weekly benefit amount may not exceed the amount determined as follows:
24228 (i) With respect to an individual whose benefit year commences on or after January 1,
24229 2001, 65% of the "insured average fiscal year weekly wage" during the preceding fiscal year,
24230 e.g., fiscal year 2000 for individuals establishing benefit years in 2001, disregarding any
24231 fraction of $1, constitutes the maximum "weekly benefit amount" payable.
24232 (ii) With respect to an individual who files a claim for benefits on or after July 4, 2004,
24233 62.5% of the insured average fiscal year weekly wage during the preceding fiscal year,
24234 disregarding any fraction of $1, constitutes the maximum weekly benefit amount payable.
24235 (c) (i) Except as otherwise provided in Subsection (2)(c)(ii), the "weekly benefit
24236 amount" of an individual who is receiving, or who is eligible to receive, based upon the
24237 individual's previous employment, a pension, which includes a governmental, social security,
24238 or other pension, retirement or disability retirement pay, under a plan maintained or contributed

24239 to by a base-period employer is the "weekly benefit amount" which is computed under this
24240 section less 100% of the retirement benefits, that are attributable to a week, disregarding any
24241 fraction of $1.
24242 (ii) With respect to an individual whose benefit year begins after July 1, 2004, and ends
24243 on or before July 1, 2011, the "weekly benefit amount" of that individual, who is receiving or
24244 who is eligible to receive Social Security benefits based upon the individual's previous
24245 employment, is the "weekly benefit amount" which is computed under this section less 50% of
24246 the individual's Social Security benefits that are attributable to the week, but not below zero.
24247 (d) (i) (A) The weekly benefit amount and the potential benefits payable to an
24248 individual who, subsequent to the commencement of the individual's benefit year, becomes or
24249 is determined to be eligible to receive retirement benefits or increased retirement benefits, shall
24250 be recomputed effective with the first calendar week during the individual's benefit year with
24251 respect to which the individual is eligible to receive retirement benefits or increased retirement
24252 benefits.
24253 (B) The new weekly benefit amount shall be determined under this Subsection (2).
24254 (ii) As recomputed the total benefits potentially payable, commencing with the
24255 effective date of the recomputation, shall be equal to the recomputed weekly benefit amount
24256 times the quotient obtained by dividing the potential benefits unpaid prior to the recomputation
24257 by the initial weekly benefit amount, disregarding fractions.
24258 (3) (a) An eligible individual who is unemployed in any week shall be paid with
24259 respect to that week a benefit in an amount equal to the individual's weekly benefit amount less
24260 that part of the individual's wage payable to the individual with respect to that week that is in
24261 excess of 30% of the individual's weekly benefit amount.
24262 (b) The resulting benefit payable shall disregard any fraction of $1.
24263 (c) For the purpose of this Subsection (3) "wages" does not include a grant paid to the
24264 individual as public assistance.
24265 (4) (a) An otherwise eligible individual is entitled during a benefit year to a total
24266 amount of benefits determined by multiplying the individual's weekly benefit amount times the
24267 individual's potential duration.
24268 (b) To determine an individual's potential duration, the individual's total wages for
24269 insured work paid during the base period is multiplied by 27%, disregarding any fraction of $1,

24270 and divided by the individual's weekly benefit amount, disregarding any fraction, but not less
24271 than ten nor more than 26.
24272 (5) (a) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
24273 Administrative Rulemaking Act, the department may by rule prescribe:
24274 (i) that the existence of unemployment, eligibility for benefits, and the amount of
24275 benefits payable shall be determined in the case of an otherwise eligible individual who, within
24276 a week or other period of unemployment, is separated from or secures work on a regular
24277 attachment basis for that portion of the week or other period of unemployment occurring before
24278 or after separation from or securing of work; and
24279 (ii) in the case of an individual working on a regular attachment basis, eligibility for
24280 benefits and the amount of benefits payable for periods of unemployment longer than a week.
24281 (b) The rules made shall be reasonably calculated to secure general results substantially
24282 similar to those provided by this chapter with respect to weeks of unemployment.
24283 (6) The division shall, in all cases involving actual or potential disqualifying issues and
24284 prior to the payment of benefits to an eligible individual, notify the individual's most recent
24285 employer of the eligibility determination.
24286 (7) Upon written request of an individual made under rules of the department in
24287 accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
24288 Rulemaking Act, all remuneration for insured work paid to the individual during the
24289 individual's period in the form of a bonus or lump-sum payment shall, for benefit purposes, be
24290 apportioned to the calendar quarters in which the remuneration was earned.
24291 Section 490. Section **35A-4-502** is amended to read:
24292 **35A-4-502. Administration of Employment Security Act.**
24293 (1) (a) The department shall administer this chapter through the division.
24294 (b) The department may make, amend, or rescind any rules and special orders
24295 necessary for the administration of this chapter.
24296 (c) The division may:
24297 (i) employ persons;
24298 (ii) make expenditures;
24299 (iii) require reports;
24300 (iv) make investigations;

24301 (v) make audits of any or all funds provided for under this chapter when necessary; and
24302 (vi) take any other action it considers necessary or suitable to that end.
24303 (d) No later than the first day of October of each year, the department shall submit to
24304 the governor a report covering the administration and operation of this chapter during the
24305 preceding calendar year and shall make any recommendations for amendments to this chapter
24306 as the department considers proper.
24307 (e) (i) The report required under Subsection (1)(d) shall include a balance sheet of the
24308 moneys in the fund in which there shall be provided, if possible, a reserve against liability in
24309 future years to pay benefits in excess of the then current contributions, which reserve shall be
24310 set up by the division in accordance with accepted actuarial principles on the basis of statistics
24311 of employment, business activity, and other relevant factors for the longest possible period.
24312 (ii) Whenever the department believes that a change in contribution or benefit rates
24313 will become necessary to protect the solvency of the fund, it shall promptly inform the
24314 governor and the Legislature and make appropriate recommendations.
24315 (2) (a) The department may make, amend, or rescind rules in accordance with [~~Title 63,~~
24316 ~~Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
24317 (b) The director of the division or the director's designee may adopt, amend, or rescind
24318 special orders after appropriate notice and opportunity to be heard. Special orders become
24319 effective ten days after notification or mailing to the last-known address of the individuals or
24320 concerns affected thereby.
24321 (3) The director of the division or the director's designee shall cause to be printed for
24322 distribution to the public:
24323 (a) the text of this chapter;
24324 (b) the department's rules pertaining to this chapter;
24325 (c) the department's annual reports to the governor required by Subsection (1)(e); and
24326 (d) any other material the director of the division or the director's designee considers
24327 relevant and suitable and shall furnish them to any person upon application.
24328 (4) (a) The division may delegate to any person so appointed the power and authority it
24329 considers reasonable and proper for the effective administration of this chapter and may bond
24330 any person handling moneys or signing checks under this authority.
24331 (b) The department may, when permissible under federal and state law, make

24332 arrangements to voluntarily elect coverage under the United States Civil Service Retirement
24333 System or a comparable private retirement plan with respect to past as well as future services of
24334 individuals employed under this chapter who:
24335 (i) were hired prior to October 1, 1980; and
24336 (ii) have been retained by the department without significant interruption in the
24337 employees' services for the department.
24338 (c) An employee of the department who no longer may participate in a federal or other
24339 retirement system as a result of a change in status or appropriation under this chapter may
24340 purchase credit in a retirement system created under Title 49, Chapter 13, Public Employees'
24341 Noncontributory Retirement Act, with the employee's assets from the federal or other
24342 retirement system in which the employee may no longer participate.
24343 (5) There is created an Employment Advisory Council composed of the members listed
24344 in Subsections (5)(a) and (b).
24345 (a) The executive director shall appoint:
24346 (i) not less than five employer representatives chosen from individuals recommended
24347 by employers, employer associations, or employer groups;
24348 (ii) not less than five employee representatives chosen from individuals recommended
24349 by employees, employee associations, or employee groups; and
24350 (iii) five public representatives chosen at large.
24351 (b) The executive director or the executive director's designee shall serve as a
24352 nonvoting member of the council.
24353 (c) The employee representatives shall include both union and nonunion employees
24354 who fairly represent the percentage in the labor force of the state.
24355 (d) Employers and employees shall consider nominating members of groups who
24356 historically may have been excluded from the council, such as women, minorities, and
24357 individuals with disabilities.
24358 (e) (i) Except as required by Subsection (5)(e)(ii), as terms of current council members
24359 expire, the executive director shall appoint each new member or reappointed member to a
24360 four-year term.
24361 (ii) Notwithstanding the requirements of Subsection (5)(e)(i), the executive director
24362 shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the

24363 terms of council members are staggered so that approximately half of the council is appointed
24364 every two years.
24365 (f) When a vacancy occurs in the membership for any reason, the replacement shall be
24366 appointed for the unexpired term.
24367 (g) The executive director shall terminate the term of any council member who ceases
24368 to be representative as designated by the council member's original appointment.
24369 (h) The council shall advise the department and the Legislature in formulating policies
24370 and discussing problems related to the administration of this chapter including:
24371 (i) reducing and preventing unemployment;
24372 (ii) encouraging the adoption of practical methods of vocational training, retraining,
24373 and vocational guidance;
24374 (iii) monitoring the implementation of the Wagner-Peyser Act;
24375 (iv) promoting the creation and development of job opportunities and the
24376 reemployment of unemployed workers throughout the state in every possible way; and
24377 (v) appraising the industrial potential of the state.
24378 (i) The council shall assure impartiality and freedom from political influence in the
24379 solution of the problems listed in Subsection (5)(h).
24380 (j) The executive director or the executive director's designee shall serve as chair of the
24381 council and call the necessary meetings.
24382 (k) (i) A member shall receive no compensation or benefits for the member's services,
24383 but may receive per diem and expenses incurred in the performance of the member’s official
24384 duties at the rates established by the Division of Finance under Sections 63A-3-106 and
24385 63A-3-107.
24386 (ii) A member may decline to receive per diem and expenses for the member's service.
24387 (l) The department shall provide staff support to the council.
24388 (6) In the discharge of the duties imposed by this chapter, the division director or the
24389 director's designee as designated by department rule, may in connection with a disputed matter
24390 or the administration of this chapter:
24391 (a) administer oaths and affirmations;
24392 (b) take depositions;
24393 (c) certify to official acts; and

24394 (d) issue subpoenas to compel the attendance of witnesses and the production of books,
24395 papers, correspondence, memoranda, and other records necessary as evidence.
24396 (7) (a) In case of contumacy by or refusal to obey a subpoena issued to any person, any
24397 court of this state within the jurisdiction of which the inquiry is carried on or within the
24398 jurisdiction of which the person guilty of contumacy or refusal to obey is found or resides or
24399 transacts business, upon application by the director of the division or the director's designee
24400 shall have jurisdiction to issue to that person an order requiring the person to appear before the
24401 director or the director's designee to produce evidence, if so ordered, or give testimony
24402 regarding the matter under investigation or in question. Any failure to obey that order of the
24403 court may be punished by the court as contempt.
24404 (b) Any person who, without just cause, fails or refuses to attend and testify or to
24405 answer any lawful inquiry or to produce books, papers, correspondence, memoranda, and other
24406 records, if it is in that person's power to do so, in obedience to a subpoena of the director or the
24407 director's designee shall be punished as provided in Subsection 35A-1-301(1)(b). Each day the
24408 violation continues is a separate offense.
24409 (c) In the event a witness asserts a privilege against self-incrimination, testimony and
24410 evidence from the witness may be compelled pursuant to Title 77, Chapter 22b, Grants of
24411 Immunity.
24412 (8) (a) In the administration of this chapter, the division shall cooperate with the United
24413 States Department of Labor to the fullest extent consistent with the provisions of this chapter
24414 and shall take action, through the adoption of appropriate rules by the department and
24415 administrative methods and standards, as necessary to secure to this state and its citizens all
24416 advantages available under the provisions of:
24417 (i) the Social Security Act that relate to unemployment compensation;
24418 (ii) the Federal Unemployment Tax Act; and
24419 (iii) the Federal-State Extended Unemployment Compensation Act of 1970.
24420 (b) In the administration of Section 35A-4-402, which is enacted to conform with the
24421 requirements of the Federal-State Extended Unemployment Compensation Act of 1970, 26
24422 U.S.C. 3304, the division shall take any action necessary to ensure that the section is
24423 interpreted and applied to meet the requirements of the federal act, as interpreted by the United
24424 States Department of Labor and to secure to this state the full reimbursement of the federal

24425 share of extended and regular benefits paid under this chapter that are reimbursable under the
24426 federal act.
24427 Section 491. Section **35A-4-503** is amended to read:
24428 **35A-4-503. Destruction or disposal of records or reports by division -- Procedure.**
24429 The division may destroy or dispose of reports or records as have been properly
24430 recorded or summarized in the payment records of the division, or that are deemed no longer
24431 necessary in the proper administration of this chapter in accordance with the requirements of
24432 the state records committee pursuant to Section [~~63-2-502~~] 63G-2-502.
24433 Section 492. Section **35A-5-102** is amended to read:
24434 **35A-5-102. Federal grants for retraining.**
24435 (1) By following the procedures and requirements of [~~Title 63, Chapter 38e~~] Title 63J,
24436 Chapter 5, Federal Funds Procedures, the state, through the Employment Development
24437 Division may and is encouraged to apply for retraining, community assistance, or technology
24438 transfer funds available through:
24439 (a) the United States Department of Defense;
24440 (b) United States Department of Labor; or
24441 (c) other appropriate federal offices or departments.
24442 (2) In applying for federal funds, the state through its Employment Development
24443 Division or other appropriate office may inform the federal government of state matching or
24444 enhancement funds if those funds are available under Section 67-1-12.
24445 Section 493. Section **35A-5-202** is amended to read:
24446 **35A-5-202. Contracts with providers.**
24447 (1) In compliance with [~~Title 63, Chapter 56~~] Title 63G, Chapter 6, Utah Procurement
24448 Code, the department shall enter into a contract with one or more qualified providers to
24449 implement the workforce improvement plan created under Section 35A-5-201.
24450 (2) A contract entered into under this section shall be:
24451 (a) performance based; and
24452 (b) structured so that the provider receives reimbursement based on:
24453 (i) job development;
24454 (ii) participant placement in jobs;
24455 (iii) wages and benefits provided; and

24456 (iv) participant retention in jobs over at least a 12-month period.
24457 (3) If the department determines through the procurement process that there are no
24458 qualified providers to implement the workforce improvement plan, the department may
24459 implement the plan.
24460 Section 494. Section **35A-7-106** is amended to read:
24461 **35A-7-106. Penalties for failure to report.**
24462 (1) An employer who fails to timely report the hiring or rehiring of an employee as
24463 required by this chapter is subject to a civil penalty of:
24464 (a) $25 for each such failure; or
24465 (b) $500 if the failure to report is intentional and is the result of an agreement between
24466 the employer and the employee to not supply the required information, or to supply false or
24467 incomplete information.
24468 (2) The department may assess the penalty by following the procedures and
24469 requirements of [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
24470 The department shall collect any unpaid civil penalty in the same manner as provided for other
24471 penalties under Subsections 35A-4-305(3) and (5).
24472 Section 495. Section **35A-7-107** is amended to read:
24473 **35A-7-107. Use and access to the registry records.**
24474 (1) (a) The records of the registry shall be maintained as private records under Section
24475 [~~63-2-202~~] 63G-2-202.
24476 (b) In addition to those persons granted access to private records under Sections
24477 [~~63-2-202~~] 63G-2-202 and [~~63-2-206~~] 63G-2-206, state or federal agencies may access data
24478 from the registry for the following purposes:
24479 (i) the Office of Recovery Services for use related to locating, establishing, and
24480 enforcing child, medical, and spousal support obligations and other services;
24481 (ii) state agencies which use financial information in determining eligibility for public
24482 assistance programs; and
24483 (iii) federal agencies responsible for periodic matches of new hire registry information
24484 with federal data bases.
24485 (2) Information that is received under this chapter shall be kept by the department for at
24486 least six months.

24487 Section 496. Section **36-11-102** is amended to read:
24488 **36-11-102. Definitions.**
24489 As used in this chapter:
24490 (1) "Aggregate daily expenditures" means:
24491 (a) for a single lobbyist, principal, or government officer, the total of all expenditures
24492 made within a calendar day by the lobbyist, principal, or government officer for the benefit of
24493 an individual public official;
24494 (b) when an expenditure is made by a member of a lobbyist group, the total of all
24495 expenditures made within a calendar day by every member of the lobbyist group for the benefit
24496 of an individual public official; or
24497 (c) for a multiclient lobbyist, the total of all expenditures made by the multiclient
24498 lobbyist within a calendar day for the benefit of an individual public official, regardless of
24499 whether expenditures were attributed to different clients.
24500 (2) "Executive action" means:
24501 (a) nominations and appointments by the governor;
24502 (b) the proposal, drafting, amendment, enactment, or defeat by a state agency of any
24503 rule made in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
24504 Administrative Rulemaking Act; and
24505 (c) agency ratemaking proceedings.
24506 (3) (a) "Expenditure" means any of the items listed in this Subsection (3)(a) when
24507 given to or for the benefit of a public official:
24508 (i) a purchase, payment, distribution, loan, gift, advance, deposit, subscription,
24509 forbearance, services, or goods, unless consideration of equal or greater value is received; and
24510 (ii) a contract, promise, or agreement, whether or not legally enforceable, to provide
24511 any of the items listed in Subsection (3)(a)(i).
24512 (b) "Expenditure" does not mean:
24513 (i) a commercially reasonable loan made in the ordinary course of business;
24514 (ii) a campaign contribution reported in accordance with Title 20A, Chapter 11,
24515 Campaign and Financial Reporting Requirements;
24516 (iii) printed informational material that is related to the performance of the recipient's
24517 official duties;

24518 (iv) a devise or inheritance;
24519 (v) any item listed in Subsection (3)(a) if given by a relative;
24520 (vi) a modest item of food or refreshment such as a beverage or pastry offered other
24521 than as part of a meal, the value of which does not exceed $5;
24522 (vii) a greeting card or other item of little intrinsic value that is intended solely for
24523 presentation; or
24524 (viii) plaques, commendations, or awards presented in public and having a cash value
24525 not exceeding $50.
24526 (4) (a) "Government officer" means:
24527 (i) an individual elected to a position in state or local government, when acting within
24528 [~~his~~] the government officer's official capacity; or
24529 (ii) an individual appointed to or employed in a full-time position by state or local
24530 government, when acting within the scope of [~~his~~] the individual's employment.
24531 (b) "Government officer" does not mean a member of the legislative branch of state
24532 government.
24533 (5) "Immediate family" means:
24534 (a) a spouse;
24535 (b) a child residing in the household; or
24536 (c) an individual claimed as a dependent for tax purposes.
24537 (6) "Interested person" means an individual defined in Subsections (9)(b)(iii) and (viii).
24538 (7) "Legislative action" means:
24539 (a) bills, resolutions, amendments, nominations, and other matters pending or proposed
24540 in either house of the Legislature or its committees or requested by a legislator; and
24541 (b) the action of the governor in approving or vetoing legislation.
24542 (8) "Lobbying" means communicating with a public official for the purpose of
24543 influencing the passage, defeat, amendment, or postponement of legislative or executive action.
24544 (9) (a) "Lobbyist" means:
24545 (i) an individual who is employed by a principal; or
24546 (ii) an individual who contracts for economic consideration, other than reimbursement
24547 for reasonable travel expenses, with a principal to lobby a public official.
24548 (b) "Lobbyist" does not include:

24549 (i) a government officer;
24550 (ii) a member or employee of the legislative branch of government;
24551 (iii) any person appearing at, or providing written comments to, a hearing conducted in
24552 accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
24553 Rulemaking Act or [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures
24554 Act;
24555 (iv) any person participating on or appearing before an advisory or study task force,
24556 commission, board, or committee, constituted by the Legislature or any agency or department
24557 of state government, except legislative standing, appropriation, or interim committees;
24558 (v) a representative of a political party;
24559 (vi) an individual representing a bona fide church solely for the purpose of protecting
24560 the right to practice the religious doctrines of the church unless the individual or church makes
24561 an expenditure that confers a benefit on a public official;
24562 (vii) a newspaper, television station or network, radio station or network, periodical of
24563 general circulation, or book publisher for the purpose of publishing news items, editorials,
24564 other comments, or paid advertisements that directly or indirectly urge legislative or executive
24565 action; or
24566 (viii) an individual who appears on [~~his~~] the individual's own behalf before a
24567 committee of the Legislature or an executive branch agency solely for the purpose of testifying
24568 in support of or in opposition to legislative or executive action.
24569 (10) "Lobbyist group" means two or more lobbyists, principals, government officers,
24570 and any combination of lobbyists, principals, and officers who each contribute a portion of an
24571 expenditure made to benefit a public official or member of the public official's immediate
24572 family.
24573 (11) "Multiclient lobbyist" means a single lobbyist, principal, or government officer
24574 who represents two or more clients and divides the aggregate daily expenditure made to benefit
24575 a public official or member of the public official's immediate family between two or more of
24576 those clients.
24577 (12) "Person" includes individuals, bodies politic and corporate, partnerships,
24578 associations, and companies.
24579 (13) "Principal" means a person that employs an individual to perform lobbying either

24580 as an employee or as an independent contractor.
24581 (14) "Public official" means:
24582 (a) (i) a member of the Legislature;
24583 (ii) an individual elected to a position in the executive branch; or
24584 (iii) an individual appointed to or employed in the executive or legislative branch if
24585 that individual:
24586 (A) occupies a policymaking position or makes purchasing or contracting decisions;
24587 (B) drafts legislation or makes rules;
24588 (C) determines rates or fees; or
24589 (D) makes adjudicative decisions; or
24590 (b) an immediate family member of a person described in Subsection (14)(a).
24591 (15) "Public official type" means a notation to identify whether a public official is:
24592 (a) (i) a member of the Legislature;
24593 (ii) an individual elected to a position in the executive branch;
24594 (iii) an individual appointed to or employed in a position in the legislative branch who
24595 meets the definition of public official under Subsection (14)(a)(iii); or
24596 (iv) an individual appointed to or employed in a position in the executive branch who
24597 meets the definition of public official under Subsection (14)(a)(iii); or
24598 (b) an immediate family member of a person described in Subsection (14)(b).
24599 (16) "Quarterly reporting period" means the three-month period covered by each
24600 financial report required under Subsection 36-11-201(2)(a).
24601 (17) "Related person" means any person, or agent or employee of a person, who
24602 knowingly and intentionally assists a lobbyist, principal, or government officer in lobbying.
24603 (18) "Relative" means a spouse, child, parent, grandparent, grandchild, brother, sister,
24604 parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or spouse
24605 of any of these individuals.
24606 (19) (a) "Tangible personal property" means an item having a description that is
24607 consistent with the meaning of tangible personal property found in the Utah Constitution,
24608 Article XIII.
24609 (b) "Tangible personal property" does not include the admission price or cost for
24610 events, meals, recreation, outings, or functions.

24611 Section 497. Section **36-11-103** is amended to read:
24612 **36-11-103. Licensing requirements.**
24613 (1) (a) Before engaging in any lobbying, a lobbyist shall obtain a license from the
24614 lieutenant governor by completing the form required by this section.
24615 (b) The lieutenant governor shall issue licenses to qualified lobbyists.
24616 (c) The lieutenant governor shall prepare a Lobbyist License Application Form that
24617 includes:
24618 (i) a place for the lobbyist's name and business address;
24619 (ii) a place for the name and business address of each principal for whom the lobbyist
24620 works or is hired as an independent contractor;
24621 (iii) a place for the name and address of the person who paid or will pay the lobbyist's
24622 registration fee, if the fee is not paid by the lobbyist;
24623 (iv) a place for the lobbyist to disclose any elected or appointed position that the
24624 lobbyist holds in state or local government, if any;
24625 (v) a place for the lobbyist to disclose the types of expenditures for which the lobbyist
24626 will be reimbursed; and
24627 (vi) a certification to be signed by the lobbyist that certifies that the information
24628 provided in the form is true, accurate, and complete to the best of the lobbyist's knowledge and
24629 belief.
24630 (2) Each lobbyist who obtains a license under this section shall update the licensure
24631 information when the lobbyist accepts employment for lobbying by a new client.
24632 (3) (a) Except as provided in Subsection (4), the lieutenant governor shall grant a
24633 lobbying license to an applicant who:
24634 (i) files an application with the lieutenant governor that contains the information
24635 required by this section; and
24636 (ii) pays a $25 filing fee.
24637 (b) A license entitles a person to serve as a lobbyist on behalf of one or more principals
24638 and expires on December 31 of each even-numbered year.
24639 (4) (a) The lieutenant governor may disapprove an application for a lobbying license:
24640 (i) if the applicant has been convicted of violating Section 76-8-103, 76-8-107,
24641 76-8-108, or 76-8-303 within five years before the date of the lobbying license application;

24642 (ii) if the applicant has been convicted of violating Section 76-8-104 or 76-8-304
24643 within one year before the date of the lobbying license application;
24644 (iii) for the term of any suspension imposed under Section 36-11-401; or
24645 (iv) if, within one year before the date of the lobbying license application, the applicant
24646 has been found to have willingly and knowingly:
24647 (A) violated Section 36-11-103, 36-11-201, 36-11-301, 36-11-302, 36-11-303,
24648 36-11-304, 36-11-305, or 36-11-403; or
24649 (B) filed a document required by this chapter that the lobbyist knew contained
24650 materially false information or omitted material information.
24651 (b) An applicant may appeal the disapproval in accordance with the procedures
24652 established by the lieutenant governor under this chapter and [~~Title 63, Chapter 46b~~] Title 63G,
24653 Chapter 4, Administrative Procedures Act.
24654 (5) The lieutenant governor shall deposit license fees in the General Fund.
24655 (6) A principal need not obtain a license under this section, but if the principal makes
24656 expenditures to benefit a public official without using a lobbyist as an agent to confer those
24657 benefits, the principal shall disclose those expenditures as required by Sections 36-11-201.
24658 (7) Government officers need not obtain a license under this section, but shall disclose
24659 any expenditures made to benefit public officials as required by Sections 36-11-201.
24660 (8) Surrender, cancellation, or expiration of a lobbyist license does not absolve the
24661 lobbyist of the duty to file the financial reports if the lobbyist is otherwise required to file the
24662 reports by Section 36-11-201.
24663 Section 498. Section **36-11-404** is amended to read:
24664 **36-11-404. Lieutenant governor's procedures.**
24665 (1) The lieutenant governor shall make rules that provide:
24666 (a) for the appointment of an administrative law judge to adjudicate alleged violations
24667 of this section and to impose penalties under this section;
24668 (b) procedures for license applications, disapprovals, suspensions, revocations, and
24669 reinstatements that comply with the procedures and requirements of [~~Title 63, Chapter 46b~~]
24670 Title 63G, Chapter 4, Administrative Procedures Act.
24671 (2) The lieutenant governor shall develop forms needed for the registration and
24672 disclosure provisions of this chapter.

24673 Section 499. Section **36-12-13** is amended to read:
24674 **36-12-13. Office of Legislative Fiscal Analyst established -- Powers, functions,**
24675 **and duties -- Qualifications.**
24676 (1) There is established an Office of Legislative Fiscal Analyst as a permanent staff
24677 office for the Legislature.
24678 (2) The powers, functions, and duties of the Office of Legislative Fiscal Analyst under
24679 the supervision of the fiscal analyst are:
24680 (a) to analyze in detail the executive budget before the convening of each legislative
24681 session and make recommendations to the Legislature on each item or program appearing in
24682 the executive budget;
24683 (b) to prepare cost estimates on all proposed bills that anticipate state government
24684 expenditures;
24685 (c) to prepare cost estimates on all proposed bills that anticipate expenditures by
24686 county, municipal, local district, or special service district governments;
24687 (d) to prepare cost estimates on all proposed bills that anticipate direct expenditures by
24688 any Utah resident, and the cost to the overall impacted Utah resident population;
24689 (e) to prepare a review and analysis of revenue estimates for existing and proposed
24690 revenue acts;
24691 (f) to report instances in which the administration may be failing to carry out the
24692 expressed intent of the Legislature;
24693 (g) to direct attention to each new proposed service contained in the governor's budget;
24694 (h) to direct attention to each budget item previously denied by the Legislature;
24695 (i) to propose and analyze statutory changes for more effective operational economies
24696 or more effective administration;
24697 (j) to prepare, after each session of the Legislature, a summary showing the effect of
24698 the final legislative program on the financial condition of the state;
24699 (k) to conduct organizational and management improvement studies;
24700 (l) to prepare and deliver upon request of any interim committee or the Legislative
24701 Management Committee, reports on the finances of the state and on anticipated or proposed
24702 requests for appropriations;
24703 (m) to recommend areas for research studies by the executive department or the interim

24704 committees;
24705 (n) to assist in prescribing the format for the presentation of the governor's budget to
24706 facilitate program and in-depth review of state expenditures in accordance with Sections
24707 [~~63-38-14~~] 63J-1-501 and [~~63-38-15~~] 63J-1-502;
24708 (o) to recommend to the appropriations subcommittees the agencies or programs for
24709 which an in-depth budget review should be requested, and to recommend to the Legislative
24710 Management Committee the priority in which the request should be made;
24711 (p) to appoint and develop a professional staff within budget limitations; and
24712 (q) to prepare and submit the annual budget request for the office.
24713 (3) (a) In accordance with Subsection (3)(b) and subject to Subsection (3)(c), the
24714 Office of Legislative Fiscal Analyst shall submit an annual report to the Executive
24715 Appropriations Committee of the Legislature, at the committee's November meeting, on funds
24716 expended by the state during the preceding state fiscal year to provide financial assistance or
24717 services to low-income individuals and families.
24718 (b) The report described in Subsection (3)(a) shall:
24719 (i) separate the funds expended into categories by program, service, or population
24720 served;
24721 (ii) indicate whether the expended funds described in Subsection (3)(a) are state or
24722 federal funds; and
24723 (iii) include a total of all state funds and federal funds expended by the state in the
24724 preceding fiscal year to provide financial assistance or services to low-income individuals and
24725 families.
24726 (c) If the Executive Appropriations Committee of the Legislature does not meet in
24727 November, the Office of Legislative Fiscal Analyst shall submit the report described in
24728 Subsection (3)(a) at the committee's next meeting.
24729 (4) The legislative fiscal analyst shall have a master's degree in public administration,
24730 political science, economics, accounting, or the equivalent in academic or practical experience.
24731 (5) In carrying out the duties provided for in this section, the legislative fiscal analyst
24732 may obtain access to all records, documents, and reports necessary to the scope of [~~his~~] the
24733 legislative fiscal analyst's duties according to the procedures contained in Title 36, Chapter 14,
24734 Legislative Subpoena Powers.

24735 Section 500. Section **36-12-15** is amended to read:
24736 **36-12-15. Office of Legislative Auditor General established -- Qualifications --**
24737 **Powers, functions, and duties.**
24738 (1) There is created an Office of Legislative Auditor General as a permanent staff
24739 office for the Legislature.
24740 (2) The legislative auditor general shall be a licensed certified public accountant or
24741 certified internal auditor with at least five years experience in the auditing or public accounting
24742 profession, or the equivalent, prior to appointment.
24743 (3) The legislative auditor general shall appoint and develop a professional staff within
24744 budget limitations.
24745 (4) (a) The Office of the Legislative Auditor General shall exercise the constitutional
24746 authority provided in Article VI, Sec. 33, Utah Constitution.
24747 (b) Under the direction of the legislative auditor general, the office shall:
24748 (i) conduct comprehensive and special purpose audits, examinations, and reviews of
24749 any entity that receives public funds;
24750 (ii) prepare and submit a written report on each audit, examination, or review to the
24751 Legislative Management Committee, the audit subcommittee, and to all members of the
24752 Legislature within 75 days after the audit or examination is completed; and
24753 (iii) as provided in Section 36-24-101:
24754 (A) monitor all new programs and agencies created during each Annual General
24755 Session or Special Session of the Legislature;
24756 (B) provide each new program and agency created with a list of best practices in setting
24757 up their program or agency, including:
24758 (I) policies;
24759 (II) performance measures; and
24760 (III) data collection;
24761 (C) send each new program and agency:
24762 (I) within one year after its creation, a survey instrument requesting a self evaluation
24763 that includes policies, performance measures, and data collection; and
24764 (II) within two years after its creation, a survey instrument requesting a self evaluation
24765 that includes policies, performance measures, and data collection; and

24766 (D) (I) using the new program or agency's response to the self evaluation survey
24767 instruments, recommend to the legislative audit subcommittee that the office conduct an audit
24768 of those new programs and agencies created on which questions have arisen as a result of the
24769 response to the survey instrument and provide a limited scope audit report on those new
24770 programs or agencies on which it receives direction to audit to the legislative interim
24771 committee and to the legislative appropriations subcommittee with oversight responsibility for
24772 that program or agency on or before the November interim meeting; and
24773 (II) include within this limited scope audit report a recommendation as to whether the
24774 program or agency is fulfilling its statutory guidelines and directives.
24775 (5) The audit, examination, or review of any entity that receives public funds may
24776 include a determination of any or all of the following:
24777 (a) the honesty and integrity of all its fiscal affairs;
24778 (b) the accuracy and reliability of its financial statements and reports;
24779 (c) whether or not its financial controls are adequate and effective to properly record
24780 and safeguard its acquisition, custody, use, and accounting of public funds;
24781 (d) whether or not its administrators have faithfully adhered to legislative intent;
24782 (e) whether or not its operations have been conducted in an efficient, effective, and
24783 cost efficient manner;
24784 (f) whether or not its programs have been effective in accomplishing intended
24785 objectives; and
24786 (g) whether or not its management control and information systems are adequate and
24787 effective.
24788 (6) The Office of Legislative Auditor General may:
24789 (a) (i) notwithstanding any other provision of law, obtain access to all records,
24790 documents, and reports of any entity that receives public funds that are necessary to the scope
24791 of its duties; and
24792 (ii) if necessary, issue a subpoena to obtain access as provided in Subsection (6)(a)(i)
24793 using the procedures contained in Title 36, Chapter 14, Legislative Subpoena Powers;
24794 (b) establish policies, procedures, methods, and standards of audit work for the office
24795 and staff;
24796 (c) prepare and submit each audit report without interference from any source relative

24797 to the content of the report, the conclusions reached in the report, or the manner of disclosing
24798 the results of [~~his~~] the legislative auditor general's findings; and
24799 (d) prepare and submit the annual budget request for the office.
24800 (7) To preserve the professional integrity and independence of the office:
24801 (a) no legislator or public official may urge the appointment of any person to the office;
24802 and
24803 (b) the legislative auditor general may not be appointed to serve on any board,
24804 authority, commission, or other agency of the state during [~~his~~] the legislative auditor general's
24805 term as legislative auditor general.
24806 (8) The following records in the custody or control of the legislative auditor general
24807 shall be protected records under [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government
24808 Records Access and Management Act:
24809 (a) Records that would disclose information relating to allegations of personal
24810 misconduct, gross mismanagement, or illegal activity of a past or present governmental
24811 employee if the information or allegation cannot be corroborated by the legislative auditor
24812 general through other documents or evidence, and the records relating to the allegation are not
24813 relied upon by the legislative auditor general in preparing a final audit report.
24814 (b) Records and audit workpapers to the extent they would disclose the identity of a
24815 person who during the course of a legislative audit, communicated the existence of any waste
24816 of public funds, property, or manpower, or a violation or suspected violation of a law, rule, or
24817 regulation adopted under the laws of this state, a political subdivision of the state, or any
24818 recognized entity of the United States, if the information was disclosed on the condition that
24819 the identity of the person be protected.
24820 (c) Prior to the time that an audit is completed and the final audit report is released,
24821 records or drafts circulated to a person who is not an employee or head of a governmental
24822 entity for their response or information.
24823 (d) Records that would disclose an outline or part of any audit survey plans or audit
24824 program.
24825 (e) Requests for audits, if disclosure would risk circumvention of an audit.
24826 (f) The provisions of Subsections (8)(a), (b), and (c) do not prohibit the disclosure of
24827 records or information that relate to a violation of the law by a governmental entity or

24828 employee to a government prosecutor or peace officer.
24829 (g) The provisions of this section do not limit the authority otherwise given to the
24830 legislative auditor general to classify a document as public, private, controlled, or protected
24831 under [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records Access and
24832 Management Act.
24833 (9) The legislative auditor general shall:
24834 (a) be available to the Legislature and to its committees for consultation on matters
24835 relevant to areas of [~~his~~] the legislative auditor general's professional competence and shall
24836 perform, or otherwise assist in the performance of, a health insurance provision review as
24837 provided in Section 36-12-5;
24838 (b) conduct special audits as requested by the Legislative Management Committee;
24839 (c) report immediately in writing to the Legislative Management Committee through its
24840 audit subcommittee any apparent violation of penal statutes disclosed by the audit of a state
24841 agency and furnish to the Legislative Management Committee all information relative to the
24842 apparent violation;
24843 (d) report immediately in writing to the Legislative Management Committee through
24844 its audit subcommittee any apparent instances of malfeasance or nonfeasance by a state officer
24845 or employee disclosed by the audit of a state agency; and
24846 (e) make any recommendations to the Legislative Management Committee through its
24847 audit subcommittee with respect to the alteration or improvement of the accounting system
24848 used by any entity that receives public funds.
24849 (10) (a) Prior to each annual general session, the legislative auditor general shall
24850 prepare a summary of the audits conducted and of actions taken based upon them during the
24851 preceding year.
24852 (b) This report shall also set forth any items and recommendations that are important
24853 for consideration in the forthcoming session, together with a brief statement or rationale for
24854 each item or recommendation.
24855 (c) The legislative auditor general shall deliver the report to the Legislature and to the
24856 appropriate committees of the Legislature.
24857 (11) (a) No person or entity may:
24858 (i) interfere with a legislative audit, examination, or review of any entity conducted by

24859 the office; or
24860 (ii) interfere with the office relative to the content of the report, the conclusions
24861 reached in the report, or the manner of disclosing the results and findings of the office.
24862 (b) Any person or entity that violates the provisions of this Subsection (11) is guilty of
24863 a class B misdemeanor.
24864 Section 501. Section **36-23-106** is amended to read:
24865 **36-23-106. Duties -- Reporting.**
24866 (1) The committee shall:
24867 (a) conduct a sunrise review in accordance with Section 36-23-107 for all applications
24868 submitted in accordance with Section 36-23-105;
24869 (b) conduct a sunset review for an occupational or professional license classification
24870 that is referred to the committee by any other legislative committee by applying:
24871 (i) the criteria in Section 36-23-107;
24872 (ii) the criteria in [~~Title 63, Chapter 55~~] Title 63I, Chapter 1, Legislative Oversight and
24873 Sunset Act; and
24874 (iii) any other appropriate criteria; and
24875 (c) submit a written report by no later than December 31 of each calendar year to:
24876 (i) the speaker of the House of Representatives;
24877 (ii) the president of the Senate;
24878 (iii) the chair of the House Rules Committee;
24879 (iv) the chair of the Senate Rules Committee; and
24880 (v) the chairs of the Commerce and Revenue Appropriations Subcommittee.
24881 (2) The written report required by Subsection (1)(c) shall include:
24882 (a) all findings and recommendations made by the committee under Subsection (1) or
24883 (3) in that calendar year; and
24884 (b) a summary report for each sunrise review conducted by the committee stating:
24885 (i) whether the sunrise review was conducted under Subsection (1) or (3);
24886 (ii) whether or not the sunrise review included a review of specific proposed statutory
24887 language;
24888 (iii) any action taken by the committee as a result of the sunrise review; and
24889 (iv) the number of legislative members that voted in favor of the action described in

24890 Subsection (2)(b)(iii).
24891 (3) The committee may:
24892 (a) conduct a sunrise review of any proposal to newly regulate an occupation or
24893 profession;
24894 (b) conduct any other review referred to it by the Legislature, the Legislative
24895 Management Committee, or other legislative committee; or
24896 (c) conduct any other study related to regulation of an occupation or profession under
24897 Title 58, Occupations and Professions.
24898 Section 502. Section **38-1-11** is amended to read:
24899 **38-1-11. Enforcement -- Time for -- Lis pendens -- Action for debt not affected --**
24900 **Instructions and form affidavit and motion.**
24901 (1) As used in this section:
24902 (a) "Owner" is as defined in Section 38-11-102.
24903 (b) "Residence" is as defined in Section 38-11-102.
24904 (2) A lien claimant shall file an action to enforce the lien filed under this chapter within
24905 180 days from the day on which the lien claimant filed a notice of claim under Section 38-1-7.
24906 (3) (a) Within the time period provided for filing in Subsection (2) the lien claimant
24907 shall file for record with the county recorder of each county in which the lien is recorded a
24908 notice of the pendency of the action, in the manner provided in actions affecting the title or
24909 right to possession of real property, or the lien shall be void, except as to persons who have
24910 been made parties to the action and persons having actual knowledge of the commencement of
24911 the action.
24912 (b) The burden of proof is upon the lien claimant and those claiming under the lien
24913 claimant to show actual knowledge under Subsection (3)(a).
24914 (4) (a) A lien filed under this chapter is automatically and immediately void if an action
24915 to enforce the lien is not filed within the time required by this section.
24916 (b) Notwithstanding Section 78-12-40, a court has no subject matter jurisdiction to
24917 adjudicate a lien that becomes void under Subsection (4)(a).
24918 (5) This section may not be interpreted to impair or affect the right of any person to
24919 whom a debt may be due for any work done or materials furnished to maintain a personal
24920 action to recover the debt.

24921 (6) (a) If a lien claimant files an action to enforce a lien filed under this chapter
24922 involving a residence, the lien claimant shall include with the service of the complaint on the
24923 owner of the residence:
24924 (i) instructions to the owner of the residence relating to the owner's rights under Title
24925 38, Chapter 11, Residence Lien Restriction and Lien Recovery Fund Act; and
24926 (ii) a form to enable the owner of the residence to specify the grounds upon which the
24927 owner may exercise available rights under Title 38, Chapter 11, Residence Lien Restriction and
24928 Lien Recovery Fund Act.
24929 (b) The instructions and form required by Subsection (6)(a) shall meet the requirements
24930 established by rule by the Division of Occupational and Professional Licensing in accordance
24931 with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
24932 (c) If a lien claimant fails to provide to the owner of the residence the instructions and
24933 form required by Subsection (6)(a), the lien claimant shall be barred from maintaining or
24934 enforcing the lien upon the residence.
24935 (d) Judicial determination of the rights and liabilities of the owner of the residence
24936 under this chapter and Title 38, Chapter 11, Residence Lien Restriction and Lien Recovery
24937 Fund Act, and Title 14, Chapter 2, Private Contracts, shall be stayed until after the owner is
24938 given a reasonable period of time to establish compliance with Subsections 38-11-204(4)(a)
24939 and (4)(b) through an informal proceeding, as set forth in [~~Title 63, Chapter 46b~~] Title 63G,
24940 Chapter 4, Administrative Procedures Act, commenced within 30 days of the owner being
24941 served summons in the foreclosure action, at the Division of Occupational and Professional
24942 Licensing and obtain a certificate of compliance or denial of certificate of compliance, as
24943 defined in Section 38-11-102.
24944 (e) An owner applying for a certificate of compliance under Subsection (6)(d) shall
24945 send by certified mail to all lien claimants:
24946 (i) a copy of the application for a certificate of compliance; and
24947 (ii) all materials filed in connection with the application.
24948 (f) The Division of Occupational and Professional Licensing shall notify all lien
24949 claimants listed in an owner's application for a certificate of compliance under Subsection
24950 (6)(d) of the issuance or denial of a certificate of compliance.
24951 (7) The written notice requirement applies to liens filed on or after July 1, 2004.

24952 Section 503. Section **38-1-27** is amended to read:
24953 **38-1-27. State Construction Registry -- Form and contents of notice of**
24954 **commencement, preliminary notice, and notice of completion.**
24955 (1) As used in this section and Sections 38-1-30 through 38-1-37:
24956 (a) "Alternate filing" means a legible and complete filing made in a manner established
24957 by the division under Subsection (2)(e) other than an electronic filing.
24958 (b) "Cancel" means to indicate that a filing is no longer given effect.
24959 (c) "Construction project," "project," or "improvement" means all labor, equipment,
24960 and materials provided:
24961 (i) under an original contract; or
24962 (ii) by, or under contracts with, an owner-builder.
24963 (d) "Database" means the State Construction Registry created in this section.
24964 (e) (i) "Designated agent" means the third party the Division of Occupational and
24965 Professional Licensing contracts with to create and maintain the State Construction Registry.
24966 (ii) The designated agent is not an agency, instrumentality, or a political subdivision of
24967 the state.
24968 (f) "Division" means the Division of Occupational and Professional Licensing.
24969 (g) "Interested person" means a person who may be affected by a construction project.
24970 (h) "Program" means the State Construction Registry Program created in this section.
24971 (2) Subject to receiving adequate funding through a legislative appropriation and
24972 contracting with an approved third party vendor who meets the requirements of Sections
24973 38-1-30 through 38-1-37, there is created the State Construction Registry Program that shall:
24974 (a) (i) assist in protecting public health, safety, and welfare; and
24975 (ii) promote a fair working environment;
24976 (b) be overseen by the division with the assistance of the designated agent;
24977 (c) provide a central repository for notices of commencement, preliminary notices, and
24978 notices of completion filed in connection with all privately owned construction projects as well
24979 as all state and local government owned construction projects throughout Utah;
24980 (d) be accessible for filing and review by way of the program Internet website of:
24981 (i) notices of commencement;
24982 (ii) preliminary notices; and

24983 (iii) notices of completion;
24984 (e) accommodate:
24985 (i) electronic filing of the notices described in Subsection (2)(d); and
24986 (ii) alternate filing of the notices described in Subsection (2)(d) by U.S. mail, telefax,
24987 or any other alternate method as provided by rule made by the division in accordance with
24988 [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
24989 (f) (i) provide electronic notification for up to three e-mail addresses for each interested
24990 person or company who requests notice from the construction notice registry; and
24991 (ii) provide alternate means of notification for a person who makes an alternate filing,
24992 including U.S. mail, telefax, or any other method as prescribed by rule made by the division in
24993 accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
24994 Rulemaking Act; and
24995 (g) provide hard-copy printing of electronic receipts for an individual filing evidencing
24996 the date and time of the individual filing and the content of the individual filing.
24997 (3) (a) The designated agent shall provide notice of all other filings for a project to any
24998 person who files a notice of commencement, preliminary notice, or notice of completion for
24999 that project, unless the person:
25000 (i) requests that the person not receive notice of other filings; or
25001 (ii) does not provide the designated agent with the person's contact information in a
25002 manner that adequately informs the designated agent.
25003 (b) An interested person may request notice of filings related to a project.
25004 (c) The database shall be indexed by:
25005 (i) owner name;
25006 (ii) original contractor name;
25007 (iii) subdivision, development, or other project name, if any;
25008 (iv) project address;
25009 (v) lot or parcel number;
25010 (vi) unique project number assigned by the designated agent; and
25011 (vii) any other identifier that the division considers reasonably appropriate in
25012 collaboration with the designated agent.
25013 (4) (a) In accordance with the process required by Section [~~63-38-3.2~~] 63J-1-303, the

25014 division shall establish the fees for:
25015 (i) a notice of commencement;
25016 (ii) a preliminary notice;
25017 (iii) a notice of completion;
25018 (iv) a request for notice;
25019 (v) providing a required notice by an alternate method of delivery;
25020 (vi) a duplicate receipt of a filing; and
25021 (vii) account setup for a person who wishes to be billed periodically for filings with the
25022 database.
25023 (b) The fees allowed under Subsection (4)(a) may not exceed the amount reasonably
25024 necessary to create and maintain the database.
25025 (c) The fees established by the division may vary by method of filing if one form of
25026 filing is more costly to process than another form of filing.
25027 (d) The division may provide by contract that the designated agent may retain all fees
25028 collected by the designated agent except that the designated agent shall remit to the division the
25029 cost of the division's oversight under Subsection (2)(b).
25030 (5) (a) The database is classified as a public record under [~~Title 63, Chapter 2~~] Title
25031 63G, Chapter 2, Government Records Access and Management Act, unless otherwise classified
25032 by the division.
25033 (b) A request for information submitted to the designated agent is not subject to [~~Title~~
25034 ~~63, Chapter 2~~] Title 63G, Chapter 2, Government Records Access and Management Act.
25035 (c) Information contained in a public record contained in the database shall be
25036 requested from the designated agent.
25037 (d) The designated agent may charge a commercially reasonable fee allowed by the
25038 designated agent's contract with the division for providing information under Subsection (5)(c).
25039 (e) Notwithstanding [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records
25040 Access and Management Act, if information is available in a public record contained in the
25041 database, a person may not request the information from the division.
25042 (f) (i) A person may request information that is not a public record contained in the
25043 database from the division in accordance with [~~Title 63, Chapter 2~~] Title 63G, Chapter 2,
25044 Government Records Access and Management Act.

25045 (ii) The division shall inform the designated agent of how to direct inquiries made to
25046 the designated agent for information that is not a public record contained in the database.
25047 (6) The following are not an adjudicative proceeding under [~~Title 63, Chapter 46b~~]
25048 Title 63G, Chapter 4, Administrative Procedures Act:
25049 (a) the filing of a notice permitted by this chapter;
25050 (b) the rejection of a filing permitted by this chapter; or
25051 (c) other action by the designated agent in connection with a filing of any notice
25052 permitted by this chapter.
25053 (7) The division and the designated agent need not determine the timeliness of any
25054 notice before filing the notice in the database.
25055 (8) (a) A person who is delinquent on the payment of a fee established under
25056 Subsection (4) may not file a notice with the database.
25057 (b) A determination that a person is delinquent on the payment of a fee for filing
25058 established under Subsection (4) shall be made in accordance with [~~Title 63, Chapter 46b~~] Title
25059 63G, Chapter 4, Administrative Procedures Act.
25060 (c) Any order issued in a proceeding described in Subsection (8)(b) may prescribe the
25061 method of that person's payment of fees for filing notices with the database after issuance of the
25062 order.
25063 (9) If a notice is filed by a third party on behalf of another, the notice is considered to
25064 be filed by the person on whose behalf the notice is filed.
25065 (10) A person filing a notice of commencement, preliminary notice, or notice of
25066 completion is responsible for verifying the accuracy of information entered into the database,
25067 whether the person files electronically or by alternate or third party filing.
25068 Section 504. Section **38-1-28** is amended to read:
25069 **38-1-28. Notice of release of lien and substitution of alternate security.**
25070 (1) The owner of any interest in real property that is subject to a mechanics' lien
25071 recorded under this chapter, or any original contractor or subcontractor affected by the lien,
25072 who disputes the correctness or validity of the lien may record a notice of release of lien and
25073 substitution of alternate security:
25074 (a) that meets the requirements of Subsection (2);
25075 (b) in the office of the county recorder where the lien was recorded; and

25076 (c) at any time before the expiration of 90 days after the day on which the person filing
25077 a notice of release of lien and substitution of alternate security is served with a summons and
25078 lien foreclosure complaint.
25079 (2) A notice of release of lien and substitution of alternate security recorded under
25080 Subsection (1) shall:
25081 (a) meet the requirements for the recording of documents in Title 57, Chapter 3,
25082 Recording of Documents;
25083 (b) reference the lien sought to be released, including an entry number, book number,
25084 and page number; and
25085 (c) have as an attachment a surety bond or evidence of a cash deposit that:
25086 (i) (A) if a surety bond, is executed by a surety company that is treasury listed, A-rated
25087 by AM Best Company, and authorized to issue surety bonds in this state; or
25088 (B) if evidence of a cash deposit, meets the requirements established by rule by the
25089 Department of Commerce in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
25090 Utah Administrative Rulemaking Act;
25091 (ii) is in an amount equal to:
25092 (A) 150% of the amount claimed by the lien claimant on a notice of lien or determined
25093 under Subsection (7), if the lien claim is for $25,000 or more;
25094 (B) 175% of the amount claimed by the lien claimant on a notice of lien or determined
25095 under Subsection (7), if the lien claim is for at least $15,000 but less than $25,000; or
25096 (C) 200% of the amount claimed by the lien claimant on a notice of lien or determined
25097 under Subsection (7), if the lien claim is for less than $15,000;
25098 (iii) is made payable to the lien claimant;
25099 (iv) is conditioned for the payment of:
25100 (A) the judgment that would have been rendered, or has been rendered against the
25101 property in the action to enforce the lien; and
25102 (B) any costs and attorneys' fees awarded by the court; and
25103 (v) has as principal:
25104 (A) the owner of the interest in the real property; or
25105 (B) the original contractor or subcontractor affected by the lien.
25106 (3) (a) Upon the recording of the notice of release of lien and substitution of alternate

25107 security under Subsection (1), the real property described in the notice shall be released from
25108 the mechanics' lien to which the notice applies.
25109 (b) A recorded notice of release of lien and substitution of alternate security is effective
25110 as to any amendment to the lien being released if the bond amount remains enough to satisfy
25111 the requirements of Subsection (2)(c)(ii).
25112 (4) (a) Upon the recording of a notice of release of lien and substitution of alternate
25113 security under Subsection (1), the person recording the notice shall serve a copy of the notice,
25114 together with any attachments, within 30 days upon the lien claimant.
25115 (b) If a suit is pending to foreclose the lien at the time the notice is served upon the lien
25116 claimant under Subsection (4)(a), the lien claimant shall, within 90 days from the receipt of the
25117 notice, institute proceedings to add the alternate security as a party to the lien foreclosure suit.
25118 (5) The alternate security attached to a notice of release of lien shall be discharged and
25119 released upon:
25120 (a) the failure of the lien claimant to commence a suit against the alternate security
25121 within the same time as an action to enforce the lien under Section 38-1-11;
25122 (b) the failure of the lien claimant to institute proceedings to add the alternate security
25123 as a party to a lien foreclosure suit within the time required by Subsection (4)(b);
25124 (c) the dismissal with prejudice of the lien foreclosure suit or suit against the alternate
25125 security as to the lien claimant; or
25126 (d) the entry of judgment against the lien claimant in:
25127 (i) a lien foreclosure suit; or
25128 (ii) suit against the alternate security.
25129 (6) If a copy of the notice of release of lien and substitution of alternate security is not
25130 served upon the lien claimant as provided in Subsection (4)(a), the lien claimant shall have six
25131 months after the discovery of the notice to commence an action against the alternate security,
25132 except that no action may be commenced against the alternate security after two years from the
25133 date the notice was recorded.
25134 (7) (a) The owner of any interest in real property that is subject to a mechanics' lien
25135 recorded under this chapter or an original contractor or subcontractor affected by a mechanics'
25136 lien recorded under this chapter who disputes the amount claimed in a notice of lien may
25137 petition the district court in the county in which the notice of lien is recorded for a summary

25138 determination of the correct amount of a lien claim for the sole purpose of providing alternate
25139 security.
25140 (b) A petition under this Subsection (7) shall:
25141 (i) state with specificity the factual and legal bases for disputing the amount of the lien
25142 claim; and
25143 (ii) be supported by a sworn affidavit and any other evidence supporting the petition.
25144 (c) A petitioner under Subsection (7)(a) shall, under Utah Rules of Civil Procedure,
25145 Rule 4, serve on the lien claimant:
25146 (i) a copy of the petition; and
25147 (ii) a notice of hearing if a hearing is scheduled.
25148 (d) If a court finds a petition under Subsection (7)(a) insufficient, the court may
25149 dismiss the petition without a hearing.
25150 (e) If a court finds a petition under Subsection (7)(a) sufficient, the court shall schedule
25151 a hearing within ten days to determine the correct amount of the lien claim for the sole purpose
25152 of providing alternate security.
25153 (f) A lien claimant may:
25154 (i) attend a hearing held under this Subsection (7); and
25155 (ii) contest the petition.
25156 (g) A determination under this section is limited to a determination of the amount of
25157 the lien claim for the sole purpose of providing alternate security and does not conclusively
25158 establish:
25159 (i) the amount to which the lien claimant is entitled;
25160 (ii) the validity of the lien claim; or
25161 (iii) any person's right to any other legal remedy.
25162 (h) If a court, in a proceeding under this Subsection (7), determines that the amount
25163 claimed in a notice of claim is excessive, the court shall set the amount of the lien claim for the
25164 sole purpose of providing alternate security.
25165 (i) In an order under Subsection (7)(h), the court shall include a legal description of the
25166 property.
25167 (j) A petitioner under this Subsection (7) may record a certified copy of any order
25168 issued under this Subsection (7) in the county in which the lien is recorded.

25169 (k) Attorneys' fees may not be awarded for a proceeding under this Subsection (7), but
25170 shall be considered in any award of attorneys' fees under any other provision of this chapter.
25171 Section 505. Section **38-1-30** is amended to read:
25172 **38-1-30. Third-party contract -- Designated agent.**
25173 (1) The division shall contract in accordance with [~~Title 63, Chapter 56~~] Title 63G,
25174 Chapter 6, Utah Procurement Code, with a third party to establish and maintain the database for
25175 the purposes established under this section, Section 38-1-27, and Sections 38-1-31 through
25176 38-1-37.
25177 (2) (a) The third party under contract under this section is the division's designated
25178 agent, and shall develop and maintain a database from the information provided by:
25179 (i) local government entities issuing building permits;
25180 (ii) original contractors;
25181 (iii) subcontractors; and
25182 (iv) other interested persons.
25183 (b) The database shall accommodate filings by third parties on behalf of clients.
25184 (c) The division and the designated agent shall design, develop, and test the database
25185 for full implementation on May 1, 2005.
25186 (3) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
25187 Administrative Rulemaking Act, the division shall make rules and develop procedures for:
25188 (a) the division to oversee and enforce this section, Section 38-1-27, and Sections
25189 38-1-31 through 38-1-37;
25190 (b) the designated agent to administer this section, Section 38-1-27, and Sections
25191 38-1-31 through 38-1-37; and
25192 (c) the form of submission of an alternate filing, which may include procedures for
25193 rejecting an illegible or incomplete filing.
25194 (4) (a) The designated agent shall archive computer data files at least semiannually for
25195 auditing purposes.
25196 (b) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
25197 Administrative Rulemaking Act, the division shall make rules to allow the designated agent to
25198 periodically archive projects from the database.
25199 (c) A project shall be archived no earlier than:

25200 (i) one year after the day on which a notice of completion is filed for a project;
25201 (ii) if no notice of completion is filed, two years after the last filing activity for a
25202 project; or
25203 (iii) one year after the day on which a filing is cancelled under Subsection
25204 38-1-32(3)(c) or 38-1-33(2)(c).
25205 (d) The division may audit the designated agent's administration of the database as
25206 often as the division considers necessary.
25207 (5) The designated agent shall carry errors and omissions insurance in the amounts
25208 established by rule made by the division in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
25209 Chapter 3, Utah Administrative Rulemaking Act.
25210 (6) (a) The designated agent shall make reasonable efforts to assure the accurate entry
25211 into the database of information provided in alternate filings.
25212 (b) The designated agent shall meet or exceed standards established by the division for
25213 the accuracy of data entry for alternate filings.
25214 (7) The designated agent is not liable for the correctness of the information contained
25215 in an alternate filing it enters into the database.
25216 Section 506. Section **38-1-31** is amended to read:
25217 **38-1-31. Building permit -- Construction -- Notice registry -- Notice of**
25218 **commencement of work.**
25219 (1) (a) (i) (A) For a construction project where a building permit is issued to an original
25220 contractor or owner-builder, within 15 days after the issuance of the building permit:
25221 (I) the local government entity issuing that building permit shall input the building
25222 permit application and transmit the building permit information to the database electronically
25223 by way of the Internet or computer modem or by any other means; and
25224 (II) the original contractor or owner-builder may file a notice of commencement based
25225 on the building permit issued by the local government entity.
25226 (B) The information submitted under Subsection (1)(a)(i)(A) forms the basis of a
25227 notice of commencement.
25228 (ii) The person to whom a building permit, filed under Subsection (1)(a)(i), is issued is
25229 responsible for the accuracy of the information in the building permit.
25230 (iii) For the purposes of classifying a record under [~~Title 63, Chapter 2~~] Title 63G,

25231 Chapter 2, Government Records Access and Management Act, building permit information
25232 transmitted from a local governmental entity to the database shall be classified in the database
25233 by the division notwithstanding the local governmental entity's classification of the building
25234 permit information.
25235 (b) Within 15 days after commencement of physical construction work at the project
25236 site, the original contractor or owner-builder may file a notice of commencement with the
25237 database whether or not a building permit is issued or a notice of commencement is filed under
25238 Subsection (1)(a).
25239 (c) An owner of construction or an original contractor may file a notice of
25240 commencement with the designated agent within the time prescribed by Subsections (1)(a) and
25241 (b).
25242 (d) (i) If duplicate notices of commencement are filed, they shall be combined into one
25243 notice for each project and any notices filed relate back to the date of the earliest-filed notice of
25244 commencement for the project.
25245 (ii) A duplicate notice of commencement that is untimely filed relates back under
25246 Subsection (1)(d)(i) if the earlier filed notice of commencement is timely filed.
25247 (iii) Duplicate notices of commencement shall be automatically linked by the
25248 designated agent.
25249 (e) The designated agent shall assign each construction project a unique project number
25250 that:
25251 (i) identifies each construction project; and
25252 (ii) can be associated with all notices of commencement, preliminary notices, and
25253 notices of completion.
25254 (f) A notice of commencement is effective only as to any labor, service, equipment,
25255 and material furnished to the construction project that is furnished subsequent to the filing of
25256 the notice of commencement.
25257 (2) (a) A notice of commencement shall include the following:
25258 (i) the name and address of the owner of the project;
25259 (ii) the name and address of the:
25260 (A) original contractor; and
25261 (B) surety providing any payment bond for the project, or if none exists, a statement

25262 that a payment bond was not required for the work being performed; and
25263 (iii) (A) the project address if the project can be reasonably identified by an address; or
25264 (B) the name and general description of the location of the project if the project cannot
25265 be reasonably identified by an address.
25266 (b) A notice of commencement may include:
25267 (i) a general description of the project; or
25268 (ii) the lot or parcel number, and any subdivision, development, or other project name,
25269 of the real property upon which the project is to be constructed if the project is subject to
25270 mechanics' liens.
25271 (c) A notice of commencement need not include all of the items listed in Subsection
25272 (2)(a) if:
25273 (i) a building permit is issued for the project; and
25274 (ii) all items listed in Subsection (2)(a) that are available on the building permit are
25275 included in the notice of commencement.
25276 (3) If a notice of commencement for a construction project is not filed within the time
25277 set forth in Subsections(1)(a) and (b), the following do not apply:
25278 (a) Section 38-1-32; and
25279 (b) Section 38-1-33.
25280 (4) (a) Unless a person indicates to the division or designated agent that the person
25281 does not wish to receive a notice under this section, electronic notice of the filing of a notice of
25282 commencement or alternate notice as prescribed in Subsection (1), shall be provided to:
25283 (i) all persons who have filed notices of commencement for the project; and
25284 (ii) all interested persons who have requested notices concerning the project.
25285 (b) (i) A person to whom notice is required under Subsection (4)(a) is responsible for:
25286 (A) providing an e-mail address, mailing address, or telefax number to which a notice
25287 required by Subsection (4)(a) is to be sent; and
25288 (B) the accuracy of any e-mail address, mailing address, or telefax number to which
25289 notice is to be sent.
25290 (ii) The designated agent fulfills the notice requirement of Subsection (4)(a) when it
25291 sends the notice to the e-mail address, mailing address, or telefax number provided to the
25292 designated agent whether or not the notice is actually received.

25293 (5) (a) The burden is upon any person seeking to enforce a notice of commencement to
25294 verify the accuracy of information in the notice of commencement and prove that the notice of
25295 commencement is filed timely and meets all of the requirements in this section.
25296 (b) A substantial inaccuracy in a notice of commencement renders the notice of
25297 commencement unenforceable.
25298 (c) A person filing a notice of commencement by alternate filing is responsible for
25299 verifying and changing any incorrect information in the notice of commencement before the
25300 expiration of the time period during which the notice is required to be filed.
25301 (6) At the time a building permit is obtained, each original contractor shall
25302 conspicuously post at the project site a copy of the building permit obtained for the project.
25303 Section 507. Section **38-1-39** is amended to read:
25304 **38-1-39. Waiver or impairment of a lien right -- Forms -- Scope.**
25305 (1) As used in this section:
25306 (a) "Check" means a payment instrument on a depository institution including:
25307 (i) a check;
25308 (ii) a draft;
25309 (iii) an order; or
25310 (iv) other instrument.
25311 (b) "Depository institution" is as defined in Section 7-1-103.
25312 (c) "Lien claimant" means a person that claims a lien under this chapter.
25313 (d) "Receives payment" means, in the case of a restrictive endorsement, a payee has
25314 endorsed a check and the check is presented to and paid by the depository institution on which
25315 it is drawn.
25316 (2) Notwithstanding Section 38-1-29, a written consent given by a lien claimant that
25317 waives or limits the lien claimant's lien rights is enforceable only if the lien claimant:
25318 (a) (i) executes a waiver and release that is signed by the lien claimant or the lien
25319 claimant's authorized agent; or
25320 (ii) for a restrictive endorsement on a check, includes a restrictive endorsement on a
25321 check that is:
25322 (A) signed by the lien claimant or the lien claimant's authorized agent; and
25323 (B) in substantially the same form set forth in Subsection (4)(d); and

25324 (b) receives payment of the amount identified in the waiver and release or check that
25325 includes the restrictive endorsement:
25326 (i) including payment by a joint payee check; and
25327 (ii) for a progress payment, only to the extent of the payment.
25328 (3) (a) Notwithstanding the language of a waiver and release described in Subsection
25329 (2), Subsection (3)(b) applies if:
25330 (i) the payment given in exchange for any waiver and release of lien is made by check;
25331 and
25332 (ii) the check fails to clear the depository institution on which it is drawn for any
25333 reason.
25334 (b) If the conditions of Subsection (3)(a) are met:
25335 (i) the waiver and release described in Subsection (3)(a) is null, void, and of no legal
25336 effect; and
25337 (ii) the following will not be affected by the lien claimant's execution of the waiver and
25338 release:
25339 (A) any lien;
25340 (B) any lien right;
25341 (C) any bond right;
25342 (D) any contract right; or
25343 (E) any other right to recover payment afforded to the lien claimant in law or equity.
25344 (4) (a) A waiver and release given by a lien claimant meets the requirements of this
25345 section if it is in substantially the form provided in this Subsection (4) for the circumstance
25346 provided in this Subsection (4).
25347 (b) A waiver and release may be in substantially the following form if the lien claimant
25348 is required to execute a waiver and release in exchange for or to induce the payment of a
25349 progress billing:
25350 "UTAH CONDITIONAL WAIVER AND RELEASE UPON PROGRESS PAYMENT
25351 Property Name: _____
25352 Property Location: _____
25353 Undersigned's Customer: _____
25354 Invoice/Payment Application Number: _____

25355 Payment Amount: _____
25356 Payment Period: _____
25357 To the extent provided below, this document becomes effective to release and the
25358 undersigned is considered to waive any notice of lien or right under Utah Code Ann., Title 38,
25359 Chapter 1, Mechanics' Liens, or any bond right under Utah Code Ann., Title 14, Contractors'
25360 Bonds, or Section [~~63-56-504~~] 63G-6-505 related to payment rights the undersigned has on the
25361 above described Property once:
25362 (1) the undersigned endorses a check in the above referenced Payment Amount payable
25363 to the undersigned; and
25364 (2) the check is paid by the depository institution on which it is drawn.
25365 This waiver and release applies to a progress payment for the work, materials,
25366 equipment, or a combination of work, materials, and equipment furnished by the undersigned
25367 to the Property or to the Undersigned's Customer which are the subject of the Invoice or
25368 Payment Application, but only to the extent of the Payment Amount. This waiver and release
25369 does not apply to any retention withheld; any items, modifications, or changes pending
25370 approval; disputed items and claims; or items furnished or invoiced after the Payment Period.
25371 The undersigned warrants that the undersigned either has already paid or will use the
25372 money the undersigned receives from this progress payment promptly to pay in full all the
25373 undersigned's laborers, subcontractors, materialmen, and suppliers for all work, materials,
25374 equipment, or combination of work, materials, and equipment that are the subject of this
25375 waiver and release.
25376 Dated: _____
25377 _____(Company Name)
25378 _____By:_____
25379 _____Its:_____"
25380 (c) A waiver and release may be in substantially the following form if the lien claimant
25381 is required to execute a waiver and release in exchange for or to induce the payment of a final
25382 billing:
25383 "UTAH WAIVER AND RELEASE UPON FINAL PAYMENT
25384 Property Name: _____
25385 Property Location: _____

25386 Undersigned's Customer: _____
25387 Invoice/Payment Application Number: _____
25388 Payment Amount: _____
25389
25390 To the extent provided below, this document becomes effective to release and the
25391 undersigned is considered to waive any notice of lien or right under Utah Code Ann., Title 38,
25392 Chapter 1, Mechanics' Liens, or any bond right under Utah Code Ann., Title 14, Contractors'
25393 Bonds, or Section [~~63-56-504~~] 63G-6-505 related to payment rights the undersigned has on the
25394 above described Property once:
25395 (1) the undersigned endorses a check in the above referenced Payment Amount payable
25396 to the undersigned; and
25397 (2) the check is paid by the depository institution on which it is drawn.
25398 This waiver and release applies to the final payment for the work, materials, equipment,
25399 or combination of work, materials, and equipment furnished by the undersigned to the Property
25400 or to the Undersigned's Customer.
25401 The undersigned warrants that the undersigned either has already paid or will use the
25402 money the undersigned receives from the final payment promptly to pay in full all the
25403 undersigned's laborers, subcontractors, materialmen, and suppliers for all work, materials,
25404 equipment, or combination of work, materials, and equipment that are the subject of this
25405 waiver and release.
25406 Dated: _____
25407 _____(Company Name)
25408 _____By:_____
25409 _____Its:_____"
25410 (d) A restrictive endorsement placed on a check to effectuate a waiver and release
25411 described in this Subsection (4) meets the requirements of this section if it is in substantially
25412 the following form:
25413 "This check is a progress/ final payment for property described on this check sufficient
25414 for identification. Endorsement of this check is an acknowledgment by the endorser that the
25415 waiver and release to which the payment applies is effective to the extent provided in Utah
25416 Code Ann. Subsection 38-1-39(4)(b) or (c) respectively."

25417 (e) (i) If using a restrictive endorsement under Subsection (4)(d), the person preparing
25418 the check shall indicate whether the check is for a progress payment or a final payment by
25419 circling the word "progress" if the check is for a progress payment, or the word "final" if the
25420 check is for a final payment.
25421 (ii) If a restrictive endorsement does not indicate whether the check is for a progress
25422 payment or a final payment, it is considered to be for a progress payment.
25423 (5) (a) If the conditions of Subsection (5)(b) are met, this section does not affect the
25424 enforcement of:
25425 (i) an accord and satisfaction regarding a bona fide dispute; or
25426 (ii) an agreement made in settlement of an action pending in any court or arbitration.
25427 (b) Pursuant to Subsection (5)(a), this section does not affect enforcement of an accord
25428 and satisfaction or settlement described in Subsection (5)(a) if the accord and satisfaction or
25429 settlement:
25430 (i) is in a writing signed by the lien claimant; and
25431 (ii) specifically references the lien rights waived or impaired.
25432 Section 508. Section **38-11-105** is amended to read:
25433 **38-11-105. Procedures established by rule.**
25434 In compliance with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
25435 Procedures Act, the division shall establish procedures by rule by which claims for
25436 compensation from the fund and requests for certificates of compliance shall be adjudicated
25437 and by which assessments shall be collected.
25438 Section 509. Section **38-11-108** is amended to read:
25439 **38-11-108. Notification of rights under chapter.**
25440 (1) Beginning July 1, 1995, the original contractor or real estate developer shall state in
25441 the written contract with the owner what actions are necessary for the owner to be protected
25442 under Section 38-11-107 from the maintaining of a mechanic's lien or other civil action against
25443 the owner or the owner-occupied residence to recover monies owed for qualified services.
25444 (2) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
25445 Administrative Rulemaking Act, the division may issue rules providing for the form and
25446 content of the information required by Subsection (1).
25447 Section 510. Section **38-11-110** is amended to read:

25448 **38-11-110. Issuance of certificates of compliance.**
25449 The director shall have authority to issue or deny a certificate of compliance only after
25450 determining through an informal proceeding, as set forth in [~~Title 63, Chapter 46b~~] Title 63G,
25451 Chapter 4, Administrative Procedures Act, that the owner is in compliance with Subsections
25452 38-11-204(4)(a) and (4)(b).
25453 Section 511. Section **38-11-201** is amended to read:
25454 **38-11-201. Residence Lien Recovery Fund.**
25455 (1) There is created a restricted special revenue fund called the "Residence Lien
25456 Recovery Fund."
25457 (2) (a) The fund consists of all amounts collected by the division in accordance with
25458 Section 38-11-202.
25459 (b) (i) The division shall deposit the funds in an account with the state treasurer.
25460 (ii) The division shall record the funds in the Residence Lien Recovery Fund.
25461 (c) The fund shall earn interest.
25462 (3) The division shall employ personnel and resources necessary to administer the fund
25463 and shall use fund monies in accordance with Sections 38-11-203 and 38-11-204 and to pay the
25464 costs charged to the fund by the attorney general.
25465 (4) Costs incurred by the division for administering the fund shall be paid out of fund
25466 monies.
25467 (5) The Division of Finance shall report annually to the Legislature, the division, and
25468 the board. The report shall state:
25469 (a) amounts received by the fund;
25470 (b) disbursements from the fund;
25471 (c) interest earned and credited to the fund; and
25472 (d) the fund balance.
25473 (6) (a) For purposes of establishing and assessing regulatory fees under Subsection
25474 [~~63-38-3.2~~] 63J-1-303(5), the provisions of this chapter are considered a new program for
25475 fiscal year 1995-96.
25476 (b) The department shall submit its fee schedule to the Legislature for its approval at
25477 the 1996 Annual General Session.
25478 Section 512. Section **38-11-202** is amended to read:

25479 **38-11-202. Payments to the fund.**
25480 The Residence Lien Recovery Fund shall be supported solely from:
25481 (1) initial and special assessments collected by the division from licensed contractors
25482 registered as qualified beneficiaries in accordance with Subsections 38-11-301(1) and (2) and
25483 Section 38-11-206;
25484 (2) initial and special assessments collected by the division from other qualified
25485 beneficiaries registering with the division in accordance with Subsection 38-11-301(3) and
25486 Section 38-11-206;
25487 (3) fees determined by the division under Section [~~63-38-3.2~~] 63J-1-303 collected from
25488 laborers under Subsection 38-11-204(8) when the laborers obtain a recovery from the fund;
25489 (4) amounts collected by subrogation under Section 38-11-205 on behalf of the fund
25490 following a payment from the fund;
25491 (5) application fees determined by the division under Section [~~63-38-3.2~~] 63J-1-303
25492 collected from:
25493 (a) qualified beneficiaries or laborers under Subsection 38-11-204(1)(b) when
25494 qualified beneficiaries or laborers make a claim against the fund; or
25495 (b) owners or agents of the owners seeking to obtain a certificate of compliance for the
25496 owner;
25497 (6) registration fees determined by the division under Section [~~63-38-3.2~~] 63J-1-303
25498 collected from other qualified beneficiaries registering with the department in accordance with
25499 Subsection 38-11-301(3)(a)(iii);
25500 (7) reinstatement fees determined by the division under Section [~~63-38-3.2~~] 63J-1-303
25501 collected from registrants in accordance with Subsection 38-11-302(5)(b);
25502 (8) civil fines authorized under Subsection 38-11-205(2) collected by the attorney
25503 general for failure to reimburse the fund; and
25504 (9) any interest earned by the fund.
25505 Section 513. Section **38-11-204** is amended to read:
25506 **38-11-204. Claims against the fund -- Requirement to make a claim --**
25507 **Qualifications to receive compensation -- Qualifications to receive a certificate of**
25508 **compliance.**
25509 (1) To claim recovery from the fund a person shall:

25510 (a) meet the requirements of either Subsection (4) or (7);
25511 (b) pay an application fee determined by the division under Section [~~63-38-3.2~~]
25512 63J-1-303; and
25513 (c) file with the division a completed application on a form provided by the division
25514 accompanied by supporting documents establishing:
25515 (i) that the person meets the requirements of either Subsection (4) or (7);
25516 (ii) that the person was a qualified beneficiary or laborer during the construction on the
25517 owner-occupied residence; and
25518 (iii) the basis for the claim.
25519 (2) To recover from the fund, the application required by Subsection (1) shall be filed
25520 no later than one year:
25521 (a) from the date the judgment required by Subsection (4)(d) is entered;
25522 (b) from the date the nonpaying party filed bankruptcy, if the claimant is precluded
25523 from obtaining a judgment or from satisfying the requirements of Subsection (4)(d) because the
25524 nonpaying party filed bankruptcy within one year after the entry of judgment; or
25525 (c) from the date the laborer, trying to recover from the fund, completed the laborer's
25526 qualified services.
25527 (3) To obtain a certificate of compliance an owner or agent of the owner shall establish
25528 with the division that the owner meets the requirements of Subsections (4)(a) and (4)(b).
25529 (4) To recover from the fund, regardless of whether the residence is occupied by the
25530 owner, a subsequent owner, or the owner or subsequent owner's tenant or lessee, a qualified
25531 beneficiary shall establish that:
25532 (a) (i) the owner of the owner-occupied residence or the owner's agent entered into a
25533 written contract with an original contractor licensed or exempt from licensure under Title 58,
25534 Chapter 55, Utah Construction Trades Licensing Act:
25535 (A) for the performance of qualified services;
25536 (B) to obtain the performance of qualified services by others; or
25537 (C) for the supervision of the performance by others of qualified services in
25538 construction on that residence;
25539 (ii) the owner of the owner-occupied residence or the owner's agent entered into a
25540 written contract with a real estate developer for the purchase of an owner-occupied residence;

25541 or
25542 (iii) the owner of the owner-occupied residence or the owner's agent entered into a
25543 written contract with a factory built housing retailer for the purchase of an owner-occupied
25544 residence;
25545 (b) the owner has paid in full the original contractor, licensed or exempt from licensure
25546 under Title 58, Chapter 55, Utah Construction Trades Licensing Act, real estate developer, or
25547 factory built housing retailer under Subsection (4)(a) with whom the owner has a written
25548 contract in accordance with the written contract and any amendments to the contract;
25549 (c) (i) the original contractor, licensed or exempt from licensure under Title 58,
25550 Chapter 55, Utah Construction Trades Licensing Act, the real estate developer, or the factory
25551 built housing retailer subsequently failed to pay a qualified beneficiary who is entitled to
25552 payment under an agreement with that original contractor or real estate developer licensed or
25553 exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act, for
25554 services performed or materials supplied by the qualified beneficiary;
25555 (ii) a subcontractor who contracts with the original contractor, licensed or exempt from
25556 licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act, the real estate
25557 developer, or the factory built housing retailer failed to pay a qualified beneficiary who is
25558 entitled to payment under an agreement with that subcontractor or supplier; or
25559 (iii) a subcontractor who contracts with a subcontractor or supplier failed to pay a
25560 qualified beneficiary who is entitled to payment under an agreement with that subcontractor or
25561 supplier;
25562 (d) (i) unless precluded from doing so by the nonpaying party's bankruptcy filing
25563 within the applicable time, the qualified beneficiary filed an action against the nonpaying party
25564 to recover monies owed to the qualified beneficiary within the earlier of:
25565 (A) 180 days from the date the qualified beneficiary filed a notice of claim under
25566 Section 38-1-7; or
25567 (B) 270 days from the completion of the original contract pursuant to Subsection
25568 38-1-7(1);
25569 (ii) the qualified beneficiary has obtained a judgment against the nonpaying party who
25570 failed to pay the qualified beneficiary under an agreement to provide qualified services for
25571 construction of that owner-occupied residence;

25572 (iii) (A) the qualified beneficiary has:
25573 (I) obtained from a court of competent jurisdiction the issuance of an order requiring
25574 the judgment debtor, or if a corporation any officer of the corporation, to appear before the
25575 court at a specified time and place to answer concerning the debtor's or corporation's property;
25576 (II) received return of service of the order from a person qualified to serve documents
25577 under the Utah Rules of Civil Procedure, Rule 4(b); and
25578 (III) made reasonable efforts to obtain asset information from the supplemental
25579 proceedings; and
25580 (B) if assets subject to execution are discovered as a result of the order required under
25581 Subsection (4)(d)(iii)(A) or for any other reason, to obtain the issuance of a writ of execution
25582 from a court of competent jurisdiction; or
25583 (iv) the qualified beneficiary timely filed a proof of claim where permitted in the
25584 bankruptcy action, if the nonpaying party has filed bankruptcy;
25585 (e) the qualified beneficiary is not entitled to reimbursement from any other person;
25586 and
25587 (f) the qualified beneficiary provided qualified services to a contractor, licensed or
25588 exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act.
25589 (5) The requirements of Subsections (4)(d) (ii) and (iii) need not be met if the qualified
25590 beneficiary is prevented from compliance because the nonpaying party files bankruptcy.
25591 (6) To recover from the fund a laborer shall:
25592 (a) establish that the laborer has not been paid wages due for the work performed at the
25593 site of a construction on an owner-occupied residence; and
25594 (b) provide any supporting documents or information required by rule by the division.
25595 (7) A fee determined by the division under Section [~~63-38-3.2~~] 63J-1-303 shall be
25596 deducted from any recovery from the fund received by a laborer.
25597 (8) The requirements of Subsections (4)(a) and (4)(b) may be satisfied if an owner or
25598 agent of the owner establishes to the satisfaction of the director that the owner of the
25599 owner-occupied residence or the owner's agent entered into a written contract with an original
25600 contractor who:
25601 (a) was a business entity that was not licensed under Title 58, Chapter 55, Utah
25602 Construction Trades Licensing Act, but was solely or partly owned by an individual who was

25603 licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act; or
25604 (b) was a natural person who was not licensed under Title 58, Chapter 55, Utah
25605 Construction Trades Licensing Act, but who was the sole or partial owner and qualifier of a
25606 business entity that was licensed under Title 58, Chapter 55, Utah Construction Trades
25607 Licensing Act.
25608 (9) The director shall have equitable power to determine if the requirements of
25609 Subsections (4)(a) and (4)(b) have been met, but any decision by the director under this chapter
25610 shall not alter or have any effect on any other decision by the division under Title 58,
25611 Occupations and Professions.
25612 Section 514. Section **38-11-206** is amended to read:
25613 **38-11-206. Limitations on fund balance -- Payment of special assessments.**
25614 (1) (a) If on December 31 of any year the balance in the fund is less than $1,500,000,
25615 the division shall make a special assessment against all qualified beneficiaries in an amount
25616 that will restore the unencumbered fund balance to not less than $2,000,000 or more than
25617 $2,500,000.
25618 (b) The amount of the special assessment shall be determined by the division under
25619 Subsection [~~63-38-3.2~~] 63J-1-303(5) after consultation with the board.
25620 (2) Special assessments made under this section shall be due and payable on May 1
25621 following assessment.
25622 (3) The fund balance limitations set forth in Subsection (1)(a) shall be used by the
25623 division only for the purpose of determining the amount of any special assessment and do not
25624 prohibit the fund balance from exceeding $2,500,000 or falling below $2,000,000.
25625 Section 515. Section **38-11-207** is amended to read:
25626 **38-11-207. Reimbursement to the fund.**
25627 (1) If the director disburses monies from the fund as a result of a person licensed under
25628 Title 58, Chapter 55, Utah Construction Trades Licensing Act, or a qualified beneficiary failing
25629 to pay qualified beneficiaries:
25630 (a) the division shall issue a notice of the disbursement from the fund and the
25631 obligation to reimburse the fund to the licensee or qualified beneficiary; and
25632 (b) the licensee or qualified beneficiary shall reimburse the fund within 20 days from
25633 the issuance of the notice required by Subsection (1)(a).

25634 (2) The notice required by Subsection (1)(a) shall meet the requirements established by
25635 rule by the division in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
25636 Administrative Rulemaking Act.
25637 (3) (a) A finding of fact in an administrative action that a payment of any amount has
25638 been made from the fund in settlement of a claim arising from the act, representation,
25639 transaction, or conduct of a person licensed under Title 58, Chapter 55, Utah Construction
25640 Trades Licensing Act, in violation of Section 58-55-603 shall result in the immediate
25641 suspension of that person's license without further compliance with [~~Title 63, Chapter 46b~~]
25642 Title 63G, Chapter 4, Administrative Procedures Act.
25643 (b) The finding of fact for Subsection (3)(a) may be made in the same administrative
25644 action as the related claim and may be included in the findings required by Section 38-11-203.
25645 (c) The suspension required by Subsection (3)(a) shall remain in effect until the person
25646 applies for reinstatement and is issued a license in accordance with Sections 58-1-308 and
25647 58-55-303.
25648 Section 516. Section **38-11-301** is amended to read:
25649 **38-11-301. Registration as a qualified beneficiary -- Initial regular assessment --**
25650 **Affidavit.**
25651 (1) A person licensed as of July 1, 1995, as a contractor under the provisions of Title
25652 58, Chapter 55, Utah Construction Trades Licensing Act, in license classifications that
25653 regularly engage in providing qualified services shall be automatically registered as a qualified
25654 beneficiary upon payment of the initial assessment.
25655 (2) A person applying for licensure as a contractor after July 1, 1995, in license
25656 classifications that regularly engage in providing qualified services shall be automatically
25657 registered as a qualified beneficiary upon issuance of a license and payment of the initial
25658 assessment.
25659 (3) (a) After July 1, 1995, any person providing qualified services as other than a
25660 contractor as provided in Subsection (1) or any person exempt from licensure under the
25661 provisions of Title 58, Chapter 55, Utah Construction Trades Licensing Act, may register as a
25662 qualified beneficiary by:
25663 (i) submitting an application in a form prescribed by the division;
25664 (ii) demonstrating registration with the Division of Corporations and Commercial Code

25665 as required by state law;
25666 (iii) paying a registration fee determined by the division under Section [~~63-38-3.2~~]
25667 63J-1-303; and
25668 (iv) paying the initial assessment established under Subsection (4), and any special
25669 assessment determined by the division under Subsection 38-11-206(1).
25670 (b) A person who does not register under Subsection (1), (2), or (3)(a) shall be
25671 prohibited from recovering under the fund as a qualified beneficiary for work performed as
25672 qualified services while not registered with the fund.
25673 (4) (a) An applicant shall pay an initial assessment determined by the division under
25674 Section [~~63-38-3.2~~] 63J-1-303.
25675 (b) The initial assessment to qualified registrants under Subsection (1) shall be made
25676 not later than July 15, 1995, and shall be paid no later than November 1, 1995.
25677 (c) The initial assessment to qualified registrants under Subsections (2) and (3) shall be
25678 paid at the time of application for license or registration, however, beginning on May 1, 1996,
25679 only one initial assessment or special assessments thereafter shall be required for persons
25680 having multiple licenses under this section.
25681 (5) A person shall be considered to have been registered as a qualified beneficiary on
25682 January 1, 1995, for purposes of meeting the requirements of Subsection 38-11-204(1)(c)(ii) if
25683 the person:
25684 (a) (i) is licensed on or before July 1, 1995, as a contractor under the provisions of Title
25685 58, Chapter 55, Utah Construction Trades Licensing Act, in license classifications that
25686 regularly engage in providing qualified services; or
25687 (ii) provides qualified services after July 1, 1995, as other than a contractor as provided
25688 in Subsection (5)(a)(i) or is exempt from licensure under the provisions of Title 58, Chapter 55,
25689 Utah Construction Trades Licensing Act; and
25690 (b) registers as a qualified beneficiary under Subsection (1) or (3) on or before
25691 November 1, 1995.
25692 Section 517. Section **38-11-302** is amended to read:
25693 **38-11-302. Effective date and term of registration -- Penalty for failure to pay**
25694 **assessments -- Reinstatement.**
25695 (1) (a) A registration as a qualified beneficiary under this chapter is effective on the

25696 date the division receives the initial assessment of the qualified beneficiary.
25697 (b) A registrant shall be required to renew [~~his~~] the registrant's registration upon
25698 imposition of a special assessment under Subsection 38-11-206(1).
25699 (2) A registration automatically expires if a registrant fails to renew [~~his~~] the
25700 registrant's registration as required under Subsection (1).
25701 (3) The division shall notify a qualified beneficiary in accordance with procedures
25702 established by rule when renewal of registration is required in connection with a special
25703 assessment.
25704 (4) The license renewal notice to a contractor shall notify the licensee that failure to
25705 renew [~~his~~] the license will result in automatic expiration of [~~his~~] the licensee's registration as a
25706 qualified beneficiary and of the limitations set forth in Subsection (6) on qualified beneficiaries
25707 whose registration has expired to make a claim upon the fund.
25708 (5) Registration may be reinstated by:
25709 (a) submitting an application for reinstatement in a form prescribed by the division;
25710 (b) paying a reinstatement fee determined by the division under Section [~~63-38-3.2~~]
25711 63J-1-303; and
25712 (c) paying all unpaid assessments that were assessed during the period of the person's
25713 registration and all assessments made upon qualified beneficiaries during the period the
25714 applicant's registration was expired.
25715 (6) (a) A qualified beneficiary whose registration expires loses all rights to make a
25716 claim upon the fund or receive compensation from the fund resulting from providing qualified
25717 service during the period of expiration.
25718 (b) Except as provided by Section 58-55-401, a qualified beneficiary whose
25719 registration expires may make a claim upon the fund or receive compensation from the fund for
25720 qualified services provided during the period the qualified beneficiary was part of the fund.
25721 Section 518. Section **39-5-2** is amended to read:
25722 **39-5-2. Form of compact.**
25723 The compact shall be in substantially the following form:
25724 The contracting states solemnly agree:
25725
25726 Article 1

25727 PURPOSE OF ACT -- UTILIZATION OF RESOURCES --
25728 DIRECTORS ACT AS COMMITTEE
25729
25730 The purpose of this compact is to provide mutual aid among the States in meeting any
25731 emergency or disaster as defined in Section [~~63-5-2~~] 63K-3-102, from enemy attack or other
25732 cause, natural or otherwise, including sabotage and subversive acts and direct attacks by
25733 bombs, shellfire, and atomic, radiological, chemical, bacteriological means, and other weapons.
25734 The prompt, full, and effective utilization of the resources of the respective States, including
25735 resources available from the United States Government or any other source, are essential to the
25736 safety, care, and welfare of the people in the event of an emergency, and any other resources,
25737 including personnel, equipment, or supplies, shall be incorporated into a plan or plans of
25738 mutual aid to be developed among the Civil Defense agencies or similar bodies of the States
25739 that are parties to this compact. The Directors of Civil Defense of all party States shall
25740 constitute a committee to formulate plans and take all necessary steps for the implementation
25741 of this compact.
25742
25743 Article 2
25744
25745 CIVIL DEFENSE PLANS -- CONSULTATIONS --
25746 UNIFORMITY OF ACTION
25747
25748 It is the duty of each party State to formulate civil defense plans and programs for
25749 application within each State. There shall be frequent consultation between the representatives
25750 of the States and with the United States Government and the free exchange of information and
25751 plans, including inventories of any materials and equipment available for civil defense. In
25752 carrying out these civil defense plans and programs, the party States shall, if possible, provide
25753 and follow uniform standards, practices, and rules and regulations including:
25754 (1) insignia, arm bands, and other distinctive articles to designate and distinguish the
25755 different civil defense services;
25756 (2) blackouts and practice blackouts, air raid drills, mobilization of civil defense forces,
25757 and other tests and exercises;

25758 (3) warnings and signals for drills or attacks and the mechanical devices to be used in
25759 connection with them;
25760 (4) the effective screening or extinguishing of all lights, lighting devices, and
25761 appliances;
25762 (5) shutting off water mains, gas mains, electric power connections, and the suspension
25763 of all other utility services;
25764 (6) all materials or equipment used or to be used for civil defense purposes in order to
25765 assure that the materials and equipment will be easily and freely interchangeable when used in
25766 or by any other party State;
25767 (7) the conduct of civilians and the movement and cessation of movement of
25768 pedestrians and vehicular traffic, prior, during, and subsequent to drills or attacks;
25769 (8) the safety of public meetings or gatherings; and
25770 (9) mobile support units.
25771
25772 Article 3
25773
25774 DUTIES OF MEMBER STATES
25775
25776 Any party State requested to render mutual aid shall take any action necessary to
25777 provide and make available the resources covered by this compact in accordance with its terms;
25778 provided that it is understood that the State rendering aid may withhold resources to the extent
25779 necessary to provide reasonable protection for itself. Each party State shall extend to the civil
25780 defense forces of any other party State, while operating within its State limits under the terms
25781 and conditions of this compact, the same powers, except that of arrest unless specifically
25782 authorized by the receiving State, duties, rights, privileges, and immunities as if they were
25783 performing their duties in the State in which normally employed or rendering services. Civil
25784 defense forces will continue under the command and control of their regular leaders but the
25785 organizational units will come under the operational control of the civil defense authorities of
25786 the State receiving assistance.
25787
25788 Article 4

25789 EFFECT OF STATE LICENSE, CERTIFICATE
25790 OR PERMIT IN OTHER STATES
25791
25792 Any person holding a license, certificate, or other permit issued by any State evidencing
25793 the meeting of qualifications for professional, mechanical, or other skills, may render aid
25794 involving the skill in any party State to meet an emergency or disaster and that State shall
25795 recognize the license, certificate, or other permit as if issued in the State in which aid is
25796 rendered.
25797
25798 Article 5
25799
25800 RESTRICTION ON LIABILITY
25801
25802 No party State or its officers or employees rendering aid in another State pursuant to
25803 this compact shall be liable on account of any act or omission in good faith on the part of its
25804 forces while engaged, or on account of the maintenance or use of any equipment or supplies in
25805 connection with giving aid.
25806
25807 Article 6
25808
25809 BASIC CONSIDERATIONS AND AUXILIARY ACTION
25810
25811 (1) Since it is probable that the pattern and detail of the machinery for mutual aid
25812 among two or more States may differ from that appropriate among other States party to this
25813 compact, this instrument contains elements of a broad base common to all States, and nothing
25814 contained in it shall preclude any State from entering into supplementary agreements with
25815 another State or States. Any supplementary agreements may comprehend, but shall not be
25816 limited to provisions for evacuation and reception of injured and other persons, and the
25817 exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and
25818 communications personnel, equipment, and supplies.
25819 (2) Any supplementary agreement made to implement this Article may not be

25820 construed to abridge, impair, or supersede any other provision of this compact or any obligation
25821 undertaken by a State pursuant to the terms of this compact. A supplementary agreement
25822 implementing this Article may modify, expand, or add to any obligation among the parties to
25823 the supplementary agreement.
25824
25825 Article 7
25826
25827 COMPENSATION AND BENEFITS
25828
25829 Each party State shall provide for the payment of compensation and death benefits to
25830 injured members of the civil defense forces of that State and the representatives of deceased
25831 members of the forces of that State in case the members sustain injuries or are killed while
25832 rendering aid pursuant to this compact, in the same manner and on the same terms as if the
25833 injury or death were sustained within that State.
25834
25835 Article 8
25836
25837 CONTRIBUTIONS AND REIMBURSEMENTS
25838
25839 Any party State rendering aid in another State pursuant to this compact shall be
25840 reimbursed by the party State receiving aid for any loss or damage to or expense incurred in the
25841 operation of any equipment answering a request for aid, and for the cost incurred in connection
25842 with the requests; provided that any aiding party State may assume in whole or in part any loss,
25843 damage, expense, or other cost, or may loan any equipment or donate any services to the
25844 receiving party State without charge or cost; and provided further that any two or more party
25845 States may enter into supplementary agreements establishing a different allocation of costs as
25846 among those States. The United States Government may relieve the party States receiving aid
25847 from any liability and reimburse the party State supplying civil defense forces for the
25848 compensation paid to and the transportation, subsistence, and maintenance expenses of its
25849 forces during the time of the rendition of aid or assistance outside the State and may also pay
25850 fair and reasonable compensation for the use or utilization of the supplies, materials,

25851 equipment, or facilities so utilized or consumed.
25852
25853 Article 9
25854
25855 PLANS FOR EVACUATION AND RECEPTION OF POPULATIONS
25856
25857 Plans for the orderly evacuation and reception of the civilian population as the result of
25858 an emergency or disaster shall be worked out from time to time between representatives of the
25859 party States and the various local civil defense areas. Any plans shall include the manner of
25860 transporting evacuees, the number of evacuees to be received in different areas, the manner in
25861 which food, clothing, housing, and medical care will be provided, the registration of the
25862 evacuees, the providing of facilities for the notification of relatives or friends and the
25863 forwarding of evacuees to other areas or the bringing in of additional materials, supplies, and
25864 all other relevant factors. Any plans shall provide that the party State receiving evacuees shall
25865 be reimbursed generally for the out-of-pocket expenses incurred in receiving and caring for the
25866 evacuees, for expenditures for transportation, food, clothing, medicines and medical care, and
25867 like items. Any expenditures shall be reimbursed by the party State of which the evacuees are
25868 residents, or by the United States Government under plans approved by it. After the
25869 termination of the emergency or disaster, the party State of which the evacuees are residents
25870 shall assume the responsibility for the ultimate support or repatriation of the evacuees.
25871
25872 Article 10
25873
25874 MEMBER STATES
25875
25876 This compact shall be available to any state of the United States and the District of
25877 Columbia.
25878
25879 Article 11
25880
25881 COMMITTEE ACTION AND REQUESTS

25882 The committee established pursuant to Article 1 of this compact may request the Civil
25883 Defense Agency of the United States Government to act as an informational and coordinating
25884 body under this compact, and representatives of that agency of the United States Government
25885 may attend meetings of the committee.
25886
25887 Article 12
25888
25889 WHEN COMPACT EFFECTIVE
25890
25891 This compact shall become operative immediately upon its ratification by any of the
25892 States and Territories enumerated in Article 10 of this compact as between it and the State of
25893 Utah and any other of the States or Territories ratifying it and shall be subject to approval by
25894 Congress unless prior Congressional approval has been given. Duly authenticated copies of
25895 this compact and of any supplementary agreements entered into shall, at the time of their
25896 approval, be deposited with each of the party States and with the Civil Defense Agency and
25897 other appropriate agencies of the United States Government.
25898
25899 Article 13
25900
25901 DURATION OF COMPACT
25902
25903 This compact shall continue in force and remain binding on each party State until the
25904 Legislature or the Governor of the party State takes action to withdraw from it. Any action to
25905 withdraw shall not be effective until 30 days after notice of the action has been sent by the
25906 Governor of the party State desiring to withdraw to the Governors of all other party States.
25907
25908 Article 14
25909
25910 CONSTRUCTION OF COMPACT -- CONSTITUTIONALITY
25911
25912 This compact shall be construed to effectuate the purposes stated in Article 1. If any

25913 provision of this compact is declared unconstitutional, or the applicability to any person or
25914 circumstance is held invalid, the constitutionality of the remainder of this compact and the
25915 applicability to other persons and circumstances shall not be affected.
25916
25917 Article 15
25918
25919 SCOPE OF COMPACT
25920
25921 (1) In addition to the situations in Article 1, this compact shall apply to:
25922 (a) searches for and rescue of persons who are lost, marooned, or otherwise in danger;
25923 (b) actions useful in coping with any disasters or designed to increase the capability to
25924 cope with any disasters;
25925 (c) incidents, or the threat of incidents, which endanger the health or safety of the
25926 public and which require the use of special equipment, trained personnel, or personnel in larger
25927 numbers than are locally available in order to reduce, counteract, or remove the danger;
25928 (d) giving and receiving aid between political subdivisions of party States; and
25929 (e) exercises, drills, or other training or practice activities designed to aid personnel to
25930 prepare for, cope with, or prevent any disaster or other emergency to which this compact
25931 applies.
25932 (2) Except as expressly limited by this compact or a supplementary agreement, any aid
25933 authorized by this compact or a supplementary agreement may be furnished by any agency of a
25934 party State, a political subdivision of the State, or by a joint agency of any two or more party
25935 States or of their subdivisions. Any joint agency providing aid shall be entitled to
25936 reimbursement to the same extent and in the same manner as a state. The personnel of a joint
25937 agency, when rendering aid under this compact shall have the same rights, authority, and
25938 immunity as personnel of party States.
25939 (3) Nothing in this Article shall be construed to exclude from coverage under Articles
25940 1 through 14 of this compact any matter which, in the absence of this Article, could reasonably
25941 be construed to be covered.
25942 Section 519. Section **39-7-119** is amended to read:
25943 **39-7-119. Rulemaking authority.**

25944 The Adjutant General may make rules in accordance with [~~Title 63, Chapter 46a~~] Title
25945 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this chapter.
25946 Section 520. Section **40-2-1.1** is amended to read:
25947 **40-2-1.1. Rulemaking authority.**
25948 In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
25949 Rulemaking Act, the Labor Commission may make rules necessary to implement this chapter.
25950 Section 521. Section **40-2-15** is amended to read:
25951 **40-2-15. Certification requirements -- Fees.**
25952 (1) The Labor Commission shall collect a fee for:
25953 (a) certification tests; or
25954 (b) sections of the test that must be retaken.
25955 (2) (a) The Labor Commission shall establish fees by following the procedures and
25956 requirements of Section [~~63-38-3.2~~] 63J-1-303.
25957 (b) Notwithstanding Subsection [~~63-38-3.2~~] 63J-1-303(2)(e), the Labor Commission
25958 shall retain the fees as dedicated credits and may only use the fees to administer the
25959 certification test.
25960 (3) An applicant who fails any section of the certification test may retake that section
25961 of the test.
25962 (4) (a) An applicant who wishes to obtain a mine foreman certificate shall have at least
25963 four years varied underground coal mining experience, of which:
25964 (i) two years' experience may be credited to a mining engineering graduate of an
25965 approved four-year college; or
25966 (ii) one year's experience may be credited to a graduate of a two-year course in mining
25967 technology.
25968 (b) (i) An applicant who wishes to obtain a surface foreman certificate shall have at
25969 least three years of varied surface experience.
25970 (ii) The Labor Commission may grant a surface foreman certificate applicant credit for
25971 surface experience in any other industry that has substantially equivalent surface facilities.
25972 (c) An applicant who wishes to obtain a fire boss certificate shall have at least two
25973 years of underground coal mining experience, of which:
25974 (i) one year's experience may be credited to a mining engineering graduate of an

25975 approved four-year college; or
25976 (ii) six months' experience may be credited to a graduate of a two-year course in
25977 mining technology.
25978 (d) An applicant who wishes to obtain an underground mine electrician certificate shall
25979 have at least one year of varied electrical experience as specified in 30 C.F.R. Sec. 75.153.
25980 (e) An applicant who wishes to obtain a surface mine electrician certificate shall have
25981 at least one year of varied surface electrical experience as specified in 30 C.F.R. Sec. 77.103.
25982 (5) A certificate issued under Section 40-2-14 and this section shall expire if the
25983 certificate holder ceases to work in the mining industry or a mine related industry for more than
25984 five consecutive years.
25985 Section 522. Section **40-2-16** is amended to read:
25986 **40-2-16. Necessity of certificate -- Temporary certificates -- Surface foreman**
25987 **certificate -- Fee -- Employment of uncertified persons prohibited.**
25988 (1) A person may not work in any occupation referred to in Section 40-2-15 unless
25989 granted a certificate by the Labor Commission.
25990 (2) (a) (i) The Labor Commission may issue a temporary mine foreman certificate or a
25991 temporary surface foreman certificate to an applicant who is:
25992 (A) recommended by a mine; and
25993 (B) interviewed and found competent by two panel members.
25994 (ii) A certificate issued under Subsection (2)(a)(i) shall remain in effect until:
25995 (A) the next scheduled certification test;
25996 (B) retest; or
25997 (C) terminated by the Labor Commission.
25998 (b) (i) The Labor Commission may issue a surface foreman certificate to a current
25999 holder of an underground mine foreman certificate, if the applicant has three years of varied
26000 surface mining experience.
26001 (ii) A surface foreman certificate applicant may receive credit for surface experience in
26002 any other industry that has substantially equivalent surface facilities, if the applicant has
26003 performed or is presently performing the duties normally required of a surface foreman.
26004 (3) (a) The Labor Commission shall collect a fee for each temporary certificate.
26005 (b) The Labor Commission shall establish the fee by following the procedures and

26006 requirements of Section [~~63-38-3.2~~] 63J-1-303.
26007 (4) (a) An owner, operator, contractor, lessee, or agent may not employ a worker in any
26008 occupation referred to in Section 40-2-15 who is uncertified.
26009 (b) The certificate shall be on file and available for inspection to interested persons in
26010 the office of the mine.
26011 Section 523. Section **40-6-10** is amended to read:
26012 **40-6-10. Procedures -- Adjudicative proceedings -- Emergency orders -- Hearing**
26013 **examiners.**
26014 (1) (a) The Board of Oil, Gas, and Mining and the Division of Oil, Gas, and Mining
26015 shall comply with the procedures and requirements of [~~Title 63, Chapter 46b,~~] Title 63G,
26016 Chapter 4, Administrative Procedures Act, in their adjudicative proceedings.
26017 (b) The board shall enact rules governing its practice and procedure that are not
26018 inconsistent with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
26019 (2) When an emergency requiring immediate action is found by the division director or
26020 any board member to exist, [~~he~~] the division director or board member may issue an emergency
26021 order according to the requirements and procedures of [~~Title 63, Chapter 46b~~] Title 63G,
26022 Chapter 4, Administrative Procedures Act.
26023 (3) Any notice required by this chapter, except as otherwise provided, shall be given at
26024 the election of the board either by personal service or by one publication in a daily newspaper
26025 of general circulation in the city of Salt Lake and county of Salt Lake, Utah, and in all
26026 newspapers of general circulation published in the county where the land is affected, or some
26027 part of the land is situated.
26028 (4) (a) Any order made by the board is effective on issuance.
26029 (b) All rules and orders issued by the board shall be:
26030 (i) in writing;
26031 (ii) entered in full in books to be kept by the board for that purpose;
26032 (iii) indexed; and
26033 (iv) public records open for inspection at all times during reasonable office hours.
26034 (c) A copy of any rule, finding of fact, or order, certified by the board or by the division
26035 director, shall be received in evidence in all courts of this state with the same effect as the
26036 original.

26037 (5) The board may act upon its own motion or upon the petition of any interested
26038 person.
26039 (6) (a) The board may appoint a hearing examiner to take evidence and to recommend
26040 findings of fact and conclusions of law to the board.
26041 (b) Any member of the board, division staff, or any other person designated by the
26042 board may serve as a hearing examiner.
26043 (c) The board may enter an order based on the recommendations of the examiner.
26044 Section 524. Section **40-6-14.5** is amended to read:
26045 **40-6-14.5. Oil and Gas Conservation Account created -- Contents -- Use of**
26046 **account monies.**
26047 (1) There is created within the General Fund a restricted account known as the Oil and
26048 Gas Conservation Account.
26049 (2) The contents of the account shall consist of:
26050 (a) revenues from the fee levied under Section 40-6-14, including any penalties or
26051 interest charged for delinquent payments; and
26052 (b) interest and earnings on account monies.
26053 (3) Account monies shall be used to pay for the:
26054 (a) administration of this chapter; and
26055 (b) plugging and reclamation of abandoned oil or gas wells or bore, core, or
26056 exploratory holes for which:
26057 (i) there is no reclamation surety; or
26058 (ii) the forfeited surety is insufficient for plugging and reclamation.
26059 (4) Priority in the use of the monies shall be given to paying for the administration of
26060 this chapter.
26061 (5) Appropriations for plugging and reclamation of abandoned oil or gas wells or bore,
26062 core, or exploratory holes shall be nonlapsing.
26063 (6) The balance of the Oil and Gas Conservation Account at the end of a fiscal year
26064 may not exceed $750,000. Any excess monies shall be transferred to the General Fund.
26065 (7) (a) As used in this Subsection (7), "excess fee revenue" means revenue collected in
26066 fiscal year 1999-2000 from the fee levied under Section 40-6-14 that exceeds the fee revenue
26067 appropriated to the Division of Oil, Gas, and Mining in fiscal year 1999-2000.

26068 (b) If there is a General Fund surplus for fiscal year 1999-2000, the Division of Finance
26069 shall transfer General Fund surplus monies to the Oil and Gas Conservation Account in an
26070 amount up to the excess fee revenue.
26071 (c) The transfer provided in Subsection (7)(b) shall be made after General Fund surplus
26072 monies are transferred to the General Fund Budget Reserve Account pursuant to Section
26073 [~~63-38-2.5~~] 63J-1-202.
26074 Section 525. Section **40-8-4** is amended to read:
26075 **40-8-4. Definitions.**
26076 As used in this chapter:
26077 (1) "Adjudicative proceeding" means:
26078 (a) a division or board action or proceeding determining the legal rights, duties,
26079 privileges, immunities, or other legal interests of one or more identifiable persons, including
26080 actions to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right,
26081 permit, or license; or
26082 (b) judicial review of a division or board action or proceeding specified in Subsection
26083 (1)(a).
26084 (2) "Applicant" means a person who has filed a notice of intent to commence mining
26085 operations, or who has applied to the board for a review of a notice or order.
26086 (3) (a) "Approved notice of intention" means a formally filed notice of intention to
26087 commence mining operations, including revisions to it, which has been approved under Section
26088 40-8-13.
26089 (b) An approved notice of intention is not required for small mining operations.
26090 (4) "Board" means the Board of Oil, Gas and Mining.
26091 (5) "Conference" means an informal adjudicative proceeding conducted by the division
26092 or board.
26093 (6) (a) "Deposit" or "mineral deposit" means an accumulation of mineral matter in the
26094 form of consolidated rock, unconsolidated material, solutions, or occurring on the surface,
26095 beneath the surface, or in the waters of the land from which any product useful to man may be
26096 produced, extracted, or obtained or which is extracted by underground mining methods for
26097 underground storage.
26098 (b) "Deposit" or "mineral deposit" excludes sand, gravel, rock aggregate, water,

26099 geothermal steam, and oil and gas as defined in Title 40, Chapter 6, Board and Division of Oil,
26100 Gas and Mining, but includes oil shale and bituminous sands extracted by mining operations.
26101 (7) "Development" means the work performed in relation to a deposit following its
26102 discovery but prior to and in contemplation of production mining operations, aimed at, but not
26103 limited to, preparing the site for mining operations, defining further the ore deposit by drilling
26104 or other means, conducting pilot plant operations, constructing roads or ancillary facilities, and
26105 other related activities.
26106 (8) "Division" means the Division of Oil, Gas and Mining.
26107 (9) "Emergency order" means an order issued by the board in accordance with the
26108 provisions of [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
26109 (10) (a) "Exploration" means surface-disturbing activities conducted for the purpose of
26110 discovering a deposit or mineral deposit, delineating the boundaries of a deposit or mineral
26111 deposit, and identifying regions or specific areas in which deposits or mineral deposits are most
26112 likely to exist.
26113 (b) "Exploration" includes, but is not limited to: sinking shafts; tunneling; drilling
26114 holes and digging pits or cuts; building of roads, and other access ways; and constructing and
26115 operating other facilities related to these activities.
26116 (11) "Hearing" means a formal adjudicative proceeding conducted by the board under
26117 its procedural rules.
26118 (12) (a) "Imminent danger to the health and safety of the public" means the existence
26119 of a condition or practice, or a violation of a permit requirement or other requirement of this
26120 chapter in a mining operation, which condition, practice, or violation could reasonably be
26121 expected to cause substantial physical harm to persons outside the permit area before the
26122 condition, practice, or violation can be abated.
26123 (b) A reasonable expectation of death or serious injury before abatement exists if a
26124 rational person, subjected to the same conditions or practices giving rise to the peril, would not
26125 expose himself or herself to the danger during the time necessary for abatement.
26126 (13) (a) "Land affected" means the surface and subsurface of an area within the state
26127 where mining operations are being or will be conducted, including, but not limited to:
26128 (i) on-site private ways, roads, and railroads;
26129 (ii) land excavations;

26130 (iii) exploration sites;
26131 (iv) drill sites or workings;
26132 (v) refuse banks or spoil piles;
26133 (vi) evaporation or settling ponds;
26134 (vii) stockpiles;
26135 (viii) leaching dumps;
26136 (ix) placer areas;
26137 (x) tailings ponds or dumps; and
26138 (xi) work, parking, storage, or waste discharge areas, structures, and facilities.
26139 (b) All lands shall be excluded from the provisions of Subsection (13)(a) that would:
26140 (i) be includable as land affected, but which have been reclaimed in accordance with an
26141 approved plan, as may be approved by the board; and
26142 (ii) lands in which mining operations have ceased prior to July 1, 1977.
26143 (14) (a) "Mining operation" means activities conducted on the surface of the land for
26144 the exploration for, development of, or extraction of a mineral deposit, including, but not
26145 limited to, surface mining and the surface effects of underground and in situ mining, on-site
26146 transportation, concentrating, milling, evaporation, and other primary processing.
26147 (b) "Mining operation" does not include:
26148 (i) the extraction of sand, gravel, and rock aggregate;
26149 (ii) the extraction of oil and gas as defined in Title 40, Chapter 6, Board and Division
26150 of Oil, Gas and Mining;
26151 (iii) the extraction of geothermal steam;
26152 (iv) smelting or refining operations;
26153 (v) off-site operations and transportation;
26154 (vi) reconnaissance activities; or
26155 (vii) activities which will not cause significant surface resource disturbance or involve
26156 the use of mechanized earth-moving equipment, such as bulldozers or backhoes.
26157 (15) "Notice" means:
26158 (a) notice of intention, as defined in this chapter; or
26159 (b) written information given to an operator by the division describing compliance
26160 conditions at a mining operation.

26161 (16) "Notice of intention" means a notice to commence mining operations, including
26162 revisions to the notice.
26163 (17) "Off-site" means the land areas that are outside of or beyond the on-site land.
26164 (18) (a) "On-site" means the surface lands on or under which surface or underground
26165 mining operations are conducted.
26166 (b) A series of related properties under the control of a single operator, but separated
26167 by small parcels of land controlled by others, will be considered to be a single site unless an
26168 exception is made by the division.
26169 (19) "Operator" means a natural person, corporation, association, partnership, receiver,
26170 trustee, executor, administrator, guardian, fiduciary, agent, or other organization or
26171 representative, either public or private, owning, controlling, or managing a mining operation or
26172 proposed mining operation.
26173 (20) "Order" means written information provided by the division or board to an
26174 operator or other parties, describing the compliance status of a permit or mining operation.
26175 (21) "Owner" means a natural person, corporation, association, partnership, receiver,
26176 trustee, executor, administrator, guardian, fiduciary, agent, or other organization or
26177 representative, either public or private, owning, controlling, or managing a mineral deposit or
26178 the surface of lands employed in mining operations.
26179 (22) "Permit area" means the area of land indicated on the approved map submitted by
26180 the operator with the application or notice to conduct mining operations.
26181 (23) "Permit" means a permit or notice to conduct mining operations issued by the
26182 division.
26183 (24) "Permittee" means a person holding, or who is required by Utah law to hold, a
26184 valid permit or notice to conduct mining operations.
26185 (25) "Person" means an individual, partnership, association, society, joint stock
26186 company, firm, company, corporation, or other governmental or business organization.
26187 (26) "Reclamation" means actions performed during or after mining operations to
26188 shape, stabilize, revegetate, or treat the land affected in order to achieve a safe, stable,
26189 ecological condition and use which will be consistent with local environmental conditions.
26190 (27) "Small mining operations" means mining operations which disturb or will disturb
26191 five or less surface acres at any given time.

26192 (28) "Unwarranted failure to comply" means the failure of a permittee to prevent the
26193 occurrence of a violation of the permit or a requirement of this chapter due to indifference, lack
26194 of diligence, or lack of reasonable care, or the failure to abate a violation of the permit or this
26195 chapter due to indifference, lack of diligence, or lack of reasonable care.
26196 Section 526. Section **40-8-6** is amended to read:
26197 **40-8-6. Board -- Powers, functions, and duties.**
26198 In addition to those provided in Title 40, Chapter 6, Board and Division of Oil, Gas and
26199 Mining the board has the following powers, functions, and duties:
26200 (1) To enact rules according to the procedures and requirements of [~~Title 63, Chapter~~
26201 ~~46a,~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are reasonably necessary
26202 to carry out the purposes of this chapter.
26203 (2) To hold hearings and to issue orders or other appropriate instruments based upon
26204 the results of those hearings.
26205 (3) To issue emergency orders according to the requirements and provisions of [~~Title~~
26206 ~~63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
26207 (4) To do all other things and take such other actions within the purposes of this act as
26208 may be necessary to enforce its provisions.
26209 Section 527. Section **40-8-7** is amended to read:
26210 **40-8-7. Board and division -- Authority.**
26211 (1) The board and the division may require:
26212 (a) that a notice of intention for all mining operations be filed with, and approved by,
26213 the division, before the mining operation commences or continues pursuant to Sections 40-8-13
26214 and 40-8-23;
26215 (b) the reclamation of lands affected by mining operations after the effective date of
26216 this chapter having due regard for innate differences in mineral deposits;
26217 (c) for mining operations, including small mining operations, the furnishing and
26218 maintenance of reasonable surety to guarantee that the land affected is reclaimed according to
26219 approved plans consistent with on-site conditions;
26220 (d) that the operator rehabilitate, close, or mitigate the impacts of each drill hole, shaft,
26221 or tunnel as required under Section 40-8-13;
26222 (e) that the operator pay legally determined public liability and property damage claims

26223 resulting from mining operations;
26224 (f) that every operator who conducts mining operations in the state maintain suitable
26225 records and make periodic reports to the division as required under this chapter;
26226 (g) that with respect to all mining operations, a notice of intention is filed with and, if
26227 required by this chapter, approved by the division before any such mining operations are
26228 commenced or continued pursuant to Section 40-8-23;
26229 (h) the suspension of mining operations in an emergency situation;
26230 (i) the payment of fixed, uniform, and nonescalating permit fees; or
26231 (j) that mining operations be conducted to minimize or prevent hazards to public health
26232 and safety.
26233 (2) No rule established by the board with respect to mined land reclamation shall have
26234 retroactive effect on existing reclamation plans included as a part of an approved notice of
26235 intention to commence mining operations which was approved prior to the effective date of the
26236 rule.
26237 (3) The board may promulgate rules relating to the surety for mining operations in
26238 accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
26239 Rulemaking Act.
26240 Section 528. Section **40-10-6** is amended to read:
26241 **40-10-6. Powers, functions, and duties of board and division.**
26242 In addition to those provided in Title 40, Chapter 8, the board and division have the
26243 following powers, functions, and duties:
26244 (1) to make and promulgate in accordance with [~~Title 63, Chapter 46a, the~~] Title 63G,
26245 Chapter 3, Utah Administrative Rulemaking Act, [~~such~~] the rules as are specifically necessary
26246 for the regulation of coal mining operations and reclamation operations;
26247 (2) to authorize its employees, agents, or contractors to enter upon any property for the
26248 purpose of carrying out the provisions of this chapter and Title 40, Chapter 8;
26249 (3) to establish specific reclamation and performance standards for new and existing
26250 coal mining operations and to effectuate these standards retroactively;
26251 (4) to prohibit mining and exploration operations without a permit and to establish
26252 procedures and requirements for the preparation, submission, approval, denial, termination, and
26253 modification of applications for coal mining and reclamation permits and for coal exploration

26254 permits;
26255 (5) to set and assess an application fee based on no more than the actual cost of review
26256 and processing of the application, this fee to accompany each application for a surface coal
26257 mining and reclamation permit and each application for an exploration permit;
26258 (6) to establish procedures and detailed requirements for all reclamation plans
26259 submitted as part of a permit application;
26260 (7) to condition the issuance of a permit to commence or continue surface mining
26261 operations upon the posting of performance bonds, deposits, or sureties and to make provision
26262 for the release of same in compliance with the requirements of this chapter;
26263 (8) to appoint or employ technical support, legal services, or independent consultants in
26264 furtherance of the objectives of this chapter and shall be responsible for coordination with other
26265 agencies in matters relating to mined land reclamation and the application of related law; and
26266 (9) to do all other things and take such other actions retroactively or otherwise within
26267 the purposes of this chapter as may be necessary to enforce its provisions.
26268 Section 529. Section **40-10-6.5** is amended to read:
26269 **40-10-6.5. Rulemaking authority and procedure.**
26270 (1) The board shall promulgate rules under this chapter in accordance with [~~Title 63,~~
26271 ~~Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
26272 (2) Except as provided in Subsection (3), no rule which the board adopts for the
26273 purpose of the state administering a program under the federal Surface Mining Control and
26274 Reclamation Act may be more stringent than the corresponding federal regulations which
26275 address the same circumstances. In adopting such rules, the board may incorporate by
26276 reference corresponding federal regulations.
26277 (3) The board may adopt rules more stringent than corresponding federal regulations
26278 for the purpose described in Subsection (2), only if it makes a written finding after public
26279 comment and hearing, and based on evidence in the record, that the corresponding federal
26280 regulation is not adequate to protect public safety and the environment of the state. Those
26281 findings shall be accompanied by an opinion referring to and evaluating the public safety and
26282 environmental information and studies contained in the record which form the basis for the
26283 board's conclusion.
26284 Section 530. Section **40-10-6.7** is amended to read:

26285 **40-10-6.7. Administrative procedures.**
26286 (1) (a) Informal adjudicative proceedings shall be conducted by the division under this
26287 chapter and shall be referred to as conferences or informal conferences.
26288 (b) The conduct of conferences shall be governed by rules adopted by the board which
26289 are in accordance with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures
26290 Act.
26291 (2) (a) (i) Formal adjudicative proceedings shall be conducted by the division or board
26292 under this chapter and shall be referred to as hearings or public hearings.
26293 (ii) The conduct of hearings shall be governed by rules adopted by the board which are
26294 in accordance with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures
26295 Act.
26296 (b) Hearings under this chapter shall be conducted in a manner which guarantees the
26297 parties' due process rights. This includes:
26298 (i) the right to examine any evidence presented to the board;
26299 (ii) the right to cross-examine any witness; and
26300 (iii) a prohibition of ex parte communication between any party and a member of the
26301 board.
26302 (c) A verbatim record of each public hearing required by this chapter shall be made,
26303 and a transcript made available on the motion of any party or by order of the board.
26304 Section 531. Section **40-10-13** is amended to read:
26305 **40-10-13. Advertisement of ownership, location, and boundaries -- Notice to**
26306 **interested agencies or bodies -- Objections -- Conference.**
26307 (1) At the time of submission of an application for a surface coal mining and
26308 reclamation permit, or revision of an existing permit pursuant to the provisions of this chapter,
26309 the applicant shall submit to the division a copy of [~~his~~] the applicant's advertisement of the
26310 ownership, precise location, and boundaries of the land to be affected. At the time of
26311 submission the advertisement shall be placed by the applicant in a local newspaper of general
26312 circulation in the locality of the proposed surface mine at least once a week for four
26313 consecutive weeks. The division shall notify various local governmental bodies, planning
26314 agencies, and sewage and water treatment authorities of water companies in the locality in
26315 which the proposed surface mining will take place, notifying them of the operator's intention to

26316 surface mine a particularly described tract of land and indicating the application's permit
26317 number and where a copy of the proposed mining and reclamation plan may be inspected.
26318 These local bodies, agencies, authorities, or companies may submit written comments within a
26319 reasonable period established by the division on the mining applications with respect to the
26320 effects of the proposed operation on the environment which are within their area of
26321 responsibility. These comments shall immediately be transmitted to the applicant by the
26322 division and shall be made available to the public at the same locations as are the mining
26323 applications.
26324 (2) (a) Any person having an interest which is or may be adversely affected or the
26325 officer or head of any federal, state, or local governmental agency or authority shall have the
26326 right to file written objections to the proposed initial or revised application for a permit for
26327 surface coal mining and reclamation operations with the division within 30 days after the last
26328 publication of the notice. These objections shall immediately be transmitted to the applicant by
26329 the division and shall be made available to the public.
26330 (b) If written objections are filed and a conference requested, the division shall then
26331 hold a conference within a reasonable time of the receipt of the objections or request. The
26332 conference shall be informal and shall be conducted in accordance with the procedures
26333 described in this Subsection (b), irrespective of the requirements of Section [~~63-46b-5~~]
26334 63G-4-203, Administrative Procedures Act. The conference shall be held in the locality of the
26335 coal mining and reclamation operation if requested within a reasonable time after written
26336 objections or the request for an informal conference are received by the division. The date,
26337 time, and location of the conference shall be advertised by the division in a newspaper of
26338 general circulation in the locality at least two weeks prior to the scheduled conference date.
26339 The division may arrange with the applicant upon request by any party to the administrative
26340 proceeding access to the proposed mining area for the purpose of gathering information
26341 relevant to the proceeding. An electronic or stenographic record shall be made of the
26342 conference proceeding unless waived by all parties. This record shall be maintained and shall
26343 be accessible to the parties until final release of the applicant's performance bond. In the event
26344 all parties requesting the conference stipulate agreement prior to the requested conference and
26345 withdraw their request, the conference need not be held.
26346 Section 532. Section **40-10-14** is amended to read:

26347 **40-10-14. Division's findings issued to applicant and parties to conference --**
26348 **Notice to applicant of approval or disapproval of application -- Hearing -- Temporary**
26349 **relief -- Appeal to district court -- Further review.**
26350 (1) If a conference has been held under Subsection 40-10-13(2), the division shall issue
26351 and furnish the applicant for a permit and persons who are parties to the proceedings with the
26352 written finding of the division granting or denying the permit in whole or in part and stating the
26353 reasons, within the 60 days after the conference.
26354 (2) If there has been no conference held under Subsection 40-10-13(2), the division
26355 shall notify the applicant for a permit within a reasonable time as set forth in rules, taking into
26356 account the time needed for proper investigation of the site, the complexity of the permit
26357 application, and whether or not written objection to the application has been filed, whether the
26358 application has been approved or disapproved in whole or part.
26359 (3) Upon approval of the application, the permit shall be issued. If the application is
26360 disapproved, specific reasons shall be set forth in the notification. Within 30 days after the
26361 applicant is notified of the final decision of the division on the permit application, the applicant
26362 or any person with an interest which is or may be adversely affected may request a hearing on
26363 the reasons for the final determination. The board shall hold a hearing pursuant to the rules of
26364 practice and procedure of the board within 30 days of this request and provide notification to
26365 all interested parties at the time that the applicant is notified. Within 30 days after the hearing
26366 the board shall issue and furnish the applicant, and all persons who participated in the hearing,
26367 with the written decision of the board granting or denying the permit in whole or in part and
26368 stating the reasons.
26369 (4) Where a hearing is requested pursuant to Subsection (3), the board may, under
26370 conditions it prescribes, grant temporary relief it deems appropriate pending final determination
26371 of the proceedings if:
26372 (a) all parties to the proceedings have been notified and given an opportunity to be
26373 heard on a request for temporary relief;
26374 (b) the person requesting the relief shows that there is a substantial likelihood that [~~he~~]
26375 the person will prevail on the merits of the final determination of the proceedings; and
26376 (c) the relief will not adversely affect the public health or safety or cause significant
26377 imminent environmental harm to land, air, or water resources.

26378 (5) For the purpose of the hearing, the board may administer oaths, subpoena witnesses
26379 or written or printed materials, compel attendance of the witnesses or production of the
26380 materials, and take evidence, including, but not limited to, site inspections of the land to be
26381 affected and other surface coal mining operations carried on by the applicant in the general
26382 vicinity of the proposed operation. A verbatim record of each public hearing required by this
26383 chapter shall be made, and a transcript made available on the motion of any party or by order of
26384 the board.
26385 (6) (a) An applicant or person with an interest which is or may be adversely affected
26386 who has participated in the proceedings as an objector, and who is aggrieved by the decision of
26387 the board, may appeal the decision of the board directly to the Utah Supreme Court.
26388 (b) If the board fails to act within the time limits specified in this chapter, the applicant
26389 or any person with an interest which is or may be adversely affected, who has requested a
26390 hearing in accordance with Subsection (3), may bring an action in the district court for the
26391 county in which the proposed operation is located.
26392 (c) Any party to the action in district court may appeal from the final judgment, order,
26393 or decree of the district court.
26394 (d) Time frames for appeals under Subsections (6)(a) through (c) shall be consistent
26395 with applicable provisions in Section [~~63-46b-14, Administrative Procedures Act~~] 63G-4-401.
26396 Section 533. Section **40-10-16** is amended to read:
26397 **40-10-16. Release of performance bond, surety, or deposit -- Inspection and**
26398 **evaluation of reclamation work -- Action on application for release of bond -- Objections**
26399 **-- Formal hearing or informal conference.**
26400 (1) The division shall adopt and promulgate rules providing for the release of all or
26401 part of a performance bond, surety, or deposit which will include the following requirements:
26402 (a) filing of a request with the division by the operator; and
26403 (b) advertisement by the operator designed to give public notice of the release and the
26404 reclamation steps taken by the operator.
26405 (2) Upon receipt of the notification and request, the division shall within 30 days
26406 conduct an inspection and evaluation of the reclamation work involved. The evaluation shall
26407 consider, among other things, the degree of difficulty to complete any remaining reclamation,
26408 whether pollution of surface and subsurface water is occurring, the probability of continuance

26409 of future occurrence of the pollution, and the estimated cost of abating the pollution. The
26410 division shall notify the operator in writing of its decision to release or not to release all or part
26411 of the performance bond or deposit within 60 days from the filing of the request, if no public
26412 hearing is held pursuant to Subsection (6), and if there has been a public hearing held pursuant
26413 to Subsection (6), within 30 days thereafter.
26414 (3) The division may release in whole or in part the bond or deposit if the division is
26415 satisfied the reclamation covered by the bond or deposit or portion of them has been
26416 accomplished as required by this chapter according to the schedule set forth in the division's
26417 rules, but no bond shall be fully released until all reclamation requirements of this chapter are
26418 finally met.
26419 (4) If the division disapproves the application for release of the bond or portion of it,
26420 the division shall notify the permittee in writing, stating the reasons for disapproval and
26421 recommending corrective actions necessary to secure the release and allowing opportunity for a
26422 public hearing.
26423 (5) When any application for total or partial bond release is filed with the division, the
26424 division shall notify the municipality in which a surface coal mining operation is located by
26425 certified mail at least 30 days prior to the release of all or a portion of the bond.
26426 (6) (a) Any person with a valid legal interest which may be adversely affected by
26427 release of the bond or the responsible officer or head of any federal, state, or local
26428 governmental agency which has jurisdiction by law or special expertise with respect to any
26429 environmental, social, or economic impact involved in the operation, or is authorized to
26430 develop and enforce environmental standards with respect to these operations shall have the
26431 right to file written objections to the proposed release from bond with the division within 30
26432 days after the last publication of the above notice.
26433 (b) If written objections are filed and a conference is requested, the division shall
26434 inform all the interested parties of the time and place of the conference and hold an informal
26435 conference within 30 days after the request is filed with the division.
26436 (c) The conference officer may convert the conference to a formal proceeding under the
26437 standards set forth by Section [~~63-46b-4~~] 63G-4-202. The matter shall be scheduled for
26438 hearing before the board and a hearing shall be held in accordance with the rules of practice
26439 and procedure of the board.

26440 (d) A decision from the informal conference may be appealed to the board. The board
26441 shall hold a hearing pursuant to the rules of practice and procedure of the board.
26442 Section 534. Section **40-10-21** is amended to read:
26443 **40-10-21. Civil action to compel compliance with chapter -- Jurisdiction -- Venue**
26444 **-- Division and board as parties -- Court costs -- Security when temporary restraining**
26445 **order or injunction sought -- Other rights not affected -- Action for damages.**
26446 (1) (a) Except as provided in Subsection (2), any person having an interest which is or
26447 may be adversely affected may commence a civil action on [~~his~~] the person's own behalf to
26448 compel compliance with this chapter against:
26449 (i) the state or any other governmental instrumentality or agency to the extent permitted
26450 by the 11th Amendment to the United States Constitution or [~~Title 63, Chapter 30d~~] Title 63G,
26451 Chapter 7, Governmental Immunity Act of Utah, which is alleged to be in violation of the
26452 provisions of this chapter or of any rule, order, or permit issued pursuant to it;
26453 (ii) any person who is alleged to be in violation of any rule, order, or permit issued
26454 pursuant to this chapter; or
26455 (iii) the division or board where there is alleged a failure of the division or board to
26456 perform any act or duty under this chapter which is not discretionary with the division or with
26457 the board.
26458 (b) The district courts shall have jurisdiction without regard to the amount in
26459 controversy or the citizenship of the parties.
26460 (2) No action may be commenced:
26461 (a) under Subsection (1)(a)(i) or (ii):
26462 (i) prior to 60 days after the plaintiff has given notice in writing of the violation to the
26463 division and to any alleged violator; or
26464 (ii) if the attorney general has commenced and is diligently prosecuting a civil action in
26465 a court of the state to require compliance with the provisions of this chapter, or any rule, order,
26466 or permit issued pursuant to this chapter; or
26467 (b) under Subsection (1)(a)(iii) prior to 60 days after the plaintiff has given notice in
26468 writing of the action to the board, in the manner as the board prescribes by rule, except that the
26469 action may be brought immediately after the notification in the case where the violation or
26470 order complained of constitutes an imminent threat to the health or safety of the plaintiff or

26471 would immediately affect a legal interest of the plaintiff.
26472 (3) (a) Any action concerning a violation of this chapter or the rules promulgated under
26473 it may be brought only in the judicial district in which the surface coal mining operation
26474 complained of is located.
26475 (b) In the action, the division and board, if not a party, may intervene as a matter of
26476 right.
26477 (4) (a) The court, in issuing any final order in any action brought pursuant to
26478 Subsection (1), may award costs of litigation, including attorney and expert witness fees, to any
26479 party whenever the court determines that award is appropriate.
26480 (b) The court may, if a temporary restraining order or preliminary injunction is sought,
26481 require the filing of a bond or equivalent security in accordance with the Utah Rules of Civil
26482 Procedure.
26483 (5) Nothing in this section may restrict any right which any person, or class of persons,
26484 has under any statute or common law to seek enforcement of any of the provisions of this
26485 chapter and the rules promulgated under it, or to seek any other relief, including relief against
26486 the division and board.
26487 (6) Any person who is injured in his person or property through the violation by an
26488 operator of any rule, order, or permit issued pursuant to this chapter may bring an action for
26489 damages, including reasonable attorney and expert witness fees, only in the judicial district in
26490 which the surface coal mining operation complained of is located. Nothing in this Subsection
26491 (6) shall affect the rights established by or limits imposed under Utah workmen's compensation
26492 laws.
26493 Section 535. Section **40-10-30** is amended to read:
26494 **40-10-30. Judicial review of rules or orders.**
26495 (1) Judicial review of adjudicative proceedings under this chapter is governed by [~~Title~~
26496 ~~63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, and provisions of this
26497 chapter consistent with the Administrative Procedures Act.
26498 (2) Judicial review of the board's rulemaking procedures and rules adopted under this
26499 chapter is governed by [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
26500 Rulemaking Act.
26501 (3) An appeal from an order of the board shall be directly to the Utah Supreme Court

26502 and is not a trial de novo. The court shall set aside the board action if it is found to be:
26503 (a) unreasonable, unjust, arbitrary, capricious, or an abuse of discretion;
26504 (b) contrary to constitutional right, power, privilege, or immunity;
26505 (c) in excess of statutory jurisdiction, authority, or limitations;
26506 (d) not in compliance with procedure required by law;
26507 (e) based upon a clearly erroneous interpretation or application of the law; or
26508 (f) as to an adjudicative proceeding, unsupported by substantial evidence on the record.
26509 (4) An action or appeal involving an order of the board shall be determined as
26510 expeditiously as feasible and in accordance with Section 78-2-2. The Utah Supreme Court
26511 shall determine the issues on both questions of law and fact and shall affirm or set aside the
26512 rule or order, enjoin or stay the effective date of agency action, or remand the cause to the
26513 board for further proceedings. Judicial review of disputed issues of fact shall be confined to
26514 the agency record. The court may, in its discretion, receive additional evidence for good cause
26515 shown.
26516 (5) If the board fails to perform any act or duty under this chapter which is not
26517 discretionary, the aggrieved person may bring an action in the district court of the county in
26518 which the operation or proposed operation is located.
26519 Section 536. Section **41-1a-115** is amended to read:
26520 **41-1a-115. Division records -- Copies.**
26521 (1) The division shall file each application received.
26522 (2) The division shall keep a record of each registration on a calendar year basis as
26523 follows:
26524 (a) under a distinctive registration number assigned to the vehicle, vessel, or outboard
26525 motor;
26526 (b) alphabetically, under the name of the owner of the vehicle, vessel, or outboard
26527 motor;
26528 (c) under the identification number of the vehicle, vessel, or outboard motor; and
26529 (d) in any manner the division finds desirable for compiling statistical information or
26530 of comparative value for use in determining registration fees in future years.
26531 (3) (a) The division shall maintain a current record of each certificate of title it issues.
26532 (b) (i) The division shall file and retain every surrendered certificate of title and every

26533 application for title to permit the tracing of title of the vehicles designated in them.
26534 (ii) The retention period for division records shall be set by the Division of Archives
26535 and Records Service in accordance with [~~Title 63, Chapter 2~~] Title 63G, Chapter 2,
26536 Government Records Access and Management Act.
26537 (4) (a) The commission and officers of the division the commission designates may
26538 prepare under the seal of the division and deliver upon request a certified copy of any record of
26539 the division, including microfilmed records, charging a fee, determined by the commission
26540 pursuant to Section [~~63-38-3.2~~] 63J-1-303, for each document authenticated.
26541 (b) The application shall include the requested information to identify the applicant.
26542 (c) Each certified copy is admissible in any proceeding in any court in the same manner
26543 as the original.
26544 (5) The division shall comply with [~~Title 63, Chapter 2~~] Title 63G, Chapter 2,
26545 Government Records Access and Management Act.
26546 Section 537. Section **41-1a-116** is amended to read:
26547 **41-1a-116. Records -- Access to records -- Fees.**
26548 (1) (a) All motor vehicle title and registration records of the division are protected
26549 unless the division determines based upon a written request by the subject of the record that the
26550 record is public.
26551 (b) In addition to the provisions of this section, access to all division records is
26552 permitted for all purposes described in the federal Driver's Privacy Protection Act of 1994, 18
26553 U.S.C. Chapter 123.
26554 (2) (a) Access to public records is determined by Section [~~63-2-201~~] 63G-2-201.
26555 (b) A record designated as public under Subsection (1)(a) may be used for advertising
26556 or solicitation purposes.
26557 (3) Access to protected records, except as provided in Subsection (4), is determined by
26558 Section [~~63-2-202~~] 63G-2-202.
26559 (4) In addition to those persons granted access to protected records under Section
26560 [~~63-2-202~~] 63G-2-202, the division may disclose a protected record to a licensed private
26561 investigator, holding a valid agency or registrant license, with a legitimate business need, a
26562 person with a bona fide security interest, or the owner of a mobile home park subject to
26563 Subsection (5), only upon receipt of a signed acknowledgment that the person receiving that

26564 protected record may not:
26565 (a) resell or disclose information from that record to any other person except as
26566 permitted in the federal Driver's Privacy Protection Act of 1994; or
26567 (b) use information from that record for advertising or solicitation purposes.
26568 (5) The division may disclose the name or address, or both, of the lienholder or mobile
26569 home owner of record, or both of them, to the owner of a mobile home park, if all of the
26570 following conditions are met:
26571 (a) a mobile home located within the mobile home park owner's park has been
26572 abandoned under Section 57-16-13 or the resident is in default under the resident's lease;
26573 (b) the mobile home park owner has conducted a reasonable search, but is unable to
26574 determine the name or address, or both, of the lienholder or mobile home owner of record; and
26575 (c) the mobile home park owner has submitted a written statement to the division
26576 explaining the mobile home park owner's efforts to determine the name or address, or both, of
26577 the lienholder or mobile home owner of record before the mobile home park owner contacted
26578 the division.
26579 (6) The division may provide protected information to a statistic gathering entity under
26580 Subsection (4) only in summary form.
26581 (7) A person allowed access to protected records under Subsection (4) may request
26582 motor vehicle title or registration information from the division regarding any person, entity, or
26583 motor vehicle by submitting a written application on a form provided by the division.
26584 (8) If a person regularly requests information for business purposes, the division may
26585 by rule allow the information requests to be made by telephone and fees as required under
26586 Subsection (9) charged to a division billing account to facilitate division service. The rules
26587 shall require that the:
26588 (a) division determine if the nature of the business and the volume of requests merit the
26589 dissemination of the information by telephone;
26590 (b) division determine if the credit rating of the requesting party justifies providing a
26591 billing account; and
26592 (c) requestor submit to the division an application that includes names and signatures
26593 of persons authorized to request information by telephone and charge the fees to the billing
26594 account.

26595 (9) (a) The division shall charge a reasonable search fee determined under Section
26596 [~~63-38-3.2~~] 63J-1-303 for the research of each record requested.
26597 (b) Fees may not be charged for furnishing information to persons necessary for their
26598 compliance with this chapter.
26599 (c) Law enforcement agencies have access to division records free of charge.
26600 Section 538. Section **41-1a-117** is amended to read:
26601 **41-1a-117. Adjudicative proceedings.**
26602 The commission and the division shall comply with the procedures and requirements
26603 of [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, in all
26604 adjudicative proceedings conducted under this chapter.
26605 Section 539. Section **41-1a-119** is amended to read:
26606 **41-1a-119. Emergency procedures for collection of fees.**
26607 (1) If the commission finds that the owner or operator of a vehicle who is liable for the
26608 payment of any registration fee required by this chapter plans to depart quickly from the state,
26609 to remove [~~his~~] the owner or operator's property from the state, to conceal [~~himself~~] the owner
26610 or operator's person or [~~his~~] property, or do any other act tending to prejudice or render wholly
26611 or partially ineffectual proceedings to collect the registration fees, the commission shall follow
26612 the emergency procedures set forth in [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
26613 Administrative Procedures Act, and declare that the registration fees are immediately due and
26614 payable.
26615 (2) When the commission issues its emergency order, the registration fees are
26616 immediately due and payable after notice is given to the owner or operator of the vehicle.
26617 Section 540. Section **41-1a-231** is amended to read:
26618 **41-1a-231. Special mobile equipment status.**
26619 (1) "Special mobile equipment" status as defined under Section 41-1a-102 shall be
26620 approved by the Department of Transportation in consultation with the Motor Carrier Advisory
26621 Board created under Section 72-9-201.
26622 (2) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
26623 Administrative Rulemaking Act, the Department of Transportation in consultation with the
26624 State Tax Commission shall make rules establishing procedures for application, identification,
26625 approval, denial, and appeal of special mobile equipment status.

26626 Section 541. Section **41-1a-301** is amended to read:
26627 **41-1a-301. Apportioned registration and licensing of interstate vehicles.**
26628 (1) (a) An owner or operator of a fleet of commercial vehicles based in this state and
26629 operating in two or more jurisdictions may register commercial vehicles for operation under the
26630 International Registration Plan or the Uniform Vehicle Registration Proration and Reciprocity
26631 Agreement by filing an application with the division.
26632 (b) The application shall include information that identifies the vehicle owner, the
26633 vehicle, the miles traveled in each jurisdiction, and other information pertinent to the
26634 registration of apportioned vehicles.
26635 (c) Vehicles operated exclusively in this state may not be apportioned.
26636 (2) (a) If no operations were conducted during the preceding year, the application shall
26637 contain a statement of the proposed operations and an estimate of annual mileage for each
26638 jurisdiction.
26639 (b) The division may adjust the estimate if the division is not satisfied with its
26640 correctness.
26641 (c) At renewal, the registrant shall use the actual mileage from the preceding year in
26642 computing fees due each jurisdiction.
26643 (3) The registration fee for apportioned vehicles shall be determined as follows:
26644 (a) divide the in-jurisdiction miles by the total miles generated during the preceding
26645 year;
26646 (b) total the fees for each vehicle based on the fees prescribed in Section 41-1a-1206;
26647 and
26648 (c) multiply the sum obtained under Subsection (3)(b) by the quotient obtained under
26649 Subsection (3)(a).
26650 (4) Trailers or semitrailers of apportioned fleets may be listed separately as "trailer
26651 fleets" with the fees paid according to the total distance those trailers were towed in all
26652 jurisdictions during the preceding year mileage reporting period.
26653 (5) (a) (i) When the proper fees have been paid and the property tax or in lieu fee has
26654 been cleared under Section 41-1a-206 or 41-1a-207, a registration card, annual decal, and
26655 where necessary, license plate, will be issued for each unit listed on the application.
26656 (ii) An original registration must be carried in each vehicle at all times.

26657 (b) Original registration cards for trailers or semitrailers may be carried in the power
26658 unit.
26659 (c) (i) In lieu of a permanent registration card or license plate, the division may issue
26660 one temporary permit authorizing operation of new or unlicensed vehicles until the permanent
26661 registration is completed.
26662 (ii) Once a temporary permit is issued, the registration process may not be cancelled.
26663 Registration must be completed and the fees and any property tax or in lieu fee due must be
26664 paid for the vehicle for which the permit was issued.
26665 (iii) Temporary permits may not be issued for renewals.
26666 (d) (i) The division shall issue one distinctive license plate that displays the letters APP
26667 for apportioned vehicles.
26668 (ii) The plate shall be displayed on the front of an apportioned truck tractor or power
26669 unit or on the rear of any apportioned vehicle.
26670 (iii) Distinctive decals displaying the word "apportioned" and the month and year of
26671 expiration shall be issued for each apportioned vehicle.
26672 (e) A nonrefundable administrative fee, determined by the commission pursuant to
26673 Section [~~63-38-3.2~~] 63J-1-303, shall be charged for each temporary permit, registration, or
26674 both.
26675 (6) Vehicles that are apportionally registered are fully registered for intrastate and
26676 interstate movements, providing the proper interstate and intrastate authority has been secured.
26677 (7) (a) Vehicles added to an apportioned fleet after the beginning of the registration
26678 year shall be registered by applying the quotient under Subsection (3)(a) for the original
26679 application to the fees due for the remainder of the registration year.
26680 (b) (i) The owner shall maintain and submit complete annual mileage for each vehicle
26681 in each jurisdiction, showing all miles operated by the lessor and lessee.
26682 (ii) The fiscal mileage reporting period begins July 1, and continues through June 30 of
26683 the year immediately preceding the calendar year in which the registration year begins.
26684 (c) (i) An owner-operator, who is a lessor, may be the registrant and the vehicle may be
26685 registered in the name of the owner-operator.
26686 (ii) The identification plates and registration card shall be the property of the lessor and
26687 may reflect both the owner-operator's name and that of the carrier as lessee.

26688 (iii) The allocation of fees shall be according to the operational records of the
26689 owner-operator.
26690 (d) (i) The lessee may be the registrant of a leased vehicle at the option of the lessor.
26691 (ii) If a lessee is the registrant of a leased vehicle, both the lessor's and lessee's name
26692 shall appear on the registration.
26693 (iii) The allocation of fees shall be according to the records of the carrier.
26694 (8) (a) Any registrant whose application for apportioned registration has been accepted
26695 shall preserve the records on which the application is based for a period of three years after the
26696 close of the registration year.
26697 (b) The records shall be made available to the division upon request for audit as to
26698 accuracy of computations, payments, and assessments for deficiencies, or allowances for
26699 credits.
26700 (c) An assessment for deficiency or claim for credit may not be made for any period for
26701 which records are no longer required.
26702 (d) Interest in the amount prescribed by Section 59-1-402 shall be assessed or paid
26703 from the date due until paid on deficiencies found due after audit.
26704 (e) Registrants with deficiencies are subject to the penalties under Section 59-1-401.
26705 (f) The division may enter into agreements with other International Registration Plan
26706 jurisdictions for joint audits.
26707 (9) (a) Except as provided in Subsection (9)(b), all state fees collected under this
26708 section shall be deposited in the Transportation Fund.
26709 (b) The following fees may be used by the commission as a dedicated credit to cover
26710 the costs of electronic credentialing as provided in Section 41-1a-303:
26711 (i) $5 of each temporary registration permit fee paid under Subsection (12)(a)(i) for a
26712 single unit; and
26713 (ii) $10 of each temporary registration permit fee paid under Subsection (12)(a)(ii) for
26714 multiple units.
26715 (10) If registration is for less than a full year, fees for apportioned registration shall be
26716 assessed according to Section 41-1a-1207.
26717 (a) (i) If the registrant is replacing a vehicle for one withdrawn from the fleet and the
26718 new vehicle is of the same weight category as the replaced vehicle, the registrant must file a

26719 supplemental application.
26720 (ii) A registration card that transfers the license plate to the new vehicle shall be issued.
26721 (iii) When a replacement vehicle is of greater weight than the replaced vehicle,
26722 additional registration fees are due.
26723 (b) If a vehicle is withdrawn from an apportioned fleet during the period for which it is
26724 registered, the registrant shall notify the division and surrender the registration card and license
26725 plate of the withdrawn vehicle.
26726 (11) (a) An out-of-state carrier with an apportionally registered vehicle who has not
26727 presented a certificate of property tax or in lieu fee as required by Section 41-1a-206 or
26728 41-1a-207, shall pay, at the time of registration, a proportional part of an equalized highway
26729 use tax computed as follows:
26730 (i) Multiply the number of vehicles or combination vehicles registered in each weight
26731 class by the equivalent tax figure from the following tables:
26732 Vehicle or Combination

26733 Registered Weight	Age of Vehicle	Equivalent Tax
26734 12,000 pounds or less	12 or more years	$10
26735 12,000 pounds or less	9 or more years but less than 12 years	$50
26736 12,000 pounds or less	6 or more years but less than 9 years	$80
26737 12,000 pounds or less	3 or more years but less than 6 years	$110
26738 12,000 pounds or less	Less than 3 years	$150

26739 Vehicle or Combination	Equivalent
26740 Registered Weight	Tax
26741 12,001 - 18,000 pounds	$150
26742 18,001 - 34,000 pounds	200
26743 34,001 - 48,000 pounds	300
26744 48,001 - 64,000 pounds	450
26745 64,001 pounds and over	600

26746 (ii) Multiply the equivalent tax value for the total fleet determined under Subsection
26747 (11)(a)(i) by the fraction computed under Subsection (3) for the apportioned fleet for the
26748 registration year.
26749 (b) Fees shall be assessed as provided in Section 41-1a-1207.

26750 (12) (a) Commercial vehicles meeting the registration requirements of another
26751 jurisdiction may, as an alternative to full or apportioned registration, secure a temporary
26752 registration permit for a period not to exceed 96 hours or until they leave the state, whichever is
26753 less, for a fee of:
26754 (i) $25 for a single unit; and
26755 (ii) $50 for multiple units.
26756 (b) A state temporary permit or registration fee is not required from nonresident owners
26757 or operators of vehicles or combination of vehicles having a gross laden weight of 26,000
26758 pounds or less for each single unit or combination.
26759 Section 542. Section **41-1a-407** is amended to read:
26760 **41-1a-407. Plates issued to political subdivisions or state -- Use of "EX" letters --**
26761 **Confidential information.**
26762 (1) Except as provided in Subsection (2), each municipality, board of education, school
26763 district, state institution of learning, county, other governmental division, subdivision, or
26764 district, and the state shall:
26765 (a) place a license plate displaying the letters, "EX" on every vehicle owned and
26766 operated by it or leased for its exclusive use; and
26767 (b) display an identification mark designating the vehicle as the property of the entity
26768 in a conspicuous place on both sides of the vehicle.
26769 (2) The entity need not display the "EX" license plate or the identification mark
26770 required by Subsection (1) if:
26771 (a) the vehicle is in the direct service of the governor, lieutenant governor, attorney
26772 general, state auditor, or state treasurer of Utah;
26773 (b) the vehicle is used in official investigative work where secrecy is essential;
26774 (c) the vehicle is used in an organized Utah Highway Patrol operation that is:
26775 (i) conducted within a county of the first or second class as defined under Section
26776 17-50-501, unless no more than one unmarked vehicle is used for the operation;
26777 (ii) approved by the Commissioner of Public Safety;
26778 (iii) of a duration of 14 consecutive days or less; and
26779 (iv) targeted toward careless driving, aggressive driving, and accidents involving:
26780 (A) violations of Title 41, Chapter 6a, Part 5, Driving Under the Influence and

26781 Reckless Driving;
26782 (B) speeding violations for exceeding the posted speed limit by 21 or more miles per
26783 hour;
26784 (C) speeding violations in a reduced speed school zone under Section 41-6a-604;
26785 (D) violations of Section 41-6a-1002 related to pedestrian crosswalks; or
26786 (E) violations of Section 41-6a-702 related to lane restrictions;
26787 (d) the vehicle is provided to an official of the entity as part of a compensation package
26788 allowing unlimited personal use of that vehicle;
26789 (e) the personal security of the occupants of the vehicle would be jeopardized if the
26790 "EX" license plate were in place; or
26791 (f) the vehicle is used in routine enforcement on a state highway with four or more
26792 lanes involving:
26793 (i) violations of Section 41-6a-701 related to operating a vehicle on the right side of a
26794 roadway;
26795 (ii) violations of Section 41-6a-702 related to left lane restrictions;
26796 (iii) violations of Section 41-6a-704 related to overtaking and passing vehicles
26797 proceeding in the same direction;
26798 (iv) violations of Section 41-6a-711 related to following a vehicle at a safe distance;
26799 and
26800 (v) violations of Section 41-6a-804 related to turning and changing lanes.
26801 (3) Plates issued to Utah Highway Patrol vehicles may bear the capital letters "UHP," a
26802 beehive logo, and the call number of the trooper to whom the vehicle is issued.
26803 (4) (a) The commission shall issue "EX" and "UHP" plates.
26804 (b) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
26805 Administrative Rulemaking Act, the commission shall make rules establishing the procedure
26806 for application for and distribution of the plates.
26807 (5) For a vehicle that qualifies for "EX" or "UHP" license plates, the entity is not
26808 required to display an annual registration decal.
26809 (6) (a) Information shall be confidential for vehicles that are not required to display the
26810 "EX" license plate or the identification mark under Subsections (2)(a), (b), (d), and (e).
26811 (b) (i) If a law enforcement officer's identity must be kept secret, [~~his~~] the law

26812 enforcement officer's agency head may request in writing that the division remove the license
26813 plate information of the officer's personal vehicles from all public access files and place it in a
26814 confidential file until the assignment is completed.
26815 (ii) The agency head shall notify the division when the assignment is completed.
26816 (7) A peace officer engaged in an organized operation under Subsection (2)(c) shall be
26817 in a uniform clearly identifying the law enforcement agency the peace officer is representing
26818 during the operation.
26819 Section 543. Section **41-1a-416** is amended to read:
26820 **41-1a-416. Original issue license plates -- Alternative stickers -- Rulemaking.**
26821 (1) The owner of a motor vehicle that is a model year 1973 or older may apply to the
26822 division for permission to display an original issue license plate of a format and type issued by
26823 the state in the same year as the model year of the vehicle.
26824 (2) The owner of a motor vehicle who desires to display original issue license plates
26825 instead of license plates issued under Section 41-1a-401 shall:
26826 (a) complete an application on a form provided by the division;
26827 (b) supply and submit the original license plates that the owner desires to display to the
26828 division for approval; and
26829 (c) pay the fees prescribed in Sections 41-1a-1206 and 41-1a-1211.
26830 (3) The division, prior to approval of an application under this section, shall determine
26831 that the original issue license plates:
26832 (a) are of a format and type issued by the state for use on a motor vehicle in this state;
26833 (b) have numbers and characters that are unique and do not conflict with existing
26834 license plate series in this state;
26835 (c) are legible, durable, and otherwise in a condition that serves the purposes of this
26836 chapter, except that original issue license plates are exempt from the provision of Section
26837 41-1a-401 regarding reflectorization and Section 41-1a-403 regarding legibility from 100 feet;
26838 and
26839 (d) are from the same year of issue as the model year of the motor vehicle on which
26840 they are to be displayed.
26841 (4) An owner of a motor vehicle displaying original issue license plates approved under
26842 this section is not exempt from any other requirement of this chapter except as specified under

26843 this section.
26844 (5) (a) An owner of a motor vehicle currently registered in this state whose original
26845 issue license plates are not approved by the division because of the requirement in Subsection
26846 (3)(b) may apply to the division for a sticker to allow the temporary display of the original
26847 issue license plates if:
26848 (i) the plates otherwise comply with this section;
26849 (ii) the plates are only displayed when the motor vehicle is used for participating in
26850 motor vehicle club activities, exhibitions, tours, parades, and similar activities and are not used
26851 for general daily transportation;
26852 (iii) the license plates and registration issued under this chapter for normal use of the
26853 motor vehicle on the highways of this state are kept in the motor vehicle and shown to a peace
26854 officer on request; and
26855 (iv) the sticker issued by the division under this subsection is properly affixed to the
26856 face of the original issue license plate.
26857 (b) The sticker issued under this section shall be the size and form customarily
26858 furnished by the division.
26859 (6) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
26860 Administrative Rulemaking Act, the division may make rules for the implementation of this
26861 section.
26862 Section 544. Section **41-1a-418** is amended to read:
26863 **41-1a-418. Authorized special group license plates.**
26864 (1) The division shall only issue special group license plates in accordance with this
26865 section through Section 41-1a-422 to a person who is specified under this section within the
26866 categories listed as follows:
26867 (a) disability special group license plates issued in accordance with Section 41-1a-420;
26868 (b) honor special group license plates, as in a war hero, which plates are issued for a:
26869 (i) survivor of the Japanese attack on Pearl Harbor;
26870 (ii) former prisoner of war;
26871 (iii) recipient of a Purple Heart;
26872 (iv) disabled veteran; or
26873 (v) recipient of a gold star award issued by the United States Secretary of Defense if

26874 the recipient is the spouse, parent, or sibling of a servicemember killed;
26875 (c) unique vehicle type special group license plates, as for historical, collectors value,
26876 or other unique vehicle type, which plates are issued for a:
26877 (i) special interest vehicle;
26878 (ii) vintage vehicle;
26879 (iii) farm truck; or
26880 (iv) vehicle powered by clean fuel and for which a current clean special fuel certificate
26881 is maintained as provided in Section 59-13-304;
26882 (d) recognition special group license plates, as in a public official or an emergency
26883 service giver, which plates are issued for a:
26884 (i) current member of the Legislature;
26885 (ii) current member of the United States Congress;
26886 (iii) current member of the National Guard;
26887 (iv) licensed amateur radio operator;
26888 (v) currently employed, volunteer, or retired firefighter;
26889 (vi) emergency medical technician;
26890 (vii) current member of a search and rescue team; or
26891 (viii) current honorary consulate designated by the United States Department of State;
26892 and
26893 (e) support special group license plates, as for a contributor to an institution or cause,
26894 which plates are issued for a contributor to:
26895 (i) an institution's scholastic scholarship fund;
26896 (ii) the Division of Wildlife Resources;
26897 (iii) the Department of Veterans' Affairs;
26898 (iv) the Division of Parks and Recreation;
26899 (v) the Department of Agriculture and Food;
26900 (vi) the Guardian Ad Litem Services Account and the Children's Museum of Utah;
26901 (vii) the Boy Scouts of America;
26902 (viii) spay and neuter programs through No More Homeless Pets in Utah;
26903 (ix) the Boys and Girls Clubs of America;
26904 (x) Utah public education; or

26905 (xi) programs that provide support to organizations that create affordable housing for
26906 those in severe need through the Division of Real Estate.
26907 (2) Beginning January 1, 2003, the division may not issue a new type of special group
26908 license plate unless the division receives:
26909 (a) a start-up fee established under Section [~~63-38-3.2~~] 63J-1-303 for production and
26910 administrative costs for providing the new special group license plates; or
26911 (b) a legislative appropriation for the start-up fee provided under Subsection (2)(a).
26912 (3) (a) A sponsoring organization that qualifies for tax-exempt status under Internal
26913 Revenue Code Section 501(c)(3) may request the commission to authorize a new type of
26914 special group license plate for the sponsoring organization. The sponsoring organization shall:
26915 (i) collect a minimum of 200 applications; and
26916 (ii) pay a start-up fee established under Section [~~63-38-3.2~~] 63J-1-303 for production
26917 and administrative costs for providing the new type of special group license plates.
26918 (b) If the provisions of Subsection (3)(a) are met, the commission shall approve the
26919 request and the division shall:
26920 (i) design a license plate in accordance with Section 41-1a-419; and
26921 (ii) issue the new type of special group license plates.
26922 Section 545. Section **41-1a-419** is amended to read:
26923 **41-1a-419. Plate design -- Vintage vehicle certification and registration --**
26924 **Personalized special group license plates -- Rulemaking.**
26925 (1) (a) The design and maximum number of numerals or characters on special group
26926 license plates shall be determined by the division in accordance with the requirements under
26927 Subsection (1)(b).
26928 (b) Each special group license plate shall display:
26929 (i) the word Utah;
26930 (ii) the name or identifying slogan of the special group;
26931 (iii) a symbol decal not exceeding two positions in size representing the special group;
26932 and
26933 (iv) the combination of letters, numbers, or both uniquely identifying the registered
26934 vehicle.
26935 (2) (a) The division shall, after consultation with a representative designated by the

26936 special group, specify the word or words comprising the special group name and the symbol
26937 decal to be displayed upon the special group license plates.
26938 (b) A special group license plate symbol decal may not be redesigned:
26939 (i) unless the division receives a redesign fee established by the division under Section
26940 [~~63-38-3.2~~] 63J-1-303; and
26941 (ii) more frequently than every five years.
26942 (c) (i) Except as provided in Subsection (2)(c)(ii), a special group license plate symbol
26943 decal may not be reordered unless the division receives a symbol decal reorder fee established
26944 by the division under Section [~~63-38-3.2~~] 63J-1-303.
26945 (ii) A recognition special group license plate symbol decal for a currently employed,
26946 volunteer, or retired firefighter issued in accordance with Subsection 41-1a-418(1)(d)(v) that is
26947 reordered on or after July 1, 2007, but on or before June 30, 2008, is exempt from the symbol
26948 decal reorder fee authorized under Subsection (2)(c)(i).
26949 (3) The license plates issued for horseless carriages prior to July 1, 1992, are valid
26950 without renewal as long as the vehicle is owned by the registered owner and the license plates
26951 may not be recalled by the division.
26952 (4) A person who meets the criteria established under Sections 41-1a-418 through
26953 41-1a-422 for issuance of special group license plates may make application in the same
26954 manner provided in Sections 41-1a-410 and 41-1a-411 for personalized special group license
26955 plates.
26956 (5) The commission shall make rules in accordance with [~~Title 63, Chapter 46a~~] Title
26957 63G, Chapter 3, Utah Administrative Rulemaking Act, to:
26958 (a) establish qualifying criteria for persons to receive, renew, or surrender special group
26959 license plates; and
26960 (b) establish the maximum number of numerals or characters for special group license
26961 plates.
26962 Section 546. Section **41-1a-420** is amended to read:
26963 **41-1a-420. Disability special group license plates -- Application and qualifications**
26964 **-- Rulemaking.**
26965 (1) The division shall issue a disability special group license plate, a temporary
26966 removable windshield placard, or a removable windshield placard to:

26967 (a) a qualifying person with a disability; or
26968 (b) the registered owner of a vehicle that an organization uses primarily for the
26969 transportation of persons with disabilities that limit or impair the ability to walk.
26970 (2) (a) The initial application of a person with a disability shall be accompanied by the
26971 certification of a licensed physician:
26972 (i) that the applicant meets the definition of a person with a disability that limits or
26973 impairs the ability to walk as defined in the federal Uniform System for Parking for Persons
26974 with Disabilities, 23 C.F.R. Ch. 11, Subch. B, Pt. 1235.2 (1991); and
26975 (ii) containing the period of time that the physician determines the applicant will have
26976 the disability, not to exceed six months in the case of a temporary disability.
26977 (b) The division shall issue a person with a disability special group license plate or a
26978 removable windshield placard to a person with a permanent disability.
26979 (c) The issuance of a person with a disability special group license plate does not
26980 preclude the issuance to the same applicant of a removable windshield placard.
26981 (d) On request of an applicant with a disability special group license plate, temporary
26982 removable windshield placard, or a removable windshield placard the division shall issue one
26983 additional placard.
26984 (e) A disability special group license plate, temporary removable windshield placard,
26985 or removable windshield placard may be used to allow one motorcycle to share a parking space
26986 reserved for persons with a disability if:
26987 (i) the person with a disability:
26988 (A) is using a motorcycle; and
26989 (B) displays on the motorcycle a disability special group license plate, temporary
26990 removable windshield placard, or a removable windshield placard;
26991 (ii) the person who shares the parking space assists the person with a disability with the
26992 parking accommodation; and
26993 (iii) the parking space is sufficient size to accommodate both motorcycles without
26994 interfering with other parking spaces or traffic movement.
26995 (3) (a) The temporary removable windshield placard or removable windshield placard
26996 shall be hung from the front windshield rearview mirror when the vehicle is parked in a
26997 parking space reserved for persons with disabilities so that it is visible from the front and rear

26998 of the vehicle.
26999 (b) If a motorcycle is being used, the temporary removable windshield placard or
27000 removable windshield placard shall be displayed in plain sight on or near the handle bars of the
27001 motorcycle.
27002 (4) The commission shall make rules in accordance with [~~Title 63, Chapter 46a~~] Title
27003 63G, Chapter 3, Utah Administrative Rulemaking Act, to:
27004 (a) establish qualifying criteria for persons to receive, renew, or surrender special group
27005 license plates, a temporary removable windshield placard, or a removable windshield placard in
27006 accordance with this section;
27007 (b) establish the maximum number of numerals or characters for disability special
27008 group license plates; and
27009 (c) require all temporary removable windshield placards and removable windshield
27010 placards to include:
27011 (i) an identification number;
27012 (ii) an expiration date not to exceed:
27013 (A) six months for a temporary removable windshield placard; and
27014 (B) two years for a removable windshield placard; and
27015 (iii) the seal or other identifying mark of the division.
27016 Section 547. Section **41-1a-422** is amended to read:
27017 **41-1a-422. Support special group license plates -- Contributor -- Voluntary**
27018 **contribution collection procedures.**
27019 (1) As used in this section:
27020 (a) (i) Except as provided in Subsection (1)(a)(ii), "contributor" means a person who
27021 has donated or in whose name at least $25 has been donated to:
27022 (A) a scholastic scholarship fund of a single named institution;
27023 (B) the Department of Veterans' Affairs for veterans' programs;
27024 (C) the Division of Wildlife Resources for the Wildlife Resources Account created in
27025 Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection,
27026 access, and management of wildlife habitat;
27027 (D) the Department of Agriculture and Food for the benefit of conservation districts;
27028 (E) the Division of Parks and Recreation for the benefit of snowmobile programs;

27029 (F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with
27030 the donation evenly divided between the two;
27031 (G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America
27032 council as specified by the contributor;
27033 (H) No More Homeless Pets in Utah for distribution to organizations or individuals
27034 that provide spay and neuter programs that subsidize the sterilization of domestic animals;
27035 (I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth
27036 development programs;
27037 (J) the Utah Association of Public School Foundations to support public education; or
27038 (K) the Utah Housing Opportunity Restricted Account created in Section 61-2-28 to
27039 assist people who have severe housing needs.
27040 (ii) (A) For a veterans' special group license plate, "contributor" means a person who
27041 has donated or in whose name at least a $25 donation at the time of application and $10 annual
27042 donation thereafter has been made.
27043 (B) For a Utah Housing Opportunity special group license plate, "contributor" means a
27044 person who:
27045 (I) has donated or in whose name at least $30 has been donated at the time of
27046 application and annually after the time of application; and
27047 (II) is a member of a trade organization for real estate licensees that has more than
27048 15,000 Utah members.
27049 (b) "Institution" means a state institution of higher education as defined under Section
27050 53B-3-102 or a private institution of higher education in the state accredited by a regional or
27051 national accrediting agency recognized by the United States Department of Education.
27052 (2) (a) An applicant for original or renewal collegiate special group license plates under
27053 Subsection (1)(a)(i) must be a contributor to the institution named in the application and
27054 present the original contribution verification form under Subsection (2)(b) or make a
27055 contribution to the division at the time of application under Subsection (3).
27056 (b) An institution with a support special group license plate shall issue to a contributor
27057 a verification form designed by the commission containing:
27058 (i) the name of the contributor;
27059 (ii) the institution to which a donation was made;

27060 (iii) the date of the donation; and
27061 (iv) an attestation that the donation was for a scholastic scholarship.
27062 (c) The state auditor may audit each institution to verify that the moneys collected by
27063 the institutions from contributors are used for scholastic scholarships.
27064 (d) After an applicant has been issued collegiate license plates or renewal decals, the
27065 commission shall charge the institution whose plate was issued, a fee determined in accordance
27066 with Section [~~63-38-3.2~~] 63J-1-303 for management and administrative expenses incurred in
27067 issuing and renewing the collegiate license plates.
27068 (e) If the contribution is made at the time of application, the contribution shall be
27069 collected, treated, and deposited as provided under Subsection (3).
27070 (3) (a) An applicant for original or renewal support special group license plates under
27071 this section must be a contributor to the sponsoring organization associated with the license
27072 plate.
27073 (b) This contribution shall be:
27074 (i) unless collected by the named institution under Subsection (2), collected by the
27075 division;
27076 (ii) considered a voluntary contribution for the funding of the activities specified under
27077 this section and not a motor vehicle registration fee; and
27078 (iii) deposited into the appropriate account less actual administrative costs associated
27079 with issuing the license plates.
27080 (c) The donation described in Subsection (1)(a) must be made in the 12 months prior to
27081 registration or renewal of registration.
27082 (d) The donation described in Subsection (1)(a) shall be a one-time donation made to
27083 the division when issuing original:
27084 (i) snowmobile license plates; or
27085 (ii) conservation license plates.
27086 (4) Veterans' license plates shall display one of the symbols representing the Army,
27087 Navy, Air Force, Marines, Coast Guard, or American Legion.
27088 Section 548. Section **41-1a-522** is amended to read:
27089 **41-1a-522. Record of nonconforming vehicle -- Access -- Brand -- Unbranding.**
27090 (1) The definitions in Section 41-3-407 apply to this section.

27091 (2) Upon receipt of a copy of an original certificate of title, Manufacturer's Statement
27092 of Origin, or other evidence of ownership of a nonconforming vehicle in accordance with
27093 Section 41-3-409, the division shall:
27094 (a) establish a record of the reported nonconforming vehicle;
27095 (b) consider the record a public record with public access under Sections 41-1a-116
27096 and [~~63-2-201~~] 63G-2-201;
27097 (c) allow access to the record upon written application to the division; and
27098 (d) upon request for a new certificate of title for a nonconforming vehicle, brand the
27099 certificate of title with the words "MANUFACTURER BUYBACK NONCONFORMING
27100 VEHICLE" clearly and conspicuously on the face of the new certificate of title.
27101 (3) Upon receipt of the branded certificate of title, the division shall:
27102 (a) follow the procedures established in Subsection (2); or
27103 (b) if the record of the nonconforming vehicle contains an application for an unbranded
27104 certificate of title that meets the requirements of Section 41-3-409.5:
27105 (i) update the record to show that all nonconformities have been cured;
27106 (ii) consider the record a public record with public access under Sections 41-1a-116
27107 and [~~63-2-201~~] 63G-2-201;
27108 (iii) allow access to the complete record upon written application to the division; and
27109 (iv) upon request for a new certificate of title, issue an unbranded certificate of title.
27110 Section 549. Section **41-1a-712** is amended to read:
27111 **41-1a-712. Foreign vehicle disclosure requirements -- Penalties -- Civil damages.**
27112 (1) A person may not knowingly sell or offer for sale in this state any vehicle that was
27113 initially delivered for disposition or sale in a country other than the United States of America
27114 unless, prior to the sale, the person provides written notice to the purchaser on a separate form
27115 furnished by the Motor Vehicle Enforcement Division that indicates:
27116 (a) that the vehicle was initially delivered for disposition or sale in a country outside of
27117 the United States as indicated on the Manufacturer's Statement of Origin or similar ownership
27118 document;
27119 (b) the country where the vehicle was initially delivered for the disposition or sale; and
27120 (c) any other information required by the commission under rules made by the
27121 commission in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah

27122 Administrative Rulemaking Act.
27123 (2) A person who violates this section is guilty of a class B misdemeanor.
27124 (3) (a) In addition to any other penalties, a purchaser may bring a civil action to recover
27125 damages resulting from a seller's failure to provide notice as required under this section.
27126 (b) The amount of damages that may be recovered in a civil action are the actual
27127 damages or $1,500, whichever is greater.
27128 Section 550. Section **41-1a-1007** is amended to read:
27129 **41-1a-1007. Fees.**
27130 (1) A certified vehicle inspector may charge a fee in accordance with Section
27131 [~~63-38-3.2~~] 63J-1-303 for each inspection under Subsection 41-1a-1002(1).
27132 (2) To cover the costs of inspection and to defray the cost of certification, the fee
27133 charged under this section by a certified vehicle inspector shall be retained by the Motor
27134 Vehicle Enforcement Division as a dedicated credit.
27135 Section 551. Section **41-1a-1010** is amended to read:
27136 **41-1a-1010. Permit required to dismantle vehicle -- Duties upon receiving the**
27137 **permit -- Exceptions.**
27138 (1) (a) A person may not scrap, dismantle, destroy, or otherwise change any vehicle so
27139 that it loses its character, until the person submits to the division:
27140 (i) the certificate of title for the vehicle for cancellation; and
27141 (ii) an application for a permit to dismantle the vehicle.
27142 (b) Upon approval of the application, the division shall issue a permit to dismantle the
27143 vehicle.
27144 (2) Except as provided in Subsection (3), if a permit to dismantle is issued under this
27145 section, the vehicle shall be destroyed and may not be rebuilt or reconstructed and may not be
27146 retitled or registered.
27147 (3) A vehicle for which a permit to dismantle has been issued by the division may be
27148 retitled and the permit to dismantle rescinded if:
27149 (a) prior to receiving a dismantling permit the vehicle had a Utah certificate of title;
27150 (b) the vehicle has not been dismantled;
27151 (c) an investigator for the Motor Vehicle Enforcement Division of the commission
27152 determines after a physical inspection of the vehicle that it is the same vehicle for which the

27153 permit to dismantle was issued; and
27154 (d) the applicant pays the fee under Subsection (4).
27155 (4) The commission may collect a fee established in accordance with Section
27156 [~~63-38-3.2~~] 63J-1-303 to cover the expenses of an inspection under Subsection (3).
27157 Section 552. Section **41-1a-1101** is amended to read:
27158 **41-1a-1101. Seizure -- Circumstances where permitted -- Impound lot standards.**
27159 (1) The division or any peace officer, without a warrant, may seize and take possession
27160 of any vehicle, vessel, or outboard motor:
27161 (a) that the division or the peace officer has reason to believe has been stolen;
27162 (b) on which any identification number has been defaced, altered, or obliterated;
27163 (c) that has been abandoned in accordance with Section 41-6a-1408;
27164 (d) for which the applicant has written a check for registration or title fees that has not
27165 been honored by the applicant's bank and that is not paid within 30 days;
27166 (e) that is placed on the water with improper registration; or
27167 (f) that is being operated on a highway:
27168 (i) with registration that has been expired for more than three months;
27169 (ii) having never been properly registered by the current owner; or
27170 (iii) with registration that is suspended or revoked.
27171 (2) If necessary for the transportation of a seized vessel, the vessel's trailer may be
27172 seized to transport and store the vessel.
27173 (3) Any peace officer seizing or taking possession of a vehicle, vessel, or outboard
27174 motor under this section shall comply with the provisions of Section 41-6a-1406.
27175 (4) (a) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
27176 Administrative Rulemaking Act, the commission shall make rules setting standards for public
27177 garages, impound lots, and impound yards that may be used by peace officers and the division.
27178 (b) The standards shall be equitable, reasonable, and unrestrictive as to the number of
27179 public garages, impound lots, or impound yards per geographical area.
27180 (5) (a) Except as provided under Subsection (5)(b), a person may not operate or allow
27181 to be operated a vehicle stored in a public garage, impound lot, or impound yard regulated
27182 under this part without prior written permission of the owner of the vehicle.
27183 (b) Incidental and necessary operation of a vehicle to move the vehicle from one

27184 parking space to another within the facility and that is necessary for the normal management of
27185 the facility is not prohibited under this Subsection (5)(a).
27186 (6) A person who violates the provisions of Subsection (5) is guilty of a class C
27187 misdemeanor.
27188 (7) The division or the peace officer who seizes a vehicle shall record the mileage
27189 shown on the vehicle's odometer at the time of seizure, if:
27190 (a) the vehicle is equipped with an odometer; and
27191 (b) the odometer reading is accessible to the division or the peace officer.
27192 Section 553. Section **41-1a-1211** is amended to read:
27193 **41-1a-1211. License plate fees -- Application fees for issuance and renewal of**
27194 **personalized and special group license plates -- Replacement fee for license plates --**
27195 **Postage fees.**
27196 (1) Except as provided in Subsection (11), a license plate fee of $5 per set shall be
27197 paid to the division for the issuance of any new license plate under Part 4, License Plates and
27198 Registration Indicia. The license plate fee shall be deposited as follows:
27199 (a) $4 as provided in Section 41-1a-1201; and
27200 (b) $1 in the Transportation Fund.
27201 (2) An applicant for original issuance of personalized license plates issued under
27202 Section 41-1a-410 shall pay a $50 per set license plate application fee in addition to the fee
27203 required in Subsection (1).
27204 (3) Beginning July 1, 2003, a person who applies for a special group license plate shall
27205 pay a $5 fee for the original set of license plates in addition to the fee required under
27206 Subsection (1).
27207 (4) An applicant for original issuance of personalized special group license plates shall
27208 pay the license plate application fees required in Subsection (2) in addition to the license plate
27209 fees and license plate application fees established under Subsections (1) and (3).
27210 (5) An applicant for renewal of personalized license plates issued under Section
27211 41-1a-410 shall pay a $10 per set application fee.
27212 (6) A fee of $5 shall be paid to the division for the replacement of any license plate
27213 issued under Part 4, License Plates and Registration Indicia. The license plate fee shall be
27214 deposited as follows:

27215 (a) $4 as provided in Section 41-1a-1201; and
27216 (b) $1 in the Transportation Fund.
27217 (7) The division may charge a fee established under Section [~~63-38-3.2~~] 63J-1-303 to
27218 recover its costs for the replacement of decals issued under Section 41-1a-418.
27219 (8) The division may charge a fee established under Section [~~63-38-3.2~~] 63J-1-303 to
27220 recover the cost of issuing stickers under Section 41-1a-416.
27221 (9) In addition to any other fees required by this section, the division shall assess a fee
27222 established under Section [~~63-38-3.2~~] 63J-1-303 to cover postage expenses if new or
27223 replacement license plates are mailed to the applicant.
27224 (10) The fees required under this section are separate from and in addition to
27225 registration fees required under Section 41-1a-1206.
27226 (11) (a) An applicant for a license plate issued under Section 41-1a-407 is not subject
27227 to the license plate fee under Subsection (1).
27228 (b) An applicant for a Purple Heart special group license plate issued in accordance
27229 with Section 41-1a-421 is exempt from the fees under Subsections (1), (3), and (7).
27230 Section 554. Section **41-1a-1212** is amended to read:
27231 **41-1a-1212. Fee for replacement of license plate decals.**
27232 A fee established in accordance with Section [~~63-38-3.2~~] 63J-1-303 shall be paid to the
27233 division for the replacement of a license plate decal required by Section 41-1a-402.
27234 Section 555. Section **41-1a-1221** is amended to read:
27235 **41-1a-1221. Fees to cover the cost of electronic payments.**
27236 (1) As used in this section:
27237 (a) "Electronic payment" means use of any form of payment processed through
27238 electronic means, including credit cards, debit cards, and automatic clearinghouse transactions.
27239 (b) "Electronic payment fee" means the fee assessed to defray:
27240 (i) the charge, discount fee, or processing fee charged by credit card companies or
27241 processing agents to process an electronic payment; or
27242 (ii) costs associated with the purchase of equipment necessary for processing electronic
27243 payments.
27244 (2) (a) The Motor Vehicle Division may collect an electronic payment fee on all
27245 registrations and renewals of registration under Subsections 41-1a-1206(1)(a), (1)(b), and (2).

27246 (b) The fee described in Subsection (2)(a):
27247 (i) shall be imposed regardless of the method of payment for a particular transaction;
27248 and
27249 (ii) need not be separately identified from the fees imposed for registration and
27250 renewals of registration under Subsections 41-1a-1206(1)(a), (1)(b), and (2).
27251 (3) The division shall establish the fee according to the procedures and requirements of
27252 Section [~~63-38-3.2~~] 63J-1-303.
27253 (4) A fee imposed under this section:
27254 (a) shall be used by the division as a dedicated credit to cover the costs of electronic
27255 payments;
27256 (b) is nonlapsing; and
27257 (c) is not subject to Subsection [~~63-38a-104~~] 63J-2-202(2).
27258 Section 556. Section **41-3-105** is amended to read:
27259 **41-3-105. Administrator's powers and duties -- Administrator and investigators**
27260 **to be law enforcement officers.**
27261 (1) The administrator may make rules to carry out the purposes of this chapter and
27262 Sections 41-1a-1001 through 41-1a-1007 according to the procedures and requirements of
27263 [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
27264 (2) (a) The administrator may employ clerks, deputies, and assistants necessary to
27265 discharge the duties under this chapter and may designate the duties of those clerks, deputies,
27266 and assistants.
27267 (b) The administrator, assistant administrator, and all investigators shall be law
27268 enforcement officers certified by peace officer standards and training as required by Section
27269 53-13-103.
27270 (3) (a) The administrator may investigate any suspected or alleged violation of:
27271 (i) this chapter;
27272 (ii) Title 41, Chapter 1a, Motor Vehicle Act;
27273 (iii) any law concerning motor vehicle fraud; or
27274 (iv) any rule made by the administrator.
27275 (b) The administrator may bring an action in the name of the state against any person to
27276 enjoin a violation found under Subsection (3)(a).

27277 (4) (a) The administrator may prescribe forms to be used for applications for licenses.
27278 (b) The administrator may require information from the applicant concerning the
27279 applicant's fitness to be licensed.
27280 (c) Each application for a license shall contain:
27281 (i) if the applicant is an individual, the name and residence address of the applicant and
27282 the trade name, if any, under which [~~he~~] the applicant intends to conduct business;
27283 (ii) if the applicant is a partnership, the name and residence address of each partner,
27284 whether limited or general, and the name under which the partnership business will be
27285 conducted;
27286 (iii) if the applicant is a corporation, the name of the corporation, and the name and
27287 residence address of each of its principal officers and directors;
27288 (iv) a complete description of the principal place of business, including:
27289 (A) the municipality, with the street and number, if any;
27290 (B) if located outside of any municipality, a general description so that the location can
27291 be determined; and
27292 (C) any other places of business operated and maintained by the applicant in
27293 conjunction with the principal place of business; and
27294 (v) if the application is for a new motor vehicle dealer's license, the name of each
27295 motor vehicle the applicant has been enfranchised to sell or exchange, the name and address of
27296 the manufacturer or distributor who has enfranchised the applicant, and the names and
27297 addresses of the individuals who will act as salespersons under authority of the license.
27298 (5) The administrator may adopt a seal with the words "Motor Vehicle Enforcement
27299 Administrator, State of Utah," to authenticate the acts of [~~his~~] the administrator's office.
27300 (6) (a) The administrator may require that the licensee erect or post signs or devices on
27301 [~~his~~] the licensee's principal place of business and any other sites, equipment, or locations
27302 operated and maintained by the licensee in conjunction with [~~his~~] the licensee's business.
27303 (b) The signs or devices shall state the licensee's name, principal place of business,
27304 type and number of licenses, and any other information that the administrator considers
27305 necessary to identify the licensee.
27306 (c) The administrator may make rules in accordance with [~~Title 63, Chapter 46a~~] Title
27307 63G, Chapter 3, Utah Administrative Rulemaking Act, determining allowable size and shape of

27308 signs or devices, their lettering and other details, and their location.
27309 (7) (a) The administrator shall provide for quarterly meetings of the advisory board and
27310 may call special meetings.
27311 (b) Notices of all meetings shall be sent to each member not fewer than five days prior
27312 to the meeting.
27313 (8) The administrator, the officers and inspectors of the division designated by the
27314 commission, and peace officers shall:
27315 (a) make arrests upon view and without warrant for any violation committed in their
27316 presence of any of the provisions of this chapter, or Title 41, Chapter 1a, Motor Vehicle Act;
27317 (b) when on duty, upon reasonable belief that a motor vehicle, trailer, or semitrailer is
27318 being operated in violation of any provision of Title 41, Chapter 1a, Motor Vehicle Act, require
27319 the driver of the vehicle to stop, exhibit [~~his~~] the person's driver's license and the registration
27320 card issued for the vehicle and submit to an inspection of the vehicle, the license plates, and
27321 registration card;
27322 (c) serve all warrants relating to the enforcement of the laws regulating the operation of
27323 motor vehicles, trailers, and semitrailers;
27324 (d) investigate traffic accidents and secure testimony of witnesses or persons involved;
27325 and
27326 (e) investigate reported thefts of motor vehicles, trailers, and semitrailers.
27327 (9) The administrator may contract with a public prosecutor to provide additional
27328 prosecution of this chapter.
27329 Section 557. Section **41-3-109** is amended to read:
27330 **41-3-109. Adjudicative proceedings -- Hearings.**
27331 (1) The commission, the division, the board, and the administrator shall comply with
27332 the procedures and requirements of [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
27333 Administrative Procedures Act, in all adjudicative proceedings conducted under the authority
27334 of this chapter and Sections 41-1a-1001 through 41-1a-1008.
27335 (2) The administrator may request the attendance of the board at any hearing, or [~~he~~]
27336 the administrator may direct that any hearing be held before the board.
27337 Section 558. Section **41-3-202** is amended to read:
27338 **41-3-202. Licenses -- Classes and scope.**

27339 (1) A new motor vehicle dealer's license permits the licensee to:
27340 (a) offer for sale, sell, or exchange new motor vehicles if the licensee possesses a
27341 franchise from the manufacturer of the motor vehicle offered for sale, sold, or exchanged by the
27342 licensee;
27343 (b) offer for sale, sell, or exchange used motor vehicles;
27344 (c) operate as a body shop; and
27345 (d) dismantle motor vehicles.
27346 (2) A used motor vehicle dealer's license permits the licensee to:
27347 (a) offer for sale, sell, or exchange used motor vehicles;
27348 (b) operate as a body shop; and
27349 (c) dismantle motor vehicles.
27350 (3) A new motorcycle, off-highway vehicle, and small trailer dealer's license permits
27351 the licensee to:
27352 (a) offer for sale, sell, or exchange new motorcycles, off-highway vehicles, or small
27353 trailers if the licensee possesses a franchise from the manufacturer of the motorcycle,
27354 off-highway vehicle, or small trailer offered for sale, sold, or exchanged by the licensee;
27355 (b) offer for sale, sell, or exchange used motorcycles, off-highway vehicles, or small
27356 trailers; and
27357 (c) dismantle motorcycles, off-highway vehicles, or small trailers.
27358 (4) A used motorcycle, off-highway vehicle, and small trailer dealer's license permits
27359 the licensee to:
27360 (a) offer for sale, sell, or exchange used motorcycles, off-highway vehicles, and small
27361 trailers; and
27362 (b) dismantle motorcycles, off-highway vehicles, or small trailers.
27363 (5) A salesperson's license permits the licensee to act as a motor vehicle salesperson
27364 and is valid for employment with only one dealer at a time.
27365 (6) (a) A manufacturer's license permits the licensee to construct or assemble motor
27366 vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, at an established
27367 place of business and to remanufacture motor vehicles.
27368 (b) Under rules made by the administrator, the licensee may issue and install vehicle
27369 identification numbers on manufactured motor vehicles.

27370 (c) The licensee may franchise and appoint dealers to sell manufactured motor vehicles
27371 by notifying the division of the franchise or appointment.
27372 (7) A transporter's license permits the licensee to transport or deliver motor vehicles
27373 subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, from a manufacturing,
27374 assembling, or distributing point or from a dealer, to dealers, distributors, or sales agents of a
27375 manufacturer or remanufacturer, to or from detail or repair shops, and to financial institutions
27376 or places of storage from points of repossession.
27377 (8) A dismantler's license permits the licensee to dismantle motor vehicles subject to
27378 registration under Title 41, Chapter 1a, Motor Vehicle Act, for the purpose of reselling parts or
27379 for salvage, or selling dismantled or salvage vehicles to a crusher or other dismantler.
27380 (9) A distributor or factory branch and distributor branch's license permits the licensee
27381 to sell and distribute new motor vehicles, parts, and accessories to their franchised dealers.
27382 (10) A representative's license, for factory representatives or distributor representatives
27383 permits the licensee to contact [~~his~~] the licensee's authorized dealers for the purpose of making
27384 or promoting the sale of motor vehicles, parts, and accessories.
27385 (11) (a) (i) A remanufacturer's license permits the licensee to construct, reconstruct,
27386 assemble, or reassemble motor vehicles subject to registration under Title 41, Chapter 1a,
27387 Motor Vehicle Act, from used or new motor vehicles or parts.
27388 (ii) Evidence of ownership of parts and motor vehicles used in remanufacture shall be
27389 available to the division upon demand.
27390 (b) Under rules made by the administrator, the licensee may issue and install vehicle
27391 identification numbers on remanufactured motor vehicles.
27392 (12) A crusher's license permits the licensee to engage in the business of crushing or
27393 shredding motor vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act,
27394 for the purpose of reducing the useable materials and metals to a more compact size for
27395 recycling.
27396 (13) A body shop's license permits the licensee to rebuild, restore, repair, or paint
27397 primarily the body of motor vehicles damaged by collision or natural disaster, and to dismantle
27398 motor vehicles.
27399 (14) A special equipment dealer's license permits the licensee to:
27400 (a) buy incomplete new motor vehicles with a gross vehicle weight of 12,000 or more

27401 pounds from a new motor vehicle dealer and sell the new vehicle with the special equipment
27402 installed without a franchise from the manufacturer;
27403 (b) offer for sale, sell, or exchange used motor vehicles;
27404 (c) operate as a body shop; and
27405 (d) dismantle motor vehicles.
27406 (15) (a) A salvage vehicle buyer license permits the licensee to bid on or purchase a
27407 vehicle with a salvage certificate as defined in Section 41-1a-1001 at any motor vehicle
27408 auction.
27409 (b) A salvage vehicle buyer license may only be issued to a motor vehicle dealer,
27410 dismantler, or body shop who qualifies under rules made by the division and is licensed in any
27411 state as a motor vehicle dealer, dismantler, or body shop.
27412 (c) The division may not issue more than two salvage vehicle buyer licenses to any one
27413 dealer, dismantler, or body shop.
27414 (d) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
27415 Administrative Rulemaking Act, the administrator shall make rules establishing qualifications
27416 of an applicant for a salvage vehicle buyer license. The criteria shall include:
27417 (i) business history;
27418 (ii) salvage vehicle qualifications;
27419 (iii) ability to properly handle and dispose of environmental hazardous materials
27420 associated with salvage vehicles; and
27421 (iv) record in demonstrating compliance with the provisions of this chapter.
27422 Section 559. Section **41-3-209** is amended to read:
27423 **41-3-209. Administrator's findings -- Suspension and revocation of license.**
27424 (1) If the administrator finds that an applicant is not qualified to receive a license, a
27425 license may not be granted.
27426 (2) (a) If the administrator finds that there is reasonable cause to deny, suspend, or
27427 revoke a license issued under this chapter, the administrator shall deny, suspend, or revoke the
27428 license.
27429 (b) Reasonable cause for denial, suspension, or revocation of a license includes, in
27430 relation to the applicant or license holder or any of its partners, officers, or directors:
27431 (i) lack of a principal place of business;

27432 (ii) lack of a sales tax license required under Title 59, Chapter 12, Sales and Use Tax
27433 Act;
27434 (iii) lack of a bond in effect as required by this chapter;
27435 (iv) current revocation or suspension of a dealer, dismantler, auction, or salesperson
27436 license issued in another state;
27437 (v) nonpayment of required fees;
27438 (vi) making a false statement on any application for a license under this chapter or for
27439 special license plates;
27440 (vii) a violation of any state or federal law involving motor vehicles;
27441 (viii) a violation of any state or federal law involving controlled substances;
27442 (ix) charges filed with any county attorney, district attorney, or U.S. attorney in any
27443 court of competent jurisdiction for a violation of any state or federal law involving motor
27444 vehicles;
27445 (x) a violation of any state or federal law involving fraud; or
27446 (xi) a violation of any state or federal law involving a registerable sex offense under
27447 Section 77-27-21.5.
27448 (c) Any action taken by the administrator under Subsection (2)(b)(ix) shall remain in
27449 effect until a final resolution is reached by the court involved or the charges are dropped.
27450 (3) If the administrator finds that the license holder has been convicted by a court of
27451 competent jurisdiction of violating any of the provisions of this chapter or any rules made by
27452 the administrator, or finds other reasonable cause, the administrator may, by complying with
27453 the emergency procedures of [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
27454 Procedures Act:
27455 (a) suspend the license on terms and for a period of time [~~he~~] the administrator finds
27456 reasonable; or
27457 (b) revoke the license.
27458 (4) (a) After suspending or revoking a license, the administrator may take reasonable
27459 action to:
27460 (i) notify the public that the licensee is no longer in business; and
27461 (ii) prevent the former licensee from violating the law by conducting business without
27462 a license.

27463 (b) Action under Subsection (4)(a) may include signs, banners, barriers, locks,
27464 bulletins, and notices.
27465 (c) Any business being conducted incidental to the business for which the former
27466 licensee was licensed may continue to operate subject to the preventive action taken under this
27467 subsection.
27468 Section 560. Section **41-3-301** is amended to read:
27469 **41-3-301. Sale by dealer, sale by auction -- Temporary permit -- Delivery of**
27470 **certificate of title or origin -- Notice to division.**
27471 (1) (a) Each dealer licensed under Part 2, Licensing, upon the sale and delivery of any
27472 motor vehicle for which a temporary permit is issued under Section 41-3-302 shall within 45
27473 days submit a certificate of title or manufacturer's certificate of origin for that motor vehicle,
27474 endorsed according to law, to the Motor Vehicle Division, accompanied by all documents
27475 required to obtain a new certificate of title and registration in the new owner's name.
27476 (b) If a temporary permit is not issued, the certificate of title or manufacturer's
27477 certificate of origin shall be delivered to the vendee, endorsed according to law, within 48
27478 hours, unless the vendee is a dealer or dismantler in which case the title or manufacturer's
27479 certificate of origin shall be delivered within 21 days.
27480 (c) (i) A motor vehicle consigned to an auction and sold is considered sold by the
27481 consignor to the auction and then sold by the auction to the consignee.
27482 (ii) Both the consignor and auction are subject to this section.
27483 (d) (i) (A) A motor vehicle consigned to a wholesale motor vehicle auction and sold to
27484 a licensed dealer or dismantler is considered sold by the consignor to the licensed dealer or
27485 dismantler.
27486 (B) Both the consignor and the wholesale motor vehicle auction are subject to the title
27487 delivery requirements of Subsection (1)(b).
27488 (C) The consignor, or the wholesale motor vehicle auction as the consignor's agent,
27489 shall endorse the certificate of title according to law. By endorsing the certificate of title as
27490 agent of the consignor, the wholesale motor vehicle auction does not become the owner, seller,
27491 or assignor of title.
27492 (ii) (A) A wholesale motor vehicle auction may purchase or sell motor vehicles in its
27493 own name.

27494 (B) If a wholesale motor vehicle auction purchases or sells a motor vehicle in its own
27495 name, the wholesale motor vehicle auction is subject to Subsections (1)(a) and (1)(b).
27496 (2) (a) (i) Each dealer licensed under Part 2, Licensing, upon the sale and delivery of a
27497 motor vehicle for which a temporary permit is issued under Section 41-3-302, shall within 45
27498 days give written notice of the sale to the Motor Vehicle Division upon a form provided by the
27499 Motor Vehicle Division.
27500 (ii) The notice shall contain:
27501 (A) the date of the sale;
27502 (B) the names and addresses of the dealer and the purchaser;
27503 (C) a description of the motor vehicle;
27504 (D) the motor vehicle's odometer reading at the time of the sale; and
27505 (E) other information required by the division.
27506 (b) If no temporary permit is issued, the notice shall be filed with the division within
27507 45 days after the sale, and a duplicate copy shall be given to the purchaser at the time of sale,
27508 unless the purchaser is a dealer or dismantler.
27509 (c) The administrator may make rules in accordance with [~~Title 63, Chapter 46a~~] Title
27510 63G, Chapter 3, Utah Administrative Rulemaking Act, providing that the notice required under
27511 Subsections (2)(a) and (2)(b) may be filed in electronic form or on magnetic media.
27512 Section 561. Section **41-3-302** is amended to read:
27513 **41-3-302. Temporary permits -- Purchasers of motor vehicles -- Penalty for use**
27514 **after expiration -- Sale and rescission.**
27515 (1) (a) (i) A dealer or the division may issue a temporary permit.
27516 (ii) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
27517 Administrative Rulemaking Act, the administrator shall makes rules for the issuance of a
27518 temporary permit under Subsection (1)(a)(i).
27519 (iii) The division shall furnish the forms for temporary permits issued by dealers under
27520 Subsection (1)(a)(i).
27521 (b) A dealer may issue a temporary permit to a bona fide purchaser of a motor vehicle
27522 for a period not to exceed 45 days on a motor vehicle sold to the purchaser by the dealer.
27523 (c) The dealer is responsible and liable for the registration fee of each motor vehicle for
27524 which the permit is issued.

27525 (d) All issued temporary permits that are outstanding after 45 days from the date they
27526 are issued are delinquent and a penalty equal to the registration fee shall be collected from the
27527 issuing dealer.
27528 (2) If a temporary permit is issued by a dealer under this section and the sale of the
27529 motor vehicle is subsequently rescinded, the temporary permit may be voided and the issuing
27530 dealer is not liable for the registration fee or penalty.
27531 Section 562. Section **41-3-304** is amended to read:
27532 **41-3-304. Temporary permits -- Temporary sports event registration certificate --**
27533 **Suspension or revocation of dealer's authority to issue -- Return of temporary permits to**
27534 **division -- Refunds -- Appeal.**
27535 (1) The division may suspend or revoke a dealer's authority to issue a temporary permit
27536 or a temporary sports event registration certificate under this part if the division determines the
27537 dealer has failed to comply with this chapter or with any rules made by the commission under
27538 this part.
27539 (2) (a) Suspension or revocation of authority to issue a temporary permit or a
27540 temporary sports event registration certificate takes effect immediately upon written
27541 notification to the dealer by the division.
27542 (b) Upon notification, the dealer shall immediately return all temporary permits to the
27543 division.
27544 (c) Subject to Subsection (2)(d), if the authority to issue a temporary permit under
27545 Section 41-3-302 is revoked or suspended for more than 30 days, the dealer may apply for a
27546 refund of the money paid to the division only for temporary permits described in Section
27547 41-3-302 that are returned prior to issuance.
27548 (d) Temporary permits being returned may not have ever been issued, written on, or
27549 separated from their stubs, and shall be in useable condition.
27550 (3) If the division suspends or revokes a dealer's authority to issue a temporary permit
27551 or a temporary sports event registration certificate as provided in this section, each of the
27552 following is a violation of this chapter and grounds for automatic suspension of the dealer's
27553 license:
27554 (a) failure to return a temporary permit to the division as provided in this section; or
27555 (b) issuing a:

27556 (i) temporary permit; or
27557 (ii) temporary sports event registration certificate.
27558 (4) (a) A dealer may appeal the division's suspension or revocation by filing a written
27559 appeal with the administrator within ten days of the suspension or revocation.
27560 (b) Upon receiving the dealer's written appeal, the administrator shall set a hearing for
27561 not more than 20 days from the date the written appeal is received.
27562 (c) A hearing or appeal under this section shall be conducted in accordance with [~~Title~~
27563 ~~63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
27564 Section 563. Section **41-3-306** is amended to read:
27565 **41-3-306. Temporary sports event registration -- Definitions -- Issuance -- Fees --**
27566 **Expiration -- Rulemaking authority.**
27567 (1) As used in this section:
27568 (a) "Distributor-provided vehicle" means a motor vehicle:
27569 (i) that has never been titled or registered in any state; and
27570 (ii) the use of which is donated by a distributor licensed under Part 2, Licensing,
27571 through a dealer licensed under Part 2, Licensing.
27572 (b) (i) "Event period" means a time period:
27573 (A) during which a sports event takes place;
27574 (B) not to exceed 180 consecutive calendar days; and
27575 (C) specified by the division on a temporary sports event registration certificate.
27576 (ii) "Event period" may include one or more of the following time periods if the
27577 division determines that good cause exists for including the time period within the event
27578 period:
27579 (A) a reasonable time period before a sports event as determined by the division; or
27580 (B) a reasonable time period after a sports event as determined by the division.
27581 (c) (i) Notwithstanding Section 41-3-102 and except as provided in Subsection
27582 (1)(c)(ii), "motor vehicle" means a motor vehicle that is subject to the uniform fee imposed by
27583 Section 59-2-405.1.
27584 (ii) "Motor vehicle" does not include a state-assessed commercial vehicle as defined in
27585 Section 59-2-102.
27586 (d) (i) "Sports event" means an amateur or professional:

27587 (A) sports:
27588 (I) game;
27589 (II) race; or
27590 (III) contest; or
27591 (B) athletic:
27592 (I) game;
27593 (II) race; or
27594 (III) contest.
27595 (ii) "Sports event" includes a game, race, or contest described in Subsection (1)(d)(i)
27596 that is:
27597 (A) an independent game, race, or contest; or
27598 (B) a part of another event or activity regardless of whether the other event or activity
27599 is an event or activity relating to sports or athletics.
27600 (e) "Temporary sports event registration certificate" means a motor vehicle certificate
27601 of registration issued by the division to a dealer in accordance with this section.
27602 (2) Beginning on September 1, 2001, the division may register a motor vehicle for an
27603 event period by issuing to a dealer licensed under Part 2, Licensing, a temporary sports event
27604 registration certificate if the division determines that:
27605 (a) the motor vehicle is a distributor-provided vehicle;
27606 (b) the motor vehicle will be used for a sports event within the state during the event
27607 period; and
27608 (c) the dealer provides the division an application stating:
27609 (i) the person to whom the distributor is donating use of the motor vehicle;
27610 (ii) the motor vehicle identification number;
27611 (iii) the motor vehicle:
27612 (A) make;
27613 (B) model; and
27614 (C) year;
27615 (iv) the name of the sports event;
27616 (v) the beginning date and ending date of the sports event; and
27617 (vi) any other information the division requires.

27618 (3) If the division issues a temporary sports event registration certificate to a dealer
27619 licensed under Part 2, Licensing:
27620 (a) the division:
27621 (i) shall specify the event period on the temporary sports event registration certificate;
27622 and
27623 (ii) may specify any other information on the temporary sports event registration
27624 certificate as determined by the division; and
27625 (b) the dealer shall for each motor vehicle for which the division issues a temporary
27626 sports event registration certificate:
27627 (i) pay the:
27628 (A) registration fees required by Chapter 1a, Part 12, Fee and Tax Requirements; and
27629 (B) uniform fee required by Section 59-2-405.1; and
27630 (ii) place the temporary sports event registration certificate in the rear license plate
27631 holder of the motor vehicle.
27632 (4) A temporary sports event registration certificate issued by the division under this
27633 section is valid for the event period specified on the temporary sports event registration
27634 certificate.
27635 (5) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
27636 Administrative Rulemaking Act, the commission may make rules:
27637 (a) specifying the information to be provided to the division by a dealer or a person
27638 using a distributor-provided vehicle in connection with the issuance of a temporary sports event
27639 registration certificate;
27640 (b) specifying the form for a temporary sports event registration certificate; or
27641 (c) defining the terms:
27642 (i) "reasonable time period before a sports event"; and
27643 (ii) "reasonable time period after a sports event."
27644 Section 564. Section **41-3-601** is amended to read:
27645 **41-3-601. Fees.**
27646 (1) To pay for administering and enforcing this chapter, the administrator shall collect
27647 fees determined by the commission under Section [~~63-38-3.2~~] 63J-1-303 for each of the
27648 following:

27649 (a) new motor vehicle dealer's license;
27650 (b) used motor vehicle dealer's license;
27651 (c) new motorcycle, off-highway vehicle, and small trailer dealer;
27652 (d) used motorcycle, off-highway vehicle, and small trailer dealer;
27653 (e) motor vehicle salesperson's license;
27654 (f) motor vehicle salesperson's transfer or reissue fee;
27655 (g) motor vehicle manufacturer's license;
27656 (h) motor vehicle transporter's license;
27657 (i) motor vehicle dismantler's license;
27658 (j) motor vehicle crusher's license;
27659 (k) motor vehicle remanufacturer's license;
27660 (l) body shop's license;
27661 (m) distributor or factory branch and distributor branch's license;
27662 (n) representative's license;
27663 (o) dealer plates;
27664 (p) dismantler plates;
27665 (q) manufacturer plates;
27666 (r) transporter plates;
27667 (s) damaged plate replacement;
27668 (t) in-transit permits;
27669 (u) loaded demonstration permits;
27670 (v) additional place of business;
27671 (w) special equipment dealer's license;
27672 (x) temporary permits; and
27673 (y) temporary sports event registration certificates.
27674 (2) (a) To pay for training certified vehicle inspectors and enforcement under Sections
27675 41-1a-1001 through 41-1a-1008, the State Tax Commission shall establish and the
27676 administrator shall collect inspection fees determined by the commission under Section
27677 [~~63-38-3.2~~] 63J-1-303.
27678 (b) The division shall use fees collected under Subsection (2)(a) as nonlapsing
27679 dedicated credits to be used toward the costs of the division.

27680 (3) (a) At the time of application, the administrator shall collect a fee of $200 for each
27681 salvage vehicle buyer license.
27682 (b) The administrator may retain a portion of the fee under Subsection (3)(a) to offset
27683 the administrator's actual costs of administering and enforcing salvage vehicle buyer licenses.
27684 (4) The division shall use fees collected under Subsections (1)(x) and (y) as nonlapsing
27685 dedicated credits to be used toward the costs of the division.
27686 Section 565. Section **41-3-604** is amended to read:
27687 **41-3-604. Fee to cover the cost of electronic payments.**
27688 (1) As used in this section:
27689 (a) "Electronic payment" has the same meaning as defined in Section 41-1a-1221.
27690 (b) "Electronic payment fee" has the same meaning as defined in Section 41-1a-1221.
27691 (2) (a) The division may collect a fee to cover the cost of electronic payments on the
27692 following transactions:
27693 (i) each purchase or renewal of a license under Section 41-3-202;
27694 (ii) each purchase of a book of temporary permits under Section 41-3-302;
27695 (iii) each penalty issued for a delinquent temporary permit under Section 41-3-302;
27696 (iv) each purchase of an in-transit permit under Section 41-3-305;
27697 (v) each purchase of a loaded demonstration permit under Section 41-3-502;
27698 (vi) each purchase of a license plate under Section 41-3-503; and
27699 (vii) each purchase of a salvage vehicle buyer license under Section 41-3-202.
27700 (b) The fee described in Subsection (2)(a):
27701 (i) shall be imposed regardless of the method of payment for a particular transaction;
27702 and
27703 (ii) need not be separately identified from the fees and penalty described in Subsections
27704 (2)(a)(i) through (vii).
27705 (3) The division shall establish the fee under Subsection (2)(a) according to the
27706 procedures and requirements of Section [~~63-38-3.2~~] 63J-1-303.
27707 (4) A fee imposed under this section:
27708 (a) shall be used by the division as a dedicated credit to cover the costs of electronic
27709 payments;
27710 (b) is nonlapsing; and

27711 (c) is not subject to Subsection [~~63-38a-104~~] 63J-2-202(2).
27712 Section 566. Section **41-6a-212** is amended to read:
27713 **41-6a-212. Emergency vehicles -- Policy regarding vehicle pursuits --**
27714 **Applicability of traffic law to highway work vehicles -- Exemptions.**
27715 (1) Subject to Subsections (2) through (5), the operator of an authorized emergency
27716 vehicle may exercise the privileges granted under this section when:
27717 (a) responding to an emergency call;
27718 (b) in the pursuit of an actual or suspected violator of the law; or
27719 (c) responding to but not upon returning from a fire alarm.
27720 (2) The operator of an authorized emergency vehicle may:
27721 (a) park or stand, irrespective of the provisions of this chapter;
27722 (b) proceed past a red or stop signal or stop sign, but only after slowing down as may
27723 be necessary for safe operation;
27724 (c) exceed the maximum speed limits, unless prohibited by a local highway authority
27725 under Section 41-6a-208; or
27726 (d) disregard regulations governing direction of movement or turning in specified
27727 directions.
27728 (3) (a) Except as provided in Subsection (3)(b), privileges granted under this section to
27729 the operator of an authorized emergency vehicle, who is not involved in a vehicle pursuit,
27730 apply only when:
27731 (i) the operator of the vehicle sounds an audible signal under Section 41-6a-1625; or
27732 (ii) uses a visual signal with emergency lights in accordance with rules made under
27733 Section 41-6a-1601, which is visible from in front of the vehicle.
27734 (b) An operator of an authorized emergency vehicle may exceed the maximum speed
27735 limit when engaged in normal patrolling activities with the purpose of identifying and
27736 apprehending violators.
27737 (4) Privileges granted under this section to the operator of an authorized emergency
27738 vehicle involved in any vehicle pursuit apply only when:
27739 (a) the operator of the vehicle:
27740 (i) sounds an audible signal under Section 41-6a-1625; and
27741 (ii) uses a visual signal with emergency lights in accordance with rules made under

27742 Section 41-6a-1601, which is visible from in front of the vehicle;
27743 (b) the public agency employing the operator of the vehicle has, in effect, a written
27744 policy which describes the manner and circumstances in which any vehicle pursuit should be
27745 conducted and terminated;
27746 (c) the operator of the vehicle has been trained in accordance with the written policy
27747 described in Subsection (4)(b); and
27748 (d) the pursuit policy of the public agency is in conformance with standards established
27749 under Subsection (5).
27750 (5) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
27751 Administrative Rulemaking Act, the Department of Public Safety shall make rules providing
27752 minimum standards for all emergency pursuit policies that are adopted by public agencies
27753 authorized to operate emergency pursuit vehicles.
27754 (6) The privileges granted under this section do not relieve the operator of an
27755 authorized emergency vehicle of the duty to act as a reasonably prudent emergency vehicle
27756 operator in like circumstances.
27757 (7) Except for Sections 41-6a-210, 41-6a-502, and 41-6a-528, this chapter does not
27758 apply to persons, motor vehicles, and other equipment while actually engaged in work on the
27759 surface of a highway.
27760 Section 567. Section **41-6a-301** is amended to read:
27761 **41-6a-301. Standards and specifications for uniform system of traffic-control**
27762 **devices and school crossing guards.**
27763 (1) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
27764 Administrative Rulemaking Act, the Department of Transportation shall make rules consistent
27765 with this chapter adopting standards and establishing specifications for a uniform system of
27766 traffic-control devices used on a highway.
27767 (2) The standards and specifications adopted under Subsection (1) shall:
27768 (a) include provisions for school crossing zones and use of school crossing guards; and
27769 (b) correlate with, and where possible conform to, the system set forth in the most
27770 recent edition of the "Manual on Uniform Traffic Control Devices for Streets and Highways"
27771 and other standards issued or endorsed by the federal highway administrator.
27772 Section 568. Section **41-6a-303** is amended to read:

27773 **41-6a-303. Definition of reduced speed school zone -- Operation of warning lights**
27774 **-- School crossing guard requirements -- Responsibility provisions -- Rulemaking**
27775 **authority.**
27776 (1) As used in this section "reduced speed school zone" means a designated length of a
27777 highway extending from a school zone speed limit sign with warning lights operating to an end
27778 school zone sign.
27779 (2) The Department of Transportation for state highways and local highway authorities
27780 for highways under their jurisdiction:
27781 (a) shall establish reduced speed school zones at elementary schools after written
27782 assurance by a local highway authority that the local highway authority complies with
27783 Subsections (3) and (4); and
27784 (b) may establish reduced speed school zones for secondary schools at the request of
27785 the local highway authority.
27786 (3) For all reduced speed school zones on highways, including state highways within
27787 the jurisdictional boundaries of a local highway authority, the local highway authority shall:
27788 (a) (i) provide shuttle service across highways for school children; or
27789 (ii) provide, train, and supervise school crossing guards in accordance with this
27790 section;
27791 (b) provide for the:
27792 (i) operation of reduced speed school zones, including providing power to warning
27793 lights and turning on and off the warning lights as required under Subsections (4) and (5); and
27794 (ii) maintenance of reduced speed school zones except on state highways as provided
27795 in Section 41-6a-302; and
27796 (c) notify the Department of Transportation of reduced speed school zones on state
27797 highways that are in need of maintenance.
27798 (4) While children are going to or leaving school during opening and closing hours all
27799 reduced speed school zones shall have:
27800 (a) the warning lights operating on each school zone speed limit sign; and
27801 (b) a school crossing guard present if the reduced speed school zone is for an
27802 elementary school.
27803 (5) The warning lights on a school zone speed limit sign may not be operating except

27804 as provided under Subsection (4).
27805 (6) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
27806 Administrative Rulemaking Act, the Department of Transportation shall make rules
27807 establishing criteria and specifications for the:
27808 (a) establishment, location, and operation of school crosswalks, school zones, and
27809 reduced speed school zones;
27810 (b) training, use, and supervision of school crossing guards at elementary schools and
27811 secondary schools; and
27812 (c) content and implementation of child access routing plans under Section 53A-3-402.
27813 (7) Each local highway authority shall pay for providing, training, and supervising
27814 school crossing guards in accordance with this section.
27815 Section 569. Section **41-6a-403 (Superseded 07/01/08)** is amended to read:
27816 **41-6a-403 (Superseded 07/01/08). Vehicle accidents -- Investigation and report of**
27817 **operator security -- Agency action if no security -- Surrender of plates -- Penalties.**
27818 (1) (a) Upon request of a peace officer investigating an accident involving a motor
27819 vehicle, the operator of the motor vehicle shall provide evidence of the owner's or operator's
27820 security required under Section 41-12a-301.
27821 (b) The evidence of owner's or operator's security includes information specified under
27822 Section 41-12a-303.2.
27823 (2) The peace officer shall record on a form approved by the department:
27824 (a) the information provided by the operator;
27825 (b) whether the operator provided insufficient or no information;
27826 (c) whether the officer finds reasonable cause to believe that any information given is
27827 not correct; and
27828 (d) whether other information available to the peace officer indicates that owner's or
27829 operator's security is in effect.
27830 (3) The peace officer shall deposit all completed forms with the peace officer's law
27831 enforcement agency, which shall forward the forms to the department no later than ten days
27832 after receipt.
27833 (4) (a) The department shall within ten days of receipt of the forms from the law
27834 enforcement agency take action as follows:

27835 (i) if the operator provided no information under Subsection (1) and other information
27836 available to the peace officer does not indicate that owner's or operator's security is in effect,
27837 the department shall take direct action under Subsection 53-3-221(12); or
27838 (ii) if the peace officer noted or the department determines that there is reasonable
27839 cause to believe that the information given under Subsection (1) is not correct, the department
27840 shall contact directly the insurance company or other provider of security as described in
27841 Section 41-12a-303.2 and request verification of the accuracy of the information submitted as
27842 of the date of the accident.
27843 (b) The department may require the verification under Subsection (4)(a)(ii) to be in a
27844 form specified by the department.
27845 (c) The insurance company or other provider of security shall return the verification to
27846 the department within 30 days of receipt of the request.
27847 (d) If the department does not receive verification within 35 days after sending the
27848 request, or within the 35 days receives notice that the information was not correct, the
27849 department shall take action under Subsection 53-3-221(12).
27850 (5) (a) The owner of a vehicle with unexpired license plates for which security is not
27851 provided as required under this chapter shall return the plates for the vehicle to the Motor
27852 Vehicle Division unless specifically permitted by statute to retain them.
27853 (b) If the owner fails to return the plates as required, the plates shall be confiscated
27854 under Section 53-3-226.
27855 (6) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
27856 Administrative Rulemaking Act, the department may make rules for the enforcement of this
27857 section.
27858 (7) A person is guilty of a class B misdemeanor, and shall be fined not less than $100,
27859 who:
27860 (a) when requested to provide security information under Subsection (1), or Section
27861 41-12a-303.2, provides false information;
27862 (b) falsely represents to the department that security required under this chapter is in
27863 effect; or
27864 (c) sells a vehicle to avoid the penalties of this section as applicable either to himself or
27865 a third party.

27866 Section 570. Section **41-6a-403 (Effective 07/01/08)** is amended to read:
27867 **41-6a-403 (Effective 07/01/08). Vehicle accidents -- Investigation and report of**
27868 **operator security -- Agency action if no security -- Surrender of plates -- Penalties.**
27869 (1) (a) Upon request of a peace officer investigating an accident involving a motor
27870 vehicle, the operator of the motor vehicle shall provide evidence of the owner's or operator's
27871 security required under Section 41-12a-301.
27872 (b) The evidence of owner's or operator's security includes information specified under
27873 Section 41-12a-303.2.
27874 (2) The peace officer shall record on a form approved by the department:
27875 (a) the information provided by the operator;
27876 (b) whether the operator provided insufficient or no information;
27877 (c) whether the officer finds reasonable cause to believe that any information given is
27878 not correct; and
27879 (d) whether other information available to the peace officer indicates that owner's or
27880 operator's security is in effect.
27881 (3) The peace officer shall deposit all completed forms with the peace officer's law
27882 enforcement agency, which shall forward the forms to the department no later than ten days
27883 after receipt.
27884 (4) (a) The department shall within ten days of receipt of the forms from the law
27885 enforcement agency take action as follows:
27886 (i) if the operator provided no information under Subsection (1) and other information
27887 available to the peace officer does not indicate that owner's or operator's security is in effect,
27888 the department shall take direct action under Subsection 53-3-221(13); or
27889 (ii) if the peace officer noted or the department determines that there is reasonable
27890 cause to believe that the information given under Subsection (1) is not correct, the department
27891 shall contact directly the insurance company or other provider of security as described in
27892 Section 41-12a-303.2 and request verification of the accuracy of the information submitted as
27893 of the date of the accident.
27894 (b) The department may require the verification under Subsection (4)(a)(ii) to be in a
27895 form specified by the department.
27896 (c) The insurance company or other provider of security shall return the verification to

27897 the department within 30 days of receipt of the request.
27898 (d) If the department does not receive verification within 35 days after sending the
27899 request, or within the 35 days receives notice that the information was not correct, the
27900 department shall take action under Subsection 53-3-221(13).
27901 (5) (a) The owner of a vehicle with unexpired license plates for which security is not
27902 provided as required under this chapter shall return the plates for the vehicle to the Motor
27903 Vehicle Division unless specifically permitted by statute to retain them.
27904 (b) If the owner fails to return the plates as required, the plates shall be confiscated
27905 under Section 53-3-226.
27906 (6) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
27907 Administrative Rulemaking Act, the department may make rules for the enforcement of this
27908 section.
27909 (7) A person is guilty of a class B misdemeanor, and shall be fined not less than $100,
27910 who:
27911 (a) when requested to provide security information under Subsection (1), or Section
27912 41-12a-303.2, provides false information;
27913 (b) falsely represents to the department that security required under this chapter is in
27914 effect; or
27915 (c) sells a vehicle to avoid the penalties of this section as applicable either to himself or
27916 a third party.
27917 Section 571. Section **41-6a-404** is amended to read:
27918 **41-6a-404. Accident reports -- When confidential -- Insurance policy information**
27919 **-- Use as evidence -- Penalty for false information.**
27920 (1) As used in this section:
27921 (a) "Agent" means:
27922 (i) a person's attorney;
27923 (ii) a person's insurer;
27924 (iii) a general acute hospital, as defined in Section 26-21-2, that:
27925 (A) has an emergency room; and
27926 (B) is providing or has provided emergency services to the person in relation to the
27927 accident; or

27928 (iv) any other individual or entity with signed permission from the person to receive
27929 the person's accident report.
27930 (b) "Accompanying data" means all materials gathered by the investigating peace
27931 officer in an accident investigation including:
27932 (i) the identity of witnesses and, if known, contact information;
27933 (ii) witness statements;
27934 (iii) photographs and videotapes;
27935 (iv) diagrams; and
27936 (v) field notes.
27937 (2) Except as provided in Subsection (3), all accident reports required in this part to be
27938 filed with the department:
27939 (a) are without prejudice to the reporting individual;
27940 (b) are protected and for the confidential use of the department or other state, local, or
27941 federal agencies having use for the records for official governmental statistical, investigative,
27942 and accident prevention purposes; and
27943 (c) may be disclosed only in a statistical form that protects the privacy of any person
27944 involved in the accident.
27945 (3) (a) Subject to the provisions of this section, the department or the responsible law
27946 enforcement agency employing the peace officer that investigated the accident shall disclose an
27947 accident report to:
27948 (i) a person involved in the accident, excluding a witness to the accident;
27949 (ii) a person suffering loss or injury in the accident;
27950 (iii) an agent, parent, or legal guardian of a person described in Subsections (3)(a)(i)
27951 and (ii);
27952 (iv) subject to Subsection (3)(d), a member of the press or broadcast news media;
27953 (v) a state, local, or federal agency that uses the records for official governmental,
27954 investigative, or accident prevention purposes;
27955 (vi) law enforcement personnel when acting in their official governmental capacity;
27956 and
27957 (vii) a licensed private investigator.
27958 (b) The responsible law enforcement agency employing the peace officer that

27959 investigated the accident:
27960 (i) shall in compliance with Subsection (3)(a):
27961 (A) disclose an accident report; or
27962 (B) upon written request disclose an accident report and its accompanying data within
27963 ten business days from receipt of a written request for disclosure; or
27964 (ii) may withhold an accident report, and any of its accompanying data if disclosure
27965 would jeopardize an ongoing criminal investigation or criminal prosecution.
27966 (c) In accordance with Subsection (3)(a), the department or the responsible law
27967 enforcement agency employing the investigating peace officer shall disclose whether any
27968 person or vehicle involved in an accident reported under this section was covered by a vehicle
27969 insurance policy, and the name of the insurer.
27970 (d) Information provided to a member of the press or broadcast news media under
27971 Subsection (3)(a)(iv) may only include:
27972 (i) the name, age, sex, and city of residence of each person involved in the accident;
27973 (ii) the make and model year of each vehicle involved in the accident;
27974 (iii) whether or not each person involved in the accident was covered by a vehicle
27975 insurance policy;
27976 (iv) the location of the accident; and
27977 (v) a description of the accident that excludes personal identifying information not
27978 listed in Subsection (3)(d)(i).
27979 (e) The department shall disclose to any requesting person the following vehicle
27980 accident history information, excluding personal identifying information, in bulk electronic
27981 form:
27982 (i) any vehicle identifying information that is electronically available, including the
27983 make, model year, and vehicle identification number of each vehicle involved in an accident;
27984 (ii) the date of the accident; and
27985 (iii) any electronically available data which describes the accident, including a
27986 description of any physical damage to the vehicle.
27987 (f) The department may establish a fee under Section [~~63-38-3.2~~] 63J-1-303 based on
27988 the fair market value of the information for providing bulk vehicle accident history information
27989 under Subsection (3)(e).

27990 (4) (a) Except as provided in Subsection (4)(b), accident reports filed under this section
27991 may not be used as evidence in any civil or criminal trial arising out of an accident.
27992 (b) (i) Upon demand of any party to the trial or upon demand of any court, the
27993 department shall furnish a certificate showing that a specified accident report has or has not
27994 been made to the department in compliance with law.
27995 (ii) If the report has been made, the certificate furnished by the department shall show:
27996 (A) the date, time, and location of the accident;
27997 (B) the names and addresses of the drivers;
27998 (C) the owners of the vehicles involved; and
27999 (D) the investigating peace officers.
28000 (iii) The reports may be used as evidence when necessary to prosecute charges filed in
28001 connection with a violation of Subsection (5).
28002 (5) A person who gives information in reports as required in this part knowing or
28003 having reason to believe that the information is false is guilty of a class A misdemeanor.
28004 (6) The department and the responsible law enforcement agency employing the
28005 investigating peace officer may charge a reasonable fee determined by the department under
28006 Section [~~63-38-3.2~~] 63J-1-303 for the cost incurred in disclosing an accident report or an
28007 accident report and any of its accompanying data under Subsections (3)(a) and (b).
28008 Section 572. Section **41-6a-514** is amended to read:
28009 **41-6a-514. Procedures -- Adjudicative proceedings.**
28010 The department shall comply with the procedures and requirements of [~~Title 63,~~
28011 ~~Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative
28012 proceedings.
28013 Section 573. Section **41-6a-518** is amended to read:
28014 **41-6a-518. Ignition interlock devices -- Use -- Probationer to pay cost --**
28015 **Impecuniosity -- Fee.**
28016 (1) As used in this section:
28017 (a) "Commissioner" means the commissioner of the Department of Public Safety.
28018 (b) "Ignition interlock system" or "system" means a constant monitoring device or any
28019 similar device certified by the commissioner that prevents a motor vehicle from being started
28020 or continuously operated without first determining the driver's breath alcohol concentration.

28021 (c) "Probation provider" means the supervisor and monitor of the ignition interlock
28022 system required as a condition of probation who contracts with the court in accordance with
28023 Subsections 41-6a-507(2) and (3).
28024 (2) (a) In addition to any other penalties imposed under Sections 41-6a-503 and
28025 41-6a-505, and in addition to any requirements imposed as a condition of probation, the court
28026 may require that any person who is convicted of violating Section 41-6a-502 and who is
28027 granted probation may not operate a motor vehicle during the period of probation unless that
28028 motor vehicle is equipped with a functioning, certified ignition interlock system installed and
28029 calibrated so that the motor vehicle will not start or continuously operate if the operator's blood
28030 alcohol concentration exceeds a level ordered by the court.
28031 (b) If a person convicted of violating Section 41-6a-502 was under the age of 21 when
28032 the violation occurred, the court shall order the installation of the ignition interlock system as a
28033 condition of probation.
28034 (c) The division shall post the ignition interlock restriction on the electronic record
28035 available to law enforcement.
28036 (d) This section does not apply to a person convicted of a violation of Section
28037 41-6a-502 whose violation involves drugs other than alcohol.
28038 (3) If the court imposes the use of an ignition interlock system as a condition of
28039 probation, the court shall:
28040 (a) stipulate on the record the requirement for and the period of the use of an ignition
28041 interlock system;
28042 (b) order that an ignition interlock system be installed on each motor vehicle owned or
28043 operated by the probationer, at the probationer's expense;
28044 (c) immediately notify the Driver License Division and the person's probation provider
28045 of the order; and
28046 (d) require the probationer to provide proof of compliance with the court's order to the
28047 probation provider within 30 days of the order.
28048 (4) (a) The probationer shall provide timely proof of installation within 30 days of an
28049 order imposing the use of a system or show cause why the order was not complied with to the
28050 court or to the probationer's probation provider.
28051 (b) The probation provider shall notify the court of failure to comply under Subsection

28052 (4)(a).
28053 (c) For failure to comply under Subsection (4)(a) or upon receiving the notification
28054 under Subsection (4)(b), the court shall order the Driver License Division to suspend the
28055 probationer's driving privileges for the remaining period during which the compliance was
28056 imposed.
28057 (d) Cause for failure to comply means any reason the court finds sufficiently justifiable
28058 to excuse the probationer's failure to comply with the court's order.
28059 (5) (a) Any probationer required to install an ignition interlock system shall have the
28060 system monitored by the manufacturer or dealer of the system for proper use and accuracy at
28061 least semiannually and more frequently as the court may order.
28062 (b) (i) A report of the monitoring shall be issued by the manufacturer or dealer to the
28063 court or the person's probation provider.
28064 (ii) The report shall be issued within 14 days following each monitoring.
28065 (6) (a) If an ignition interlock system is ordered installed, the probationer shall pay the
28066 reasonable costs of leasing or buying and installing and maintaining the system.
28067 (b) A probationer may not be excluded from this section for inability to pay the costs,
28068 unless:
28069 (i) the probationer files an affidavit of impecuniosity; and
28070 (ii) the court enters a finding that the probationer is impecunious.
28071 (c) In lieu of waiver of the entire amount of the cost, the court may direct the
28072 probationer to make partial or installment payments of costs when appropriate.
28073 (d) The ignition interlock provider shall cover the costs of waivers by the court under
28074 this Subsection (6).
28075 (7) (a) If a probationer is required in the course and scope of employment to operate a
28076 motor vehicle owned by the probationer's employer, the probationer may operate that motor
28077 vehicle without installation of an ignition interlock system only if:
28078 (i) the motor vehicle is used in the course and scope of employment;
28079 (ii) the employer has been notified that the employee is restricted; and
28080 (iii) the employee has proof of the notification in [~~his~~] the employee's possession while
28081 operating the employer's motor vehicle.
28082 (b) (i) To the extent that an employer-owned motor vehicle is made available to a

28083 probationer subject to this section for personal use, no exemption under this section shall apply.
28084 (ii) A probationer intending to operate an employer-owned motor vehicle for personal
28085 use and who is restricted to the operation of a motor vehicle equipped with an ignition interlock
28086 system shall notify the employer and obtain consent in writing from the employer to install a
28087 system in the employer-owned motor vehicle.
28088 (c) A motor vehicle owned by a business entity that is all or partly owned or controlled
28089 by a probationer subject to this section is not a motor vehicle owned by the employer and does
28090 not qualify for an exemption under this Subsection (7).
28091 (8) (a) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
28092 Administrative Rulemaking Act, the commissioner shall make rules setting standards for the
28093 certification of ignition interlock systems.
28094 (b) The standards under Subsection (8)(a) shall require that the system:
28095 (i) not impede the safe operation of the motor vehicle;
28096 (ii) have features that make circumventing difficult and that do not interfere with the
28097 normal use of the motor vehicle;
28098 (iii) require a deep lung breath sample as a measure of breath alcohol concentration;
28099 (iv) prevent the motor vehicle from being started if the driver's breath alcohol
28100 concentration exceeds a specified level;
28101 (v) work accurately and reliably in an unsupervised environment;
28102 (vi) resist tampering and give evidence if tampering is attempted;
28103 (vii) operate reliably over the range of motor vehicle environments; and
28104 (viii) be manufactured by a party who will provide liability insurance.
28105 (c) The commissioner may adopt in whole or in part, the guidelines, rules, studies, or
28106 independent laboratory tests relied upon in certification of ignition interlock systems by other
28107 states.
28108 (d) A list of certified systems shall be published by the commissioner and the cost of
28109 certification shall be borne by the manufacturers or dealers of ignition interlock systems
28110 seeking to sell, offer for sale, or lease the systems.
28111 (e) (i) In accordance with Section [~~63-38-3.2~~] 63J-1-303, the commissioner may
28112 establish an annual dollar assessment against the manufacturers of ignition interlock systems
28113 distributed in the state for the costs incurred in certifying.

28114 (ii) The assessment under Subsection (8)(e)(i) shall be apportioned among the
28115 manufacturers on a fair and reasonable basis.
28116 (9) There shall be no liability on the part of, and no cause of action of any nature shall
28117 arise against, the state or its employees in connection with the installation, use, operation,
28118 maintenance, or supervision of an interlock ignition system as required under this section.
28119 Section 574. Section **41-6a-702** is amended to read:
28120 **41-6a-702. Left lane restrictions -- Exceptions -- Other lane restrictions --**
28121 **Penalties.**
28122 (1) As used in this section and Section 41-6a-704, "general purpose lane" means a
28123 highway lane open to vehicular traffic but does not include a designated:
28124 (a) high occupancy vehicle (HOV) lane; or
28125 (b) auxiliary lane that begins as a freeway on-ramp and ends as part of the next freeway
28126 off-ramp.
28127 (2) On a freeway or section of a freeway which has three or more general purpose lanes
28128 in the same direction, a person may not operate a vehicle in the left most general purpose lane
28129 if the person's:
28130 (a) vehicle is drawing a trailer or semitrailer regardless of size; or
28131 (b) vehicle or combination of vehicles has a gross vehicle weight of 12,001 or more
28132 pounds.
28133 (3) Subsection (2) does not apply to a person operating a vehicle who is:
28134 (a) preparing to turn left or taking a different highway split or an exit on the left;
28135 (b) responding to emergency conditions;
28136 (c) avoiding actual or potential traffic moving onto the highway from an acceleration or
28137 merging lane; or
28138 (d) following direction signs that direct use of a designated lane.
28139 (4) (a) A highway authority may designate a specific lane or lanes of travel for any type
28140 of vehicle on a highway or portion of a highway under its jurisdiction for the:
28141 (i) safety of the public;
28142 (ii) efficient maintenance of a highway; or
28143 (iii) use of high occupancy vehicles.
28144 (b) The lane designation under Subsection (4)(a) is effective when appropriate signs

28145 giving notice are erected on the highway or portion of the highway.
28146 (5) (a) Subject to Subsection (5)(b), the lane designation under Subsection (4)(a) shall
28147 allow a vehicle with clean fuel special group license plates issued in accordance with Section
28148 41-1a-418 to travel in lanes designated for the use of high occupancy vehicles regardless of the
28149 number of occupants to the extent authorized or permitted by federal law or federal regulation.
28150 (b) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
28151 Administrative Rulemaking Act, the Department of Transportation may make rules to allow a
28152 vehicle with clean fuel special group license plates issued in accordance with Section
28153 41-1a-418 to travel in lanes designated for the use of high occupancy vehicles regardless of the
28154 number of occupants to the extent authorized or permitted by federal law or federal regulation.
28155 (6) A person who operates a vehicle in violation of Subsection (2) or in violation of the
28156 restrictions made under Subsection (4) is guilty of a class C misdemeanor.
28157 Section 575. Section **41-6a-1304** is amended to read:
28158 **41-6a-1304. School buses -- Rules regarding design and operation.**
28159 (1) (a) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
28160 Administrative Rulemaking Act, the Department of Transportation by and with the advice of
28161 the State Board of Education and the Department of Public Safety shall adopt and enforce
28162 rules, not inconsistent with this chapter, to govern the design and operation of all school buses
28163 in this state when:
28164 (i) owned and operated by any school district;
28165 (ii) privately owned and operated under contract with a school district; or
28166 (iii) privately owned for use by a private school.
28167 (b) The rules under this Subsection (1) shall by reference be made a part of any
28168 contract with a school district or private school to operate a school bus.
28169 (2) Every school district or private school, its officers and employees, and every person
28170 employed under contract by a school district or private school shall be subject to the rules
28171 under Subsection (1).
28172 Section 576. Section **41-6a-1307** is amended to read:
28173 **41-6a-1307. School bus parking zones -- Establishment -- Uniform markings --**
28174 **Penalty.**
28175 (1) As used in this section, "school bus parking zone" means a parking space that is

28176 clearly identified as reserved for use by a school bus.
28177 (2) A highway authority for highways under its jurisdiction and school boards for
28178 roadways located on school property may establish and locate school bus parking zones in
28179 accordance with specifications established under Subsection (3).
28180 (3) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
28181 Administrative Rulemaking Act, the Department of Transportation, after consultation with
28182 local highway authorities and school boards which may include input from school traffic safety
28183 committees established under Section 53A-3-402, shall make rules establishing specifications
28184 for uniform signage or markings to clearly identify school bus parking zones.
28185 (4) A person may not stop, stand, or park a vehicle other than a school bus, whether
28186 occupied or not, in a clearly identified school bus parking zone.
28187 (5) A person who violates Subsection (4) shall pay a minimum fine of $75.
28188 Section 577. Section **41-6a-1406** is amended to read:
28189 **41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification**
28190 **requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.**
28191 (1) If a vehicle, vessel, or outboard motor is removed or impounded as provided under
28192 Section 41-1a-1101, 41-6a-527, 41-6a-1405, 41-6a-1408, or 73-18-20.1 by an order of a peace
28193 officer or by an order of a person acting on behalf of a law enforcement agency or highway
28194 authority, the removal or impoundment of the vehicle, vessel, or outboard motor shall be at the
28195 expense of the owner.
28196 (2) The vehicle, vessel, or outboard motor under Subsection (1) shall be removed or
28197 impounded to:
28198 (a) a state impound yard; or
28199 (b) if none, a garage, docking area, or other place of safety.
28200 (3) The peace officer may move a vehicle, vessel, or outboard motor or cause it to be
28201 removed by a tow truck motor carrier that meets standards established:
28202 (a) under Title 72, Chapter 9, Motor Carrier Safety Act; and
28203 (b) by the department under Subsection (10).
28204 (4) (a) Immediately after the removal of the vehicle, vessel, or outboard motor, a report
28205 of the removal shall be sent to the Motor Vehicle Division by:
28206 (i) the peace officer or agency by whom the peace officer is employed; and

28207 (ii) the tow truck operator or the tow truck motor carrier by whom the tow truck
28208 operator is employed.
28209 (b) The report shall be in a form specified by the Motor Vehicle Division and shall
28210 include:
28211 (i) the operator's name, if known;
28212 (ii) a description of the vehicle, vessel, or outboard motor;
28213 (iii) the vehicle identification number or vessel or outboard motor identification
28214 number;
28215 (iv) the license number or other identification number issued by a state agency;
28216 (v) the date, time, and place of impoundment;
28217 (vi) the reason for removal or impoundment;
28218 (vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or
28219 outboard motor; and
28220 (viii) the place where the vehicle, vessel, or outboard motor is stored.
28221 (c) Until the tow truck operator or tow truck motor carrier reports the removal as
28222 required under this Subsection (4), a tow truck motor carrier or impound yard may not:
28223 (i) collect any fee associated with the removal; and
28224 (ii) begin charging storage fees.
28225 (5) (a) Upon receipt of the report, the Motor Vehicle Division shall give notice to the
28226 registered owner of the vehicle, vessel, or outboard motor and any lien holder in the manner
28227 prescribed by Section 41-1a-114.
28228 (b) The notice shall:
28229 (i) state the date, time, and place of removal, the name, if applicable, of the person
28230 operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal,
28231 and the place where the vehicle, vessel, or outboard motor is stored;
28232 (ii) state that the registered owner is responsible for payment of towing, impound, and
28233 storage fees charged against the vehicle, vessel, or outboard motor;
28234 (iii) inform the registered owner of the vehicle, vessel, or outboard motor of the
28235 conditions that must be satisfied before the vehicle, vessel, or outboard motor is released; and
28236 (iv) inform the registered owner and lienholder of the division's intent to sell the
28237 vehicle, vessel, or outboard motor, if within 30 days from the date of the removal or

28238 impoundment under this section, the owner, lien holder, or the owner's agent fails to make a
28239 claim for release of the vehicle, vessel, or outboard motor.
28240 (c) If the vehicle, vessel, or outboard motor is not registered in this state, the Motor
28241 Vehicle Division shall make a reasonable effort to notify the registered owner and any lien
28242 holder of the removal and the place where the vehicle, vessel, or outboard motor is stored.
28243 (d) The Motor Vehicle Division shall forward a copy of the notice to the place where
28244 the vehicle, vessel, or outboard motor is stored.
28245 (6) (a) The vehicle, vessel, or outboard motor shall be released after the registered
28246 owner, lien holder, or the owner's agent:
28247 (i) makes a claim for release of the vehicle, vessel, or outboard motor at any office of
28248 the State Tax Commission;
28249 (ii) presents identification sufficient to prove ownership of the impounded vehicle,
28250 vessel, or outboard motor;
28251 (iii) completes the registration, if needed, and pays the appropriate fees;
28252 (iv) if the impoundment was made under Section 41-6a-527, pays an administrative
28253 impound fee of $230; and
28254 (v) pays all towing and storage fees to the place where the vehicle, vessel, or outboard
28255 motor is stored.
28256 (b) (i) Twenty-nine dollars of the administrative impound fee assessed under
28257 Subsection (6)(a)(iv) shall be dedicated credits to the Motor Vehicle Division;
28258 (ii) $97 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be
28259 deposited in the Department of Public Safety Restricted Account created in Section 53-3-106;
28260 and
28261 (iii) the remainder of the administrative impound fee assessed under Subsection
28262 (6)(a)(iv) shall be deposited in the General Fund.
28263 (c) The administrative impound fee assessed under Subsection (6)(a)(iv) shall be
28264 waived or refunded by the State Tax Commission if the registered owner, lien holder, or
28265 owner's agent presents written evidence to the State Tax Commission that:
28266 (i) the Driver License Division determined that the arrested person's driver license
28267 should not be suspended or revoked under Section 53-3-223 or 41-6a-521 as shown by a letter
28268 or other report from the Driver License Division presented within 30 days of the final

28269 notification from the Driver License Division; or
28270 (ii) the vehicle was stolen at the time of the impoundment as shown by a copy of the
28271 stolen vehicle report presented within 30 days of the impoundment.
28272 (7) (a) An impounded vehicle, vessel, or outboard motor not claimed by the registered
28273 owner or the owner's agent within the time prescribed by Section 41-1a-1103 shall be sold in
28274 accordance with that section and the proceeds, if any, shall be disposed of as provided under
28275 Section 41-1a-1104.
28276 (b) The date of impoundment is considered the date of seizure for computing the time
28277 period provided under Section 41-1a-1103.
28278 (8) The registered owner who pays all fees and charges incurred in the impoundment of
28279 the owner's vehicle, vessel, or outboard motor, has a cause of action for all the fees and
28280 charges, together with damages, court costs, and attorney fees, against the operator of the
28281 vehicle, vessel, or outboard motor whose actions caused the removal or impoundment.
28282 (9) Towing, impound fees, and storage fees are a possessory lien on the vehicle, vessel,
28283 or outboard motor.
28284 (10) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
28285 Administrative Rulemaking Act, the department shall make rules setting the performance
28286 standards for towing companies to be used by the department.
28287 (11) (a) The Motor Vehicle Division may specify that a report required under
28288 Subsection (4) be submitted in electronic form utilizing a database for submission, storage, and
28289 retrieval of the information.
28290 (b) (i) Unless otherwise provided by statute, the Motor Vehicle Division or the
28291 administrator of the database may adopt a schedule of fees assessed for utilizing the database.
28292 (ii) The fees under this Subsection (11)(b) shall:
28293 (A) be reasonable and fair; and
28294 (B) reflect the cost of administering the database.
28295 Section 578. Section **41-6a-1601** is amended to read:
28296 **41-6a-1601. Operation of unsafe or improperly equipped vehicles on public**
28297 **highways -- Exceptions.**
28298 (1) (a) A person may not operate or move and an owner may not cause or knowingly
28299 permit to be operated or moved on a highway a vehicle or combination of vehicles which:

28300 (i) is in an unsafe condition that may endanger any person;
28301 (ii) does not contain those parts or is not at all times equipped with lamps and other
28302 equipment in proper condition and adjustment as required in this chapter;
28303 (iii) is equipped in any manner in violation of this chapter; or
28304 (iv) emits pollutants in excess of the limits allowed under the rules of the Air Quality
28305 Board created under Title 19, Chapter 2, Air Conservation Act, or under rules made by local
28306 health departments.
28307 (b) A person may not do any act forbidden or fail to perform any act required under this
28308 chapter.
28309 (2) (a) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
28310 Administrative Rulemaking Act, and in coordination with the rules made under Section
28311 53-8-204, the department shall make rules setting minimum standards covering the design,
28312 construction, condition, and operation of vehicle equipment for safely operating a motor
28313 vehicle on the highway as required under this part.
28314 (b) The rules under Subsection (2)(a):
28315 (i) shall conform as nearly as practical to Federal Motor Vehicle Safety Standards and
28316 Regulations;
28317 (ii) may incorporate by reference, in whole or in part, the federal standards under
28318 Subsection (2)(b)(i) and nationally recognized and readily available standards and codes on
28319 motor vehicle safety;
28320 (iii) shall include provisions for the issuance of a permit under Section 41-6a-1602;
28321 (iv) shall include standards for the emergency lights of authorized emergency vehicles;
28322 (v) may provide standards and specifications applicable to lighting equipment on
28323 school buses consistent with:
28324 (A) this part;
28325 (B) federal motor vehicle safety standards; and
28326 (C) current specifications of the Society of Automotive Engineers;
28327 (vi) shall provide procedures for the submission, review, approval, disapproval,
28328 issuance of an approval certificate, and expiration or renewal of approval of any part as
28329 required under Section 41-6a-1620;
28330 (vii) shall establish specifications for the display or etching of a vehicle identification

28331 number on a vehicle;
28332 (viii) shall establish specifications in compliance with this part for a flare, fusee,
28333 electric lantern, warning flag, or portable reflector used in compliance with this part;
28334 (ix) shall establish approved safety and law enforcement purposes when video display
28335 is visible to the motor vehicle operator; and
28336 (x) shall include standards and specifications for both original equipment and parts
28337 included when a vehicle is manufactured and aftermarket equipment and parts included after
28338 the original manufacture of a vehicle.
28339 (c) The following standards and specifications for vehicle equipment are adopted:
28340 (i) 49 C.F.R. 571.209 related to safety belts;
28341 (ii) 49 C.F.R. 571.213 related to child restraint devices;
28342 (iii) 49 C.F.R. 393, 396, and 396 Appendix G related to commercial motor vehicles
28343 and trailers operated in interstate commerce;
28344 (iv) 49 C.F.R. 571 Standard 108 related to lights and illuminating devices; and
28345 (v) 40 C.F.R. 82.30 through 82.42 and Part 82, Subpart B, Appendix A and B related
28346 to air conditioning equipment.
28347 (3) Nothing in this chapter or the rules made by the department prohibit:
28348 (a) equipment required by the United States Department of Transportation; or
28349 (b) the use of additional parts and accessories on a vehicle not inconsistent with the
28350 provisions of this chapter or the rules made by the department.
28351 (4) Except as specifically made applicable, the provisions of this chapter and rules of
28352 the department with respect to equipment required on vehicles do not apply to:
28353 (a) implements of husbandry;
28354 (b) road machinery;
28355 (c) road rollers;
28356 (d) farm tractors;
28357 (e) motorcycles;
28358 (f) motor-driven cycles;
28359 (g) vehicles moved solely by human power;
28360 (h) off-highway vehicles registered under Section 41-22-3 either:
28361 (i) on a highway designated as open for off-highway vehicle use; or

28362 (ii) in the manner prescribed by Section 41-22-10.3; or
28363 (i) off-highway implements of husbandry when operated in the manner prescribed by
28364 Subsections 41-22-5.5 (3) through (5).
28365 (5) The vehicles referred to in Subsections (4)(h) and (i) are subject to the equipment
28366 requirements of Title 41, Chapter 22, Off-highway Vehicles, and the rules made under that
28367 chapter.
28368 (6) (a) A federal motor vehicle safety standard supersedes any conflicting provision of
28369 this chapter.
28370 (b) The department:
28371 (i) shall report any conflict found under Subsection (6)(a) to the appropriate
28372 committees or officials of the Legislature; and
28373 (ii) may adopt a rule to replace the superseded provision.
28374 Section 579. Section **41-6a-1617** is amended to read:
28375 **41-6a-1617. Highway construction and maintenance vehicles -- Transportation**
28376 **department to adopt rules for lighting.**
28377 (1) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
28378 Administrative Rulemaking Act, the Department of Transportation shall make rules providing
28379 specifications governing the design and use of special flashing lights on vehicles engaged in
28380 highway construction or maintenance operations.
28381 (2) The standards and specifications adopted under Subsection (1) shall correlate with,
28382 and where possible conform to, the standards set forth in the most recent edition of the
28383 "Manual on Uniform Traffic Control Devices for Streets and Highways" and other standards
28384 issued or endorsed by the federal highway administrator.
28385 (3) The operator of a vehicle engaged in highway construction or maintenance
28386 operations shall comply with rules adopted under this section.
28387 Section 580. Section **41-6a-1636** is amended to read:
28388 **41-6a-1636. Tires which are prohibited -- Regulatory powers of state**
28389 **transportation department -- Winter use of studs -- Special permits -- Tread depth.**
28390 (1) A solid rubber tire on a vehicle shall have rubber on its entire traction surface at
28391 least one inch thick above the edge of the flange of the entire periphery.
28392 (2) A person may not operate or move on a highway a motor vehicle, trailer, or

28393 semitrailer having a metal tire in contact with the roadway.
28394 (3) Except as otherwise provided in this section, a person may not have a tire on a
28395 vehicle that is moved on a highway that has on the tire's periphery a block, stud, flange, cleat,
28396 or spike or any other protuberances of any material other than rubber which projects beyond the
28397 tread of the traction surface of the tire.
28398 (4) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
28399 Administrative Rulemaking Act, the Department of Transportation may make rules to permit
28400 the use of tires on a vehicle having protuberances other than rubber, if the department
28401 concludes that protuberances do not:
28402 (a) damage the highway significantly; or
28403 (b) constitute a hazard to life, health, or property.
28404 (5) Notwithstanding any other provision of this section, a person may use:
28405 (a) a tire with protuberances consisting of tungsten carbide studs on a vehicle if the
28406 studs:
28407 (i) are only used during the winter periods of October fifteenth through December
28408 thirty-first and January first through March thirty-first of each year;
28409 (ii) do not project beyond the tread of the traction surface of the tire more than .050
28410 inches; and
28411 (iii) are not used on a vehicle with a maximum gross weight in excess of 9,000 pounds
28412 unless the vehicle is an emergency vehicle or school bus;
28413 (b) farm machinery with tires having protuberances which will not injure the highway;
28414 and
28415 (c) tire chains of reasonable proportions on a vehicle when required for safety because
28416 of snow, ice, or other conditions tending to cause a vehicle to skid.
28417 (6) Notwithstanding any other provision of this chapter, a highway authority, for a
28418 highway under its jurisdiction, may issue special permits authorizing the operation on a
28419 highway of:
28420 (a) farm tractors;
28421 (b) other farm machinery; or
28422 (c) traction engines or tractors having movable tracks with transverse corrugations on
28423 the periphery of the movable tracks.

28424 (7) (a) A person may not operate a vehicle if one or more of the tires in use on the
28425 vehicle:
28426 (i) is in an unsafe operating condition; or
28427 (ii) has a tread depth less than 2/32 inch measured in any two adjacent tread grooves at
28428 three equally spaced intervals around the circumference of the tire.
28429 (b) The measurement under Subsection (7)(a) may not be made at the location of any
28430 tread wear indicator, tie bar, hump, or fillet.
28431 (8) A person in the business of selling tires may not sell or offer for sale for highway
28432 use any tire prohibited for use under Subsection (7).
28433 Section 581. Section **41-6a-1639** is amended to read:
28434 **41-6a-1639. Hazardous materials -- Transportation regulations -- Fire**
28435 **extinguishers.**
28436 (1) (a) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
28437 Administrative Rulemaking Act, the Department of Transportation shall make rules for the safe
28438 transportation of hazardous materials.
28439 (b) The rules shall adopt by reference or be consistent with current Hazardous
28440 Materials Regulations of the United States Department of Transportation.
28441 (c) An adoption by reference under Subsection (1)(b) shall be construed to incorporate
28442 amendments thereto as may be made from time to time.
28443 (2) A person operating a vehicle transporting any hazardous material as a cargo or part
28444 of a cargo on a highway shall at all times comply with rules made by the Department of
28445 Transportation under this section including being:
28446 (a) marked or placarded; and
28447 (b) equipped with fire extinguishers:
28448 (i) of a type, size, and number approved by rule; and
28449 (ii) that are filled, ready for immediate use, and placed at a convenient point on the
28450 vehicle.
28451 Section 582. Section **41-12a-201** is amended to read:
28452 **41-12a-201. Administration of laws under Title 41, Chapter 12a -- Compliance**
28453 **with Administrative Procedures Act.**
28454 (1) The department shall administer and enforce the provisions of this chapter and may

28455 adopt rules as necessary for its administration.
28456 (2) The department shall comply with the procedures and requirements of [~~Title 63,~~
28457 ~~Chapter 46b,~~] Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative
28458 proceedings.
28459 Section 583. Section **41-12a-202** is amended to read:
28460 **41-12a-202. Access to accident reports.**
28461 (1) Accident reports and supplemental information as required under this chapter are
28462 protected and are for the confidential use of the department and other state, local, or federal
28463 government agencies and may be disclosed only as provided in Section 41-6a-404.
28464 (2) (a) Any person entitled to the disclosure of an accident report, as provided in
28465 Section 41-6a-404, may obtain a photocopy by paying the department a fee established under
28466 Section [~~63-38-3.2~~] 63J-1-303.
28467 (b) These fees shall be deposited in the General Fund.
28468 Section 584. Section **41-12a-407** is amended to read:
28469 **41-12a-407. Certificate of self-funded coverage as proof of owner's or operator's**
28470 **security.**
28471 (1) The department may, upon the application of any person, issue a certificate of
28472 self-funded coverage when it is satisfied that the person has:
28473 (a) more than 24 motor vehicles; and
28474 (b) deposits, in a form approved by the department, securities in an amount of
28475 $200,000 plus $100 for each motor vehicle up to and including 1,000 motor vehicles and $50
28476 for every motor vehicle over 1,000 motor vehicles.
28477 (2) Persons holding a certificate of self-funded coverage under this chapter shall pay
28478 benefits to persons injured from the self-funded person's operation, maintenance, and use of
28479 motor vehicles as would an insurer issuing a policy to the self-funded person containing the
28480 coverages under Section 31A-22-302.
28481 (3) In accordance with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
28482 Procedures Act, the department may, upon reasonable grounds, cancel the certificate. Failure
28483 to pay any judgment up to the limit under Subsection 31A-22-304(2) within 30 days after the
28484 judgment is final is a reasonable ground to cancel the certificate.
28485 (4) Any government entity with self-funded coverage for government-owned motor

28486 vehicles under [~~Title 63, Chapter 30d~~] Title 63G, Chapter 7, Governmental Immunity Act of
28487 Utah, meets the requirements of this section.
28488 Section 585. Section **41-12a-803** is amended to read:
28489 **41-12a-803. Program creation -- Administration -- Selection of designated agent**
28490 **-- Duties -- Rulemaking -- Audits.**
28491 (1) There is created the Uninsured Motorist Identification Database Program to:
28492 (a) establish an Uninsured Motorist Identification Database to verify compliance with
28493 motor vehicle owner's or operator's security requirements under Section 41-12a-301 and other
28494 provisions under this part;
28495 (b) assist in reducing the number of uninsured motor vehicles on the highways of the
28496 state;
28497 (c) assist in increasing compliance with motor vehicle registration and sales and use tax
28498 laws; and
28499 (d) assist in protecting a financial institution's bona fide security interest in a motor
28500 vehicle.
28501 (2) The program shall be administered by the department with the assistance of the
28502 designated agent and the Motor Vehicle Division.
28503 (3) (a) The department shall contract in accordance with [~~Title 63, Chapter 56~~] Title
28504 63G, Chapter 6, Utah Procurement Code, with a third party to establish and maintain an
28505 Uninsured Motorist Identification Database for the purposes established under this part.
28506 (b) The contract may not obligate the department to pay the third party more monies
28507 than are available in the account.
28508 (4) (a) The third party under contract under this section is the department's designated
28509 agent, and shall develop and maintain a computer database from the information provided by:
28510 (i) insurers under Section 31A-22-315;
28511 (ii) the division under Subsection (6); and
28512 (iii) the Motor Vehicle Division under Section 41-1a-120.
28513 (b) (i) The database shall be developed and maintained in accordance with guidelines
28514 established by the department so that state and local law enforcement agencies and financial
28515 institutions as defined in Section 7-1-103 can efficiently access the records of the database,
28516 including reports useful for the implementation of the provisions of this part.

28517 (ii) (A) The reports shall be in a form and contain information approved by the
28518 department.
28519 (B) The reports may be made available through the Internet or through other electronic
28520 medium, if the department determines that sufficient security is provided to ensure compliance
28521 with Section 41-12a-805 regarding limitations on disclosure of information in the database.
28522 (5) With information provided by the department and the Motor Vehicle Division, the
28523 designated agent shall, at least monthly for submissions under Subsection 31A-22-315(2)(b) or
28524 at least twice a month for submissions under Subsection 31A-22-315(2)(a):
28525 (a) update the database with the motor vehicle insurance information provided by the
28526 insurers in accordance with Section 31A-22-315; and
28527 (b) compare all current motor vehicle registrations against the database.
28528 (6) The division shall provide the designated agent with the name, date of birth,
28529 address, and driver license number of all persons on the driver license database.
28530 (7) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
28531 Administrative Rulemaking Act, the department shall make rules and develop procedures in
28532 cooperation with the Motor Vehicle Division to use the database for the purpose of
28533 administering and enforcing this part.
28534 (8) (a) The designated agent shall archive computer data files at least semi-annually for
28535 auditing purposes.
28536 (b) The internal audit unit of the tax commission provided under Section 59-1-206
28537 shall audit the program at least every three years.
28538 (c) The audit under Subsection (8)(b) shall include verification of:
28539 (i) billings made by the designated agent; and
28540 (ii) the accuracy of the designated agent's matching of vehicle registration with
28541 insurance data.
28542 Section 586. Section **41-12a-805** is amended to read:
28543 **41-12a-805. Disclosure of insurance information -- Penalty.**
28544 (1) Information in the database established under Section 41-12a-803 provided by a
28545 person to the designated agent is considered to be the property of the person providing the
28546 information. The information may not be disclosed from the database under [~~Title 63, Chapter~~
28547 ~~2~~] Title 63G, Chapter 2, Government Records Access and Management Act, or otherwise,

28548 except as follows:
28549 (a) for the purpose of investigating, litigating, or enforcing the owner's or operator's
28550 security requirement under Section 41-12a-301, the designated agent shall verify insurance
28551 information through the state computer network for a state or local government agency or
28552 court;
28553 (b) for the purpose of investigating, litigating, or enforcing the owner's or operator's
28554 security requirement under Section 41-12a-301, the designated agent shall, upon request, issue
28555 to any state or local government agency or court a certificate documenting the insurance
28556 information, according to the database, of a specific individual or motor vehicle for the time
28557 period designated by the government agency;
28558 (c) upon request, the department or its designated agent shall disclose whether or not a
28559 person is an insured individual and the insurance company name to:
28560 (i) that individual or, if that individual is deceased, any interested person of that
28561 individual, as defined in Section 75-1-201;
28562 (ii) the parent or legal guardian of that individual if the individual is an unemancipated
28563 minor;
28564 (iii) the legal guardian of that individual if the individual is legally incapacitated;
28565 (iv) a person who has power of attorney from the insured individual;
28566 (v) a person who submits a notarized release from the insured individual dated no more
28567 than 90 days before the date the request is made; or
28568 (vi) a person suffering loss or injury in a motor vehicle accident in which the insured
28569 individual is involved, but only as part of an accident report as authorized in Section
28570 41-12a-202;
28571 (d) for the purpose of investigating, enforcing, or prosecuting laws or issuing citations
28572 by state or local law enforcement agencies related to the:
28573 (i) registration and renewal of registration of a motor vehicle under Title 41, Chapter
28574 1a, Motor Vehicle Act;
28575 (ii) purchase of a motor vehicle under Title 59, Chapter 12, Sales and Use Tax Act; and
28576 (iii) owner's or operator's security requirements under Section 41-12a-301;
28577 (e) upon request of a peace officer acting in an official capacity under the provisions of
28578 Subsection (1)(d), the department or the designated agent shall, upon request, disclose relevant

28579 information for investigation, enforcement, or prosecution;
28580 (f) for the purpose of the state auditor, the legislative auditor general, or other auditor
28581 of the state conducting audits of the program; and
28582 (g) upon request of a financial institution as defined under Section 7-1-103 for the
28583 purpose of protecting the financial institution's bona fide security interest in a motor vehicle.
28584 (2) (a) The department may allow the designated agent to prepare and deliver upon
28585 request, a report on the insurance information of a person or motor vehicle in accordance with
28586 this section.
28587 (b) The report may be in the form of:
28588 (i) a certified copy that is considered admissible in any court proceeding in the same
28589 manner as the original; or
28590 (ii) information accessible through the Internet or through other electronic medium if
28591 the department determines that sufficient security is provided to ensure compliance with this
28592 section.
28593 (c) The department may allow the designated agent to charge a fee established by the
28594 department under Section [~~63-38-3.2~~] 63J-1-303 for each:
28595 (i) document authenticated, including each certified copy;
28596 (ii) record accessed by the Internet or by other electronic medium; and
28597 (iii) record provided to a financial institution under Subsection (1)(g).
28598 (3) Any person who knowingly releases or discloses information from the database for
28599 a purpose other than those authorized in this section or to a person who is not entitled to it is
28600 guilty of a third degree felony.
28601 (4) An insurer is not liable to any person for complying with Section 31A-22-315 by
28602 providing information to the designated agent.
28603 (5) Neither the state nor the department's designated agent are liable to any person for
28604 gathering, managing, or using the information in the database as provided in Section
28605 31A-22-315 and this part.
28606 Section 587. Section **41-22-5.1** is amended to read:
28607 **41-22-5.1. Rules of board relating to display of registration stickers.**
28608 In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
28609 Rulemaking Act, the board shall make rules for the display of a registration sticker on an

28610 off-highway vehicle in accordance with Section 41-22-3.
28611 Section 588. Section **41-22-10.7** is amended to read:
28612 **41-22-10.7. Vehicle equipment requirements -- Rulemaking -- Exceptions.**
28613 (1) Except as provided under Subsection (3), an off-highway vehicle shall be equipped
28614 with:
28615 (a) brakes adequate to control the movement of and to stop and hold the vehicle under
28616 normal operating conditions;
28617 (b) headlights and taillights when operated between sunset and sunrise;
28618 (c) a noise control device and except for a snowmobile, a spark arrestor device; and
28619 (d) a safety flag, red or orange in color and a minimum of six by 12 inches, attached to
28620 the off-highway vehicle at least eight feet above the surface of level ground, when operated on
28621 sand dunes designated by the board.
28622 (2) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
28623 Administrative Rulemaking Act, the board may make rules which set standards for the
28624 equipment and which designate sand dunes where safety flags are required under Subsection
28625 (1).
28626 (3) An off-highway implement of husbandry used only in agricultural operations and
28627 not operated on a highway, is exempt from the provisions of this section.
28628 Section 589. Section **41-22-19.5** is amended to read:
28629 **41-22-19.5. Off-highway Access and Education Restricted Account -- Creation --**
28630 **Funding -- Distribution of funds by the Board of Parks and Recreation.**
28631 (1) There is created in the General Fund a restricted account known as the Off-highway
28632 Access and Education Restricted Account.
28633 (2) The account shall be funded by:
28634 (a) contributions deposited into the Off-highway Access and Education Restricted
28635 Account in accordance with Section 41-1a-230.6;
28636 (b) private contributions;
28637 (c) donations or grants from public or private entities; or
28638 (d) interest and earnings on fund monies.
28639 (3) Funds in the account are nonlapsing.
28640 (4) The Legislature shall appropriate money in the account to the board.

28641 (5) The board may expend up to 10% of the monies appropriated under Subsection (4)
28642 to:
28643 (a) administer account distributions in accordance with Subsections (6) through (9);
28644 and
28645 (b) administer off-highway vehicle provisions under this chapter.
28646 (6) The board shall distribute the funds to a charitable organization that:
28647 (a) qualifies as being tax exempt under Section 501(c)(3) of the Internal Revenue
28648 Code;
28649 (b) has at least one full-time employee; and
28650 (c) has as a primary part of its mission to:
28651 (i) protect access to public lands by motor vehicle and off-highway vehicle operators;
28652 and
28653 (ii) educate the public about appropriate off-highway vehicle use.
28654 (7) The board may only consider proposals that are:
28655 (a) proposed by a charitable organization under Subsection (6); and
28656 (b) designed to:
28657 (i) protect access to public lands by motor vehicle and off-highway vehicle operators;
28658 and
28659 (ii) educate the public about appropriate off-highway vehicle use.
28660 (8) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
28661 Administrative Rulemaking Act, the board shall make rules providing procedures for an
28662 organization to apply to receive funds under this section.
28663 (9) The board may not:
28664 (a) require matching funds from a charitable organization as a condition of receiving
28665 funds; or
28666 (b) prohibit the use of funds to cover litigation expenses incurred in protecting access
28667 to public lands by motor vehicle and off-highway vehicle operators.
28668 Section 590. Section **41-22-29** is amended to read:
28669 **41-22-29. Operation by persons under eight years of age prohibited -- Definitions**
28670 **-- Exception -- Penalty.**
28671 (1) As used in this section:

28672 (a) "Organized practice" means a scheduled motorcycle practice held in an off-road
28673 vehicle facility designated by the division and conducted by an organization carrying liability
28674 insurance in at least the amounts specified by the division under Subsection (5) covering all
28675 activities associated with the practice.
28676 (b) "Sanctioned race" means a motorcycle race conducted on a closed course and
28677 sponsored and sanctioned by an organization carrying liability insurance in at least the amounts
28678 specified by the division under Subsection (5) covering all activities associated with the race.
28679 (2) Except as provided under Subsection (3), a person under eight years of age may not
28680 operate and an owner may not give another person who is under eight years of age permission
28681 to operate an off-highway vehicle on any public land, trail, street, or highway of this state.
28682 (3) A child under eight years of age may participate in a sanctioned race or organized
28683 practice if:
28684 (a) the child is under the immediate supervision of an adult;
28685 (b) emergency medical service personnel, as defined in Section 26-8a-102, are on the
28686 premises and immediately available to provide assistance at all times during the sanctioned
28687 race or organized practice; and
28688 (c) an ambulance provider, as defined in Section 26-8a-102, is on the premises and
28689 immediately available to provide assistance for a sanctioned race.
28690 (4) Any person convicted of a violation of this section is guilty of an infraction and
28691 shall be fined not more than $50 per offense.
28692 (5) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
28693 Administrative Rulemaking Act, the division shall make rules specifying the minimum
28694 amounts of liability coverage for an organized practice or sanctioned race.
28695 Section 591. Section **41-22-31** is amended to read:
28696 **41-22-31. Board to set standards for safety program -- Safety certificates issued --**
28697 **Cooperation with public and private entities -- State immunity from suit.**
28698 (1) The board shall establish curriculum standards for a comprehensive off-highway
28699 vehicle safety education and training program and shall implement this program.
28700 (a) The program shall be designed to develop and instill the knowledge, attitudes,
28701 habits, and skills necessary for the safe operation of an off-highway vehicle.
28702 (b) Components of the program shall include the preparation and dissemination of

28703 off-highway vehicle information and safety advice to the public and the training of off-highway
28704 vehicle operators.
28705 (c) Off-highway vehicle safety certificates shall be issued to those who successfully
28706 complete training or pass the knowledge and skills test established under the program.
28707 (2) The division shall cooperate with appropriate private organizations and
28708 associations, private and public corporations, and local government units to implement the
28709 program established under this section.
28710 (3) In addition to the governmental immunity granted in [~~Title 63, Chapter 30d~~] Title
28711 63G, Chapter 7, Governmental Immunity Act of Utah, the state is immune from suit for any
28712 act, or failure to act, in any capacity relating to the off-highway vehicle safety education and
28713 training program. The state is also not responsible for any insufficiency or inadequacy in the
28714 quality of training provided by this program.
28715 Section 592. Section **41-22-35** is amended to read:
28716 **41-22-35. Off-highway vehicle user fee -- Decal -- Agents -- Penalty for fraudulent**
28717 **issuance of decal -- Deposit and use of fee revenue.**
28718 (1) (a) Except as provided in Subsection (1)(b), any nonresident owning an
28719 off-highway vehicle who operates or gives another person permission to operate the
28720 off-highway vehicle on any public land, trail, street, or highway in this state shall:
28721 (i) apply for an off-highway vehicle decal issued exclusively for an off-highway
28722 vehicle owned by a nonresident of the state;
28723 (ii) pay an annual off-highway vehicle user fee; and
28724 (iii) provide evidence that:
28725 (A) the person is a nonresident; and
28726 (B) the person is the owner of the off-highway vehicle.
28727 (b) The provisions of Subsection (1)(a) do not apply to an off-highway vehicle if the
28728 off-highway vehicle is:
28729 (i) registered in another state that offers reciprocal operating privileges to Utah
28730 residents under rules made by the board; or
28731 (ii) used exclusively for the purposes of a scheduled competitive event sponsored by a
28732 public or private entity or another event sponsored by a governmental entity under rules made
28733 by the board.

28734 (2) The off-highway vehicle user fee is $30.
28735 (3) Upon compliance with the provisions of Subsection (1)(a), the nonresident shall:
28736 (a) receive a nonresident off-highway vehicle user decal indicating compliance with the
28737 provisions of Subsection (1)(a); and
28738 (b) display the decal on the off-highway vehicle in accordance with rules made by the
28739 board.
28740 (4) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
28741 Administrative Rulemaking Act, the board shall make rules establishing:
28742 (a) procedures for:
28743 (i) the payment of off-highway vehicle user fees; and
28744 (ii) the display of a decal on an off-highway vehicle as required under Subsection
28745 (3)(b);
28746 (b) acceptable evidence indicating compliance with Subsection (1);
28747 (c) eligibility requirements for reciprocal operating privileges for nonresident users;
28748 and
28749 (d) eligibility for scheduled competitive events or other events under Subsection
28750 (1)(b)(ii).
28751 (5) (a) An off-highway vehicle user decal may be issued and the off-highway vehicle
28752 user fee may be collected by the division or agents of the division.
28753 (b) An agent shall retain 10% of all off-highway vehicle user fees collected.
28754 (c) The division may require agents to obtain a bond in a reasonable amount.
28755 (d) On or before the tenth day of each month, each agent shall:
28756 (i) report all sales to the division; and
28757 (ii) submit all off-highway vehicle user fees collected less the remuneration provided in
28758 Subsection (5)(b).
28759 (e) (i) If an agent fails to pay the amount due, the division may assess a penalty of 20%
28760 of the amount due.
28761 (ii) Delinquent payments shall bear interest at the rate of 1% per month.
28762 (iii) If the amount due is not paid because of bad faith or fraud, the division shall assess
28763 a penalty of 100% of the total amount due together with interest.
28764 (f) All fees collected by an agent, except the remuneration provided in Subsection

28765 (5)(b), shall:
28766 (i) be kept separate and apart from the private funds of the agent; and
28767 (ii) belong to the state.
28768 (g) An agent may not issue an off-highway vehicle user decal to any person unless the
28769 person furnishes evidence of compliance with the provisions of Subsection (1)(a).
28770 (h) A violation of any provision of this Subsection (5) is a class B misdemeanor and
28771 may be cause for revocation of the agent authorization.
28772 (6) Revenue generated by off-highway vehicle user fees shall be deposited in the
28773 Off-highway Vehicle Account created in Section 41-22-19.
28774 Section 593. Section **41-22-36** is amended to read:
28775 **41-22-36. Fees to cover the costs of electronic payments.**
28776 (1) As used in this section:
28777 (a) "Electronic payment" has the same meaning as defined in Section 41-1a-1221.
28778 (b) "Electronic payment fee" has the same meaning as defined in Section 41-1a-1221.
28779 (2) (a) The Motor Vehicle Division may collect an electronic payment fee on all
28780 registrations and renewals of registration under Section 41-22-8.
28781 (b) The fee described in Subsection (2)(a) shall be imposed regardless of the method of
28782 payment for a particular transaction.
28783 (3) The division shall establish the fee according to the procedures and requirements of
28784 Section [~~63-38-3.2~~] 63J-1-303.
28785 (4) A fee imposed under this section:
28786 (a) shall be used by the Motor Vehicle Division as a dedicated credit to cover the costs
28787 of electronic payments;
28788 (b) is nonlapsing;
28789 (c) is not subject to Subsection [~~63-38a-104~~] 63J-2-202(2); and
28790 (d) need not be separately identified from the fees imposed on registrations and
28791 renewals of registration under Section 41-22-8.
28792 Section 594. Section **42-2-10** is amended to read:
28793 **42-2-10. Penalties.**
28794 Any person who carries on, conducts, or transacts business under an assumed name
28795 without having complied with the provisions of this chapter, and until the provisions of this

28796 chapter are complied with:
28797 (1) shall not sue, prosecute, or maintain any action, suit, counterclaim, cross complaint,
28798 or proceeding in any of the courts of this state; and
28799 (2) may be subject to a penalty in the form of a late filing fee determined by the
28800 division director in an amount not to exceed three times the fees charged under Section 42-2-7
28801 and established under Section [~~63-38-3.2~~] 63J-1-303.
28802 Section 595. Section **42-3-2** is amended to read:
28803 **42-3-2. Recording fee.**
28804 Any person having the name of [~~his~~] the person's farm so recorded shall first pay to the
28805 commissioner of agriculture and food a fee determined by the commissioner pursuant to
28806 Section [~~63-38-3.2~~] 63J-1-303. This fee shall be transmitted to the General Fund.
28807 Section 596. Section **42-3-4** is amended to read:
28808 **42-3-4. Cancellation by owner -- Fee.**
28809 When any owner of a registered farm desires to cancel its registered name, [~~he~~] the
28810 owner shall write on the back of the certificate the following: "This name is canceled, and I
28811 hereby release all rights thereunder," and shall sign such statement in the presence of a witness
28812 and file the same in the office of the commissioner of agriculture and food. For such filing the
28813 commissioner of agriculture and food shall charge a fee determined by the commissioner
28814 pursuant to Section [~~63-38-3.2~~] 63J-1-303, which shall be paid to the General Fund. The
28815 commissioner of agriculture and food shall, when such certificate so endorsed has been filed in
28816 [~~his~~] the commissioner's office, write on the margin of the register of such name the word
28817 "canceled."
28818 Section 597. Section **46-1-3** is amended to read:
28819 **46-1-3. Qualifications -- Commissioning -- Jurisdiction and term.**
28820 (1) Except as provided in Subsection (3), the lieutenant governor shall commission as a
28821 notary any qualified person who submits an application in accordance with this chapter.
28822 (2) A person qualified for a notarial commission shall:
28823 (a) be 18 years of age or older;
28824 (b) lawfully reside in this state 30 days immediately preceding the filing for a notarial
28825 commission and maintain permanent residency thereafter;
28826 (c) be able to read, write, and understand English;

28827 (d) submit an application to the lieutenant governor containing no significant
28828 misstatement or omission of fact and include at least:
28829 (i) a statement of the applicant's personal qualifications, the applicant's residence
28830 address, a business address in this state, and daytime telephone number;
28831 (ii) the applicant's age and date of birth;
28832 (iii) all criminal convictions of the applicant, including any pleas of admission and
28833 nolo contendere;
28834 (iv) all issuances, denials, revocations, suspensions, restrictions, and resignations of a
28835 notarial commission or other professional license involving the applicant in this or any other
28836 state;
28837 (v) the acknowledgment of a passing score by the applicant on a written examination
28838 administered under Subsection (5);
28839 (vi) a declaration by the applicant; and
28840 (vii) an application fee determined under Section [~~63-38-3.2~~] 63J-1-303;
28841 (e) be a Utah resident or have permanent resident status under Section 245 of the
28842 Immigration and Nationality Act; and
28843 (f) be endorsed by two residents of the state who are over the age of 18.
28844 (3) The lieutenant governor may deny an application based on:
28845 (a) the applicant's conviction for a crime involving dishonesty or moral turpitude;
28846 (b) any revocation, suspension, or restriction of a notarial commission or professional
28847 license issued to the applicant by this or any other state;
28848 (c) the applicant's official misconduct while acting in the capacity of a notary; or
28849 (d) the applicant's failure to pass the written examination.
28850 (4) A person commissioned as a notary by the lieutenant governor may perform
28851 notarial acts in any part of this state for a term of four years, unless the person resigned or the
28852 commission is revoked or suspended under Section 46-1-19.
28853 (5) Each applicant for a notarial commission shall take a written examination approved
28854 by the lieutenant governor and submit the examination to a testing center designated by the
28855 lieutenant governor for purposes of scoring the examination. The testing center designated by
28856 the lieutenant governor shall issue a written acknowledgment to the applicant indicating
28857 whether the applicant passed or failed the examination.

28858 Section 598. Section **46-4-501** is amended to read:

28859 **46-4-501. Creation and retention of electronic records and conversion of written**
28860 **records by governmental agencies.**

28861 (1) A state governmental agency may, by following the procedures and requirements of
28862 [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules
28863 that:

28864 (a) identify specific transactions that the agency is willing to conduct by electronic
28865 means;

28866 (b) identify specific transactions that the agency will never conduct by electronic
28867 means;

28868 (c) specify the manner and format in which electronic records must be created,
28869 generated, sent, communicated, received, and stored, and the systems established for those
28870 purposes;

28871 (d) if law or rule requires that the electronic records must be signed by electronic
28872 means, specify the type of electronic signature required, the manner and format in which the
28873 electronic signature must be affixed to the electronic record, and the identity of, or criteria that
28874 must be met, by any third party used by a person filing a document to facilitate the process;

28875 (e) specify control processes and procedures as appropriate to ensure adequate
28876 preservation, disposition, integrity, security, confidentiality, and auditability of electronic
28877 records; and

28878 (f) identify any other required attributes for electronic records that are specified for
28879 corresponding nonelectronic records or that are reasonably necessary under the circumstances.

28880 (2) A state governmental agency that makes rules under this section shall submit copies
28881 of those rules, and any amendments to those rules, to:

28882 (a) the chief information officer established by Section 63F-1-201; and

28883 (b) the Utah Technology Commission established by Section 63D-1a-201.

28884 (3) (a) The chief information officer may prepare model rules and standards relating to
28885 electronic transactions that encourage and promote consistency and interoperability with
28886 similar requirements adopted by other Utah government agencies, other states, the federal
28887 government, and nongovernmental persons interacting with Utah governmental agencies.

28888 (b) In preparing those model rules and standards, the chief information officer may

28889 specify different levels of standards from which governmental agencies may choose in order to
28890 implement the most appropriate standard for a particular application.
28891 (c) Before submitting any model rules or standards to state governmental agencies for
28892 their adoption as permanent rules, the chief information officer shall submit the model rules
28893 and standards to the Utah Technology Commission for its review and suggestions.
28894 (d) Nothing in this Subsection (3) requires a state agency to use the model rules and
28895 standards prepared by the chief information officer when making rules under this section.
28896 (4) Except as provided in Subsection 46-4-301(6), nothing in this chapter requires any
28897 state governmental agency to:
28898 (a) conduct transactions by electronic means; or
28899 (b) use or permit the use of electronic records or electronic signatures.
28900 (5) Each state governmental agency shall:
28901 (a) establish record retention schedules for any electronic records created or received in
28902 an electronic transaction according to the standards developed by the Division of Archives
28903 under Subsection [~~63-2-901~~] 63A-12-101(2)(e); and
28904 (b) obtain approval of those schedules from the State Records Committee as required
28905 by Subsection [~~63-2-502~~] 63G-2-502(1)(b).
28906 Section 599. Section **46-4-503** is amended to read:
28907 **46-4-503. Government products and services provided electronically.**
28908 (1) Notwithstanding Section 46-4-501, a state governmental agency that administers
28909 one or more of the following transactions shall allow those transactions to be conducted
28910 electronically:
28911 (a) an application for or renewal of a professional or occupational license issued under
28912 Title 58, Occupations and Professions;
28913 (b) the renewal of a drivers license;
28914 (c) an application for a hunting or fishing license;
28915 (d) the filing of:
28916 (i) a return under Title 59, Chapter 10, Individual Income Tax Act or 12, Sales and Use
28917 Tax Act;
28918 (ii) a court document, as defined by the Judicial Council; or
28919 (iii) a document under Title 70A, Uniform Commercial Code;

28920 (e) a registration for:
28921 (i) a product; or
28922 (ii) a brand;
28923 (f) a renewal of a registration of a motor vehicle;
28924 (g) a registration under:
28925 (i) Title 16, Corporations;
28926 (ii) Title 42, Names; or
28927 (iii) Title 48, Partnership; or
28928 (h) submission of an application for benefits:
28929 (i) under Title 35A, Chapter 3, Employment Support Act;
28930 (ii) under Title 35A, Chapter 4, Employment Security Act; or
28931 (iii) related to accident and health insurance.
28932 (2) The state system of public education, in coordination with the Utah Education
28933 Network, shall make reasonable progress toward making the following services available
28934 electronically:
28935 (a) secure access by parents and students to student grades and progress reports;
28936 (b) e-mail communications with:
28937 (i) teachers;
28938 (ii) parent-teacher associations; and
28939 (iii) school administrators;
28940 (c) access to school calendars and schedules; and
28941 (d) teaching resources that may include:
28942 (i) teaching plans;
28943 (ii) curriculum guides; and
28944 (iii) media resources.
28945 (3) A state governmental agency shall:
28946 (a) in carrying out the requirements of this section, take reasonable steps to ensure the
28947 security and privacy of records that are private or controlled as defined by [~~Title 63, Chapter 2~~]
28948 Title 63G, Chapter 2, Government Records Access and Management Act;
28949 (b) in addition to those transactions listed in Subsections (1) and (2), determine any
28950 additional services that may be made available to the public through electronic means; and

28951 (c) as part of the agency's information technology plan required by Section 63F-1-204,
28952 report on the progress of compliance with Subsections (1) through (3).
28953 (4) Notwithstanding the other provisions of this part, a state governmental agency is
28954 not required by this part to conduct a transaction electronically if:
28955 (a) conducting the transaction electronically is not required by federal law; and
28956 (b) conducting the transaction electronically is:
28957 (i) impractical;
28958 (ii) unreasonable; or
28959 (iii) not permitted by laws pertaining to privacy or security.
28960 (5) (a) For purposes of this Subsection (5), "one-stop shop" means the consolidation of
28961 access to diverse services and agencies at one location including virtual colocation.
28962 (b) State agencies that provide services or offer direct assistance to the business
28963 community shall participate in the establishment, maintenance, and enhancement of an
28964 integrated Utah business web portal known as Business.utah.gov. The purpose of the business
28965 web portal is to provide "one-stop shop" assistance to businesses.
28966 (c) State agencies shall partner with other governmental and nonprofit agencies whose
28967 primary mission is to provide services or offer direct assistance to the business community in
28968 Utah in fulfilling the requirements of this section.
28969 (d) The following state entities shall comply with the provisions of this Subsection (5):
28970 (i) Governor's Office of Economic Development, which shall serve as the managing
28971 partner for the website;
28972 (ii) Department of Workforce Services;
28973 (iii) Department of Commerce;
28974 (iv) Tax Commission;
28975 (v) Department of Administrative Services - Division of Purchasing and General
28976 Services, including other state agencies operating under a grant of authority from the division
28977 to procure goods and services in excess of $5,000;
28978 (vi) Department of Agriculture;
28979 (vii) Department of Natural Resources; and
28980 (viii) other state agencies that provide services or offer direct assistance to the business
28981 sector.

28982 (e) The business services available on the business web portal may include:
28983 (i) business life cycle information;
28984 (ii) business searches;
28985 (iii) employment needs and opportunities;
28986 (iv) motor vehicle registration;
28987 (v) permit applications and renewal;
28988 (vi) tax information;
28989 (vii) government procurement bid notifications;
28990 (viii) general business information;
28991 (ix) business directories; and
28992 (x) business news.
28993 Section 600. Section **48-1-42** is amended to read:
28994 **48-1-42. Registration of limited liability partnerships.**
28995 (1) (a) A partnership shall register with the Division of Corporations and Commercial
28996 Code by filing an application or a renewal statement:
28997 (i) to become and to continue as a limited liability partnership; or
28998 (ii) to do business in this state as a foreign limited liability partnership.
28999 (b) The application or renewal statement shall include:
29000 (i) the name of the limited liability partnership;
29001 (ii) the address of its principal office;
29002 (iii) if the principal office of the limited liability partnership is not located in this state,
29003 the address of a registered office and the name and address of a registered agent for service of
29004 process in this state;
29005 (iv) the number of partners;
29006 (v) a brief statement of the business in which the limited liability partnership engages;
29007 (vi) a brief statement that the partnership is applying for, or seeking to renew its status
29008 as a limited liability partnership; and
29009 (vii) if a foreign limited liability partnership, an original certificate of fact or good
29010 standing from the office of the lieutenant governor or other responsible authority of the state in
29011 which the limited liability partnership is formed.
29012 (2) The application or renewal statement required by Subsection (1) shall be executed

29013 by a majority in voting interest of the partners or by one or more partners authorized by the
29014 partnership to execute an application or renewal statement.
29015 (3) The application or renewal statement shall be accompanied by a filing fee
29016 established under Section [~~63-38-3.2~~] 63J-1-303.
29017 (4) The division shall register as a limited liability partnership any partnership that
29018 submits a completed application with the required fee.
29019 (5) (a) The registration expires one year after the date an application is filed unless the
29020 registration is voluntarily withdrawn by filing with the division a written withdrawal notice
29021 executed by a majority in voting interest of the partners or by one or more partners authorized
29022 to execute a withdrawal notice.
29023 (b) Registration of a partnership as a limited liability partnership shall be renewed if no
29024 earlier than 60 days before the date the registration expires and no later than the date of
29025 expiration, the limited liability partnership files with the division a renewal statement.
29026 (c) The division shall renew the registration as a limited liability partnership of any
29027 limited liability partnership that timely submits a completed renewal statement with the
29028 required fee.
29029 (d) If a renewal statement is timely filed, the registration is effective for one year after
29030 the date the registration would have expired but for the filing or the renewal statement.
29031 (6) The status of a partnership as a limited liability partnership is not affected by
29032 changes in the information stated in the application or renewal statement which take place after
29033 the filing of an application or a renewal statement.
29034 (7) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
29035 Administrative Rulemaking Act, the division may issue rules providing for the form content
29036 and submittal of applications for registration or of renewal statements.
29037 Section 601. Section **48-2a-203.5** is amended to read:
29038 **48-2a-203.5. Involuntary dissolution of certificate.**
29039 (1) A certificate of limited partnership may be canceled involuntarily by a decree of a
29040 district court having competent jurisdiction upon petition by the director of the division, or by a
29041 party in interest who shall have standing to bring such an action, when it is established that:
29042 (a) the limited partnership procured the issuance of a stamped copy of its certificate of
29043 limited partnership or the execution of the certificate of limited partnership through fraud, in

29044 which case the certificate shall be canceled as of the date of its filing; or
29045 (b) the limited partnership has continually exceeded or abused the authority conferred
29046 upon it by law or by the partnership agreement.
29047 (2) A domestic limited partnership or a foreign limited partnership registered in this
29048 state is delinquent if:
29049 (a) it does not file an annual report within the time prescribed by this chapter; or
29050 (b) it fails to maintain a registered agent in this state for 60 consecutive days.
29051 (3) (a) The division shall mail a notice of delinquency of a delinquent limited
29052 partnership to:
29053 (i) the registered agent of the limited partnership; or
29054 (ii) if there is no registered agent of record, at least one general partner of the limited
29055 partnership.
29056 (b) The notice of delinquency required under Subsection (3)(a) shall state:
29057 (i) the nature of the delinquency; and
29058 (ii) that the limited partnership shall be dissolved unless within 60 days of the mailing
29059 of the notice of delinquency it corrects the delinquency.
29060 (c) The division shall include with the notice of delinquency any forms necessary to
29061 correct the delinquency.
29062 (4) (a) If the limited partnership does not remove the delinquency within 60 days from
29063 the date the division mails the notice of delinquency, the limited partnership's certificate or
29064 registration shall be dissolved involuntarily by the director of the division effective on the date
29065 specified in Subsection (4)(c).
29066 (b) If a limited partnership's certificate or registration is dissolved under Subsection
29067 (4)(a), the division shall mail a certificate of dissolution to:
29068 (i) the registered agent of the limited partnership; or
29069 (ii) if there is no registered agent of record, at least one partner of the limited
29070 partnership.
29071 (c) A limited partnership's date of dissolution is five days from the date the division
29072 mailed the certificate of dissolution under Subsection (4)(b).
29073 (d) A dissolved limited partnership may not be reinstated except as set forth in
29074 Subsection (5).

29075 (e) On the date of dissolution, any assumed names filed on behalf of the dissolved
29076 limited partnership under Title 42, Chapter 2, Conducting Business Under an Assumed Name,
29077 are canceled.
29078 (f) Notwithstanding Subsection (4)(e), the name of a dissolved limited partnership and
29079 any assumed names filed on its behalf are not available for two years from the date of
29080 dissolution for use by any other person:
29081 (i) transacting business in this state; or
29082 (ii) doing business under an assumed name under Title 42, Chapter 2, Conducting
29083 Business Under an Assumed Name.
29084 (g) Notwithstanding Subsection (4)(e), if the limited partnership that is dissolved is
29085 reinstated in accordance with this section, the registration of the name of the limited
29086 partnership and any assumed names filed on its behalf are reinstated back to the date of
29087 dissolution.
29088 (5) Any limited partnership whose certificate or registration has been dissolved under
29089 this section or Section 48-2a-203 may be reinstated within two years following the date of
29090 dissolution upon:
29091 (a) application; and
29092 (b) payment of:
29093 (i) all penalties; and
29094 (ii) all reinstatement fees.
29095 (6) A limited partner of a limited partnership is not liable as a general partner of the
29096 limited partnership solely by reason of the limited partnership having had its limited
29097 partnership certificate or registration dissolved.
29098 (7) A limited partnership that has had its certificate or registration dissolved may not
29099 maintain any action, suit, or proceeding in any court of this state until it has reinstated its
29100 certificate or registration following dissolution.
29101 (8) If the division denies a limited partnership's application for reinstatement following
29102 a dissolution under this section, the division shall mail the limited partnership written notice:
29103 (a) setting forth the reasons for denying the application; and
29104 (b) stating that the limited partnership has the right to appeal the division's
29105 determination to the executive director of the Department of Commerce in accordance with

29106 [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
29107 (9) A notice or certificate mailed under this section shall be:
29108 (a) mailed first-class, postage prepaid; and
29109 (b) addressed to the most current mailing address appearing on the records of the
29110 division for:
29111 (i) the registered agent of the limited partnership corporation, if the notice is required
29112 to be mailed to the registered agent; or
29113 (ii) the partner of the limited partnership that is mailed the notice, if the notice is
29114 required to be mailed to a partner of the limited partnership.
29115 Section 602. Section **48-2a-206** is amended to read:
29116 **48-2a-206. Filing with the division.**
29117 (1) An original and one copy of the certificate of limited partnership, and of any
29118 certificates of amendment or cancellation, or of any judicial decree of amendment or
29119 cancellation, shall be delivered to the division. A person who executes a certificate as an
29120 attorney-in-fact or fiduciary need not exhibit evidence of [~~his~~] the person's authority as a
29121 prerequisite to filing. Unless the division finds that any certificate does not conform to law as
29122 to its form, upon receipt of all filing fees established under Section [~~63-38-3.2~~] 63J-1-303, it
29123 shall:
29124 (a) place on the original and the copy a stamp or seal indicating the time, day, month,
29125 and year of the filing, the director of the division's signature, and the division's seal, or
29126 facsimiles thereof, and the name of the division;
29127 (b) file the signed original in its office; and
29128 (c) return the stamped copy to the person who filed it or [~~his~~] the person's
29129 representative.
29130 (2) The stamped copy of the certificate of limited partnership and of any certificate of
29131 amendment or cancellation shall be conclusive evidence that all conditions precedent required
29132 for the formation, amendment, or cancellation of a limited partnership have been complied
29133 with and the limited partnership has been formed, amended, or canceled under this chapter,
29134 except with respect to an action for involuntary cancellation of the limited partnership's
29135 certificate for fraud under Subsection 48-2a-203.5 (1)(a).
29136 (3) Upon the filing of a certificate of amendment or judicial decree of amendment with

29137 the division, the certificate of limited partnership is amended as set forth in the certificate of
29138 amendment or judicial decree of amendment, and upon filing a certificate of cancellation, or of
29139 a judicial decree of cancellation, the division shall cancel the certificate of limited partnership
29140 effective as of the date the cancellation was filed or as of the date specified in the decree,
29141 unless a later effective date is specified in the cancellation.
29142 Section 603. Section **48-2a-1107** is amended to read:
29143 **48-2a-1107. Fees.**
29144 The division may charge and collect fees in accordance with the provisions of Section
29145 [~~63-38-3.2~~] 63J-1-303.
29146 Section 604. Section **48-2c-214** is amended to read:
29147 **48-2c-214. Fees.**
29148 Unless otherwise provided by statute, the division shall collect fees for its services in
29149 amounts determined by the department in accordance with the provisions of Section
29150 [~~63-38-3.2~~] 63J-1-303.
29151 Section 605. Section **48-2c-1209** is amended to read:
29152 **48-2c-1209. Appeal from denial of reinstatement.**
29153 If the division denies a company's application for reinstatement under Section
29154 48-2c-1208 following administrative dissolution, the division shall mail to the company in the
29155 manner provided in Subsection 48-2c-1207(6) written notice:
29156 (1) setting forth the reasons for denying the application; and
29157 (2) stating that the company has the right to appeal the division's determination to the
29158 executive director of the Department of Commerce in accordance with [~~Title 63, Chapter 46b~~]
29159 Title 63G, Chapter 4, Administrative Procedures Act.
29160 Section 606. Section **49-11-613** is amended to read:
29161 **49-11-613. Appeals procedure -- Right of appeal to hearing officer -- Board**
29162 **reconsideration -- Judicial review.**
29163 (1) (a) All members, retirees, participants, alternative payees, or covered individuals of
29164 a system, plan, or program under this title shall acquaint themselves with their rights and
29165 obligations under this title.
29166 (b) Any dispute regarding a benefit, right, obligation, or employment right under this
29167 title is subject to the procedures provided under this section.

29168 (c) A person who disputes a benefit, right, obligation, or employment right under this
29169 title shall request a ruling by the executive director who may delegate the decision to the
29170 deputy director.
29171 (d) A person who is dissatisfied by a ruling of the executive director or deputy director
29172 with respect to any benefit, right, obligation, or employment right under this title shall request a
29173 review of that claim by a hearing officer.
29174 (2) The hearing officer shall:
29175 (a) be hired by the executive director after consultation with the board;
29176 (b) follow the procedures and requirements of [~~Title 63, Chapter 46b~~] Title 63G,
29177 Chapter 4, Administrative Procedures Act, except as specifically modified under this title;
29178 (c) hear and determine all facts pertaining to applications for benefits under any
29179 system, plan, or program under this title and all matters pertaining to the administration of the
29180 office; and
29181 (d) make conclusions of law in determining the person's rights under any system, plan,
29182 or program under this title and matters pertaining to the administration of the office.
29183 (3) The board shall review and approve or deny all decisions of the hearing officer in
29184 accordance with rules adopted by the board.
29185 (4) The moving party in any proceeding brought under this section shall bear the
29186 burden of proof.
29187 (5) A party may file an application for reconsideration by the board upon any of the
29188 following grounds:
29189 (a) that the board acted in excess of its powers;
29190 (b) that the order or award was procured by fraud;
29191 (c) that the evidence does not justify the determination of the hearing officer; or
29192 (d) that the party has discovered new material evidence that could not, with reasonable
29193 diligence, have been discovered or procured prior to the hearing.
29194 (6) The board shall affirm, reverse, or modify the decision of the hearing officer, or
29195 remand the application to the hearing officer for further consideration.
29196 (7) A party aggrieved by the board's decision may obtain judicial review by complying
29197 with the procedures and requirements of [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
29198 Administrative Procedures Act.

29199 (8) The board may make rules to implement this section.
29200 Section 607. Section **49-14-201** is amended to read:
29201 **49-14-201. System membership -- Eligibility.**
29202 (1) Except as provided in Section 49-15-201, a public safety service employee of a
29203 participating employer participating in this system is eligible for service credit in this system at
29204 the earliest of:
29205 (a) July 1, 1969, if the public safety service employee was employed by the
29206 participating employer on July 1, 1969, and the participating employer was participating in this
29207 system on that date;
29208 (b) the date the participating employer begins participating in this system if the public
29209 safety service employee was employed by the participating employer on that date; or
29210 (c) the date the public safety service employee is employed by the participating
29211 employer and is eligible to perform public safety service.
29212 (2) (a) (i) A participating employer that has public safety service and firefighter service
29213 employees that require cross-training and duty shall enroll those dual purpose employees in the
29214 system in which the greatest amount of time is actually worked.
29215 (ii) The employees shall either be full-time public safety service or full-time firefighter
29216 service employees of the participating employer.
29217 (b) (i) Prior to transferring a dual purpose employee from one system to another, the
29218 participating employer shall receive written permission from the office.
29219 (ii) The office may request documentation to verify the appropriateness of the transfer.
29220 (3) The board may combine or segregate the actuarial experience of participating
29221 employers in this system for the purpose of setting contribution rates.
29222 (4) (a) (i) Each participating employer participating in this system shall annually
29223 submit to the office a schedule indicating the positions to be covered under this system in
29224 accordance with this chapter.
29225 (ii) The office may require documentation to justify the inclusion of any position under
29226 this system.
29227 (b) If there is a dispute between the office and a participating employer or employee
29228 over any position to be covered, the disputed position shall be submitted to the Peace Officer
29229 Standards and Training Council established under Section 53-6-106 for determination.

29230 (c) (i) The Peace Officer Standards and Training Council's authority to decide
29231 eligibility for public safety service credit is limited to claims for coverage under this system for
29232 time periods after July 1, 1989.
29233 (ii) A decision of the Peace Officer Standards and Training Council may not be applied
29234 to service credit earned in another system prior to July 1, 1989.
29235 (iii) Except as provided under Subsection (4)(c)(iv), a decision of the Peace Officer
29236 Standards and Training Council granting a position coverage under this system may only be
29237 applied prospectively from the date of that decision.
29238 (iv) A decision of the Peace Officer Standards and Training Council granting a position
29239 coverage under this system may be applied retroactively only if:
29240 (A) the participating employer covered other similarly situated positions under this
29241 system during the time period in question; and
29242 (B) the position otherwise meets all eligibility requirements for receiving service credit
29243 in this system during the period for which service credit is to be granted.
29244 (5) The Peace Officer Standards and Training Council may use a subcommittee to
29245 provide a recommendation to the council in determining disputes between the office and a
29246 participating employer or employee over a position to be covered under this system.
29247 (6) The Peace Officer Standards and Training Council shall comply with [~~Title 63,~~
29248 ~~Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, in resolving coverage
29249 disputes in this system.
29250 (7) A public safety employee who is transferred or promoted to an administration
29251 position not covered by this system shall continue to earn public safety service credit in this
29252 system as long as the employee remains employed in the same department.
29253 (8) Any employee who is reassigned to the Department of Technology Services or to
29254 the Department of Human Resource Management, and who was a member of this system, shall
29255 be entitled to remain a member of this system.
29256 (9) (a) To determine that a position is covered under this system, the office and, if a
29257 coverage dispute arises, the Peace Officer Standards and Training Council shall find that the
29258 position requires the employee to:
29259 (i) place the employee's life or personal safety at risk; and
29260 (ii) complete training as provided in Section 53-13-103, 53-13-104, or 53-13-105.

29261 (b) If a position satisfies the requirements of Subsection (9)(a), the office and the Peace
29262 Officer Standards and Training Council shall consider whether or not the position requires the
29263 employee to:
29264 (i) perform duties that consist primarily of actively preventing or detecting crime and
29265 enforcing criminal statutes or ordinances of this state or any of its political subdivisions;
29266 (ii) perform duties that consist primarily of providing community protection; and
29267 (iii) respond to situations involving threats to public safety and make emergency
29268 decisions affecting the lives and health of others.
29269 (10) If a subcommittee is used to recommend the determination of disputes to the
29270 Peace Officer Standards and Training Council, the subcommittee shall comply with the
29271 requirements of Subsection (9) in making its recommendation.
29272 (11) A final order of the Peace Officer Standards and Training Council regarding a
29273 dispute is a final agency action for purposes of [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
29274 Administrative Procedures Act.
29275 (12) Except as provided under Subsection (13), if a participating employer's public
29276 safety service employees are not covered by this system or under Chapter 15, Public Safety
29277 Noncontributory Retirement Act, as of January 1, 1998, those public safety service employees
29278 who may otherwise qualify for membership in this system shall, at the discretion of the
29279 participating employer, remain in their current retirement system.
29280 (13) (a) A public safety service employee employed by an airport police department,
29281 which elects to cover its public safety service employees under the Public Safety
29282 Noncontributory Retirement System under Subsection (12), may elect to remain in the public
29283 safety service employee's current retirement system.
29284 (b) The public safety service employee's election to remain in the current retirement
29285 system under Subsection (13)(a):
29286 (i) shall be made at the time the employer elects to move its public safety service
29287 employees to a public safety retirement system;
29288 (ii) documented by written notice to the participating employer; and
29289 (iii) is irrevocable.
29290 Section 608. Section **49-15-201** is amended to read:
29291 **49-15-201. System membership -- Eligibility.**

29292 (1) (a) A public safety service employee employed by the state after July 1, 1989, is
29293 eligible for service credit in this system.
29294 (b) A public safety service employee employed by the state prior to July 1, 1989, may
29295 either elect to receive service credit in this system or continue to receive service credit under
29296 the system established under Chapter 14, Public Safety Contributory Retirement Act, by
29297 following the procedures established by the board under this chapter.
29298 (2) (a) Public safety service employees of a participating employer other than the state
29299 that elected on or before July 1, 1989, to remain in the Public Safety Contributory Retirement
29300 System shall be eligible only for service credit in that system.
29301 (b) (i) A participating employer other than the state that elected on or before July 1,
29302 1989, to participate in this system shall, have allowed, prior to July 1, 1989, a public safety
29303 service employee to elect to participate in either this system or the Public Safety Contributory
29304 Retirement System.
29305 (ii) Except as expressly allowed by this title, the election of the public safety service
29306 employee is final and may not be changed.
29307 (c) A public safety service employee hired by a participating employer other than the
29308 state after July 1, 1989, shall become a member in this system.
29309 (d) A public safety service employee of a participating employer other than the state
29310 who began participation in this system after July 1, 1989, is only eligible for service credit in
29311 this system.
29312 (3) (a) (i) A participating employer that has public safety service and firefighter service
29313 employees that require cross-training and duty shall enroll those dual purpose employees in the
29314 system in which the greatest amount of time is actually worked.
29315 (ii) The employees shall either be full-time public safety service or full-time firefighter
29316 service employees of the participating employer.
29317 (b) (i) Prior to transferring a dual purpose employee from one system to another, the
29318 participating employer shall receive written permission from the office.
29319 (ii) The office may request documentation to verify the appropriateness of the transfer.
29320 (4) The board may combine or segregate the actuarial experience of participating
29321 employers in this system for the purpose of setting contribution rates.
29322 (5) (a) (i) Each participating employer participating in this system shall annually

29323 submit to the office a schedule indicating the positions to be covered under this system in
29324 accordance with this chapter.
29325 (ii) The office may require documentation to justify the inclusion of any position under
29326 this system.
29327 (b) If there is a dispute between the office and a participating employer or employee
29328 over any position to be covered, the disputed position shall be submitted to the Peace Officer
29329 Standards and Training Council established under Section 53-6-106 for determination.
29330 (c) (i) The Peace Officer Standards and Training Council's authority to decide
29331 eligibility for public safety service credit is limited to claims for coverage under this system for
29332 time periods after July 1, 1989.
29333 (ii) A decision of the Peace Officer Standards and Training Council may not be applied
29334 to service credit earned in another system prior to July 1, 1989.
29335 (iii) Except as provided under Subsection (5)(c)(iv), a decision of the Peace Officer
29336 Standards and Training Council granting a position coverage under this system may only be
29337 applied prospectively from the date of that decision.
29338 (iv) A decision of the Peace Officer Standards and Training Council granting a position
29339 coverage under this system may be applied retroactively only if:
29340 (A) the participating employer covered other similarly situated positions under this
29341 system during the time period in question; and
29342 (B) the position otherwise meets all eligibility requirements for receiving service credit
29343 in this system during the period for which service credit is to be granted.
29344 (6) The Peace Officer Standards and Training Council may use a subcommittee to
29345 provide a recommendation to the council in determining disputes between the office and a
29346 participating employer or employee over a position to be covered under this system.
29347 (7) The Peace Officer Standards and Training Council shall comply with [~~Title 63,~~
29348 ~~Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, in resolving coverage
29349 disputes in this system.
29350 (8) A public safety service employee who is transferred or promoted to an
29351 administration position not covered by this system shall continue to earn public safety service
29352 credit in this system as long as the employee remains employed in the same department.
29353 (9) Any employee who is reassigned to the Department of Technology Services or to

29354 the Department of Human Resource Management, and who was a member in this system, shall
29355 be entitled to remain a member in this system.
29356 (10) (a) To determine that a position is covered under this system, the office and, if a
29357 coverage dispute arises, the Peace Officer Standards and Training Council shall find that the
29358 position requires the employee to:
29359 (i) place the employee's life or personal safety at risk; and
29360 (ii) complete training as provided in Section 53-13-103, 53-13-104, or 53-13-105.
29361 (b) If a position satisfies the requirements of Subsection (10)(a), the office and Peace
29362 Officer Standards and Training Council shall consider whether the position requires the
29363 employee to:
29364 (i) perform duties that consist primarily of actively preventing or detecting crime and
29365 enforcing criminal statutes or ordinances of this state or any of its political subdivisions;
29366 (ii) perform duties that consist primarily of providing community protection; and
29367 (iii) respond to situations involving threats to public safety and make emergency
29368 decisions affecting the lives and health of others.
29369 (11) If a subcommittee is used to recommend the determination of disputes to the
29370 Peace Officer Standards and Training Council, the subcommittee shall comply with the
29371 requirements of Subsection (10) in making its recommendation.
29372 (12) A final order of the Peace Officer Standards and Training Council regarding a
29373 dispute is a final agency action for purposes of [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
29374 Administrative Procedures Act.
29375 (13) Except as provided under Subsection (14), if a participating employer's public
29376 safety service employees are not covered by this system under Chapter 14, Public Safety
29377 Contributory Retirement Act, as of January 1, 1998, those public safety service employees who
29378 may otherwise qualify for membership in this system shall, at the discretion of the participating
29379 employer, remain in their current retirement system.
29380 (14) (a) A public safety service employee employed by an airport police department,
29381 which elects to cover its public safety service employees under the Public Safety
29382 Noncontributory Retirement System under Subsection (13), may elect to remain in the public
29383 safety service employee's current retirement system.
29384 (b) The public safety service employee's election to remain in the current retirement

29385 system under Subsection (14)(a):
29386 (i) shall be made at the time the employer elects to move its public safety service
29387 employees to a public safety retirement system;
29388 (ii) documented by written notice to the participating employer; and
29389 (iii) is irrevocable.
29390 Section 609. Section **51-2a-301** is amended to read:
29391 **51-2a-301. State auditor responsibilities.**
29392 (1) Except for political subdivisions that do not receive or expend public funds, the
29393 state auditor shall adopt guidelines, qualifications criteria, and procurement procedures for use
29394 in the procurement of audit services for all entities that are required by Section 51-2a-201 to
29395 cause an accounting report to be made.
29396 (2) The state auditor shall follow the notice, hearing, and publication requirements of
29397 [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
29398 (3) The state auditor shall:
29399 (a) review the accounting report submitted to him under Section 51-2a-201; and
29400 (b) if necessary, conduct additional inquiries or examinations of financial statements of
29401 the entity submitting that information.
29402 (4) The governing board of each entity required by Section 51-2a-201 to submit an
29403 accounting report to the state auditor's office shall comply with the guidelines, criteria, and
29404 procedures established by the state auditor.
29405 (5) Each fifth year, the state auditor shall:
29406 (a) review the dollar criteria established in Section 51-2a-201 to determine if they need
29407 to be increased or decreased; and
29408 (b) if the auditor determines that they need to be increased or decreased, notify the
29409 Legislature of that need.
29410 (6) (a) The state auditor may require a higher level of accounting report than is required
29411 under Section 51-2a-201.
29412 (b) The state auditor shall:
29413 (i) develop criteria under which a higher level of accounting report may be required;
29414 and
29415 (ii) provide copies of those criteria to entities required to analyze and report under

29416 Section 51-2a-201.
29417 Section 610. Section **51-5-7** is amended to read:
29418 **51-5-7. Expending plans and administrative expenses provided by legislative**
29419 **appropriation and included in governor's budget.**
29420 (1) (a) Except as provided in Subsection (1)(b), the revenues and other resources of the
29421 governmental funds are subject to legislative review and appropriation for each fiscal period.
29422 (b) Restricted Special Revenue Funds are subject to legislative review for each fiscal
29423 period.
29424 (2) Notwithstanding the source of the revenues and the restrictions imposed upon the
29425 expenditure of the revenues, the planned expenditures for the governmental funds, except
29426 Restricted Special Revenue Funds, shall be incorporated into the governor's budget and
29427 submitted to the Legislature according to Section [~~63-38-2~~] 63J-1-201.
29428 (3) Expenses required in the administrative activities of the Restricted Special Revenue
29429 Funds, the Enterprise Funds, the Internal Service Funds, and the Trust and Agency Funds are
29430 subject to legislative review each year.
29431 (a) Pro forma financial statements, including balance sheets, revenue and expenditure
29432 statements, statements of changes in financial position, and other statements that may be
29433 required for these funds shall be included in the governor's budget as information items and
29434 submitted to the Legislature according to Section [~~63-38-2~~] 63J-1-201.
29435 (b) If the operating results of any of these funds demonstrate that an appropriation is
29436 needed from any other fund or subfund, that appropriation shall be included in the governor's
29437 budget as a budget request.
29438 Section 611. Section **51-7-3.5**, which is renumbered from Section 63-13-1 is
29439 renumbered and amended to read:
29440 **[~~63-13-1~~]. 51-7-3.5. Commences July 1st.**
29441 The fiscal year of the state of Utah shall commence on the first day of July of each year.
29442 Section 612. Section **51-9-101** is enacted to read:
29443 **CHAPTER 9. FUNDS AND ACCOUNTS ACT**
29444 **Part 1. General Provisions**
29445 **51-9-101. Title.**
29446 This chapter is known as the "Funds and Accounts Act."

29447 Section 613. Section **51-9-201**, which is renumbered from Section 63-97-201 is
29448 renumbered and amended to read:
29449 **Part 2. Tobacco Settlement Funds and Endowment**
29450 **[~~63-97-201~~]. 51-9-201. Creation of Tobacco Settlement Restricted**
29451 **Account.**
29452 (1) There is created within the General Fund a restricted account known as the
29453 "Tobacco Settlement Restricted Account."
29454 (2) The account shall earn interest.
29455 (3) The account shall consist of:
29456 (a) until July 1, 2003, 50% of all funds of every kind that are received by the state that
29457 are related to the settlement agreement that the state entered into with leading tobacco
29458 manufacturers on November 23, 1998;
29459 (b) on and after July 1, 2003 and until July 1, 2004, 80% of all funds of every kind that
29460 are received by the state that are related to the settlement agreement that the state entered into
29461 with leading tobacco manufacturers on November 23, 1998;
29462 (c) on and after July 1, 2004 and until July 1, 2005, 70% of all funds of every kind that
29463 are received by the state that are related to the settlement agreement that the state entered into
29464 with leading tobacco manufacturers on November 23, 1998;
29465 (d) on and after July 1, 2005 and until July 1, 2007, 75% of all funds of every kind that
29466 are received by the state that are related to the settlement agreement that the state entered into
29467 with leading tobacco manufacturers on November 23, 1998;
29468 (e) on and after July 1, 2007, 60% of all funds of every kind that are received by the
29469 state that are related to the settlement agreement that the state entered into with leading tobacco
29470 manufacturers on November 23, 1998; and
29471 (f) interest earned on the account.
29472 (4) To the extent that funds will be available for appropriation in a given fiscal year,
29473 those funds shall be appropriated from the account in the following order:
29474 (a) $10,300,000 to the Department of Health for the Children's Health Insurance
29475 Program created in Section 26-40-103 and for restoration of dental benefits in the Children's
29476 Health Insurance Program;
29477 (b) $4,000,000 to the Department of Health for alcohol, tobacco, and other drug

29478 prevention, reduction, cessation, and control programs that promote unified messages and
29479 make use of media outlets, including radio, newspaper, billboards, and television, and with a
29480 preference in funding given to tobacco-related programs;
29481 (c) $193,700 to the Administrative Office of the Courts and $1,296,300 to the
29482 Department of Human Services for the statewide expansion of the drug court program;
29483 (d) $77,400 to the Board of Pardons, $81,700 to the Department of Corrections, and
29484 $350,900 to the Department of Human Services for a drug board pilot program;
29485 (e) $4,000,000 to the State Board of Regents for the University of Utah Health
29486 Sciences Center to benefit the health and well-being of Utah citizens through in-state research,
29487 treatment, and educational activities; and
29488 (f) any remaining funds as directed by the Legislature through appropriation.
29489 (5) (a) If tobacco funds in dispute for attorneys fees are received by the state, those
29490 funds shall be divided and deposited in accordance with Subsection (3) and Section
29491 [~~63-97-301~~] 51-9-202.
29492 (b) The amount appropriated from the Tobacco Settlement Restricted Account to the
29493 Department of Health for alcohol, tobacco, and other drug programs described in Subsection
29494 (4)(b), including the funding preference for tobacco-related programs, shall be increased by up
29495 to $2,000,000 in a given fiscal year to the extent that funds in dispute for attorneys fees are
29496 available to the state for appropriation from the account.
29497 (6) Each state agency identified in Subsection (4) shall provide an annual report on the
29498 program and activities funded under Subsection (4) to:
29499 (a) the Health and Human Services Interim Committee no later than September 1; and
29500 (b) the Health and Human Services Joint Appropriations Subcommittee.
29501 Section 614. Section **51-9-202**, which is renumbered from Section 63-97-301 is
29502 renumbered and amended to read:
29503 **[~~63-97-301~~]. 51-9-202. Permanent state trust fund.**
29504 (1) Until July 1, 2003, 50% of all funds of every kind that are received by the state that
29505 are related to the settlement agreement that the state entered into with leading tobacco
29506 manufacturers on November 23, 1998, shall be deposited into the permanent state trust fund
29507 created by and operated under Utah Constitution Article XXII, Section 4.
29508 (2) On and after July 1, 2003 and until July 1, 2004 20% of the funds of any kind

29509 received by the state that are related to the settlement agreement that the state entered into with
29510 leading tobacco manufacturers shall be deposited into the permanent state trust fund created by
29511 and operated under Utah Constitution Article XXII, Section 4.
29512 (3) On and after July 1, 2004 and until July 1, 2005, 30% of all funds of any kind
29513 received by the state that are related to the settlement agreement that the state entered into with
29514 leading tobacco manufacturers shall be deposited into the General Fund Budget Reserve
29515 Account created in Section [~~63-38-2.5~~] 63J-1-202.
29516 (4) On and after July 1, 2005 and until July 1, 2007, 25% of all funds of any kind
29517 received by the state that are related to the settlement agreement that the state entered into with
29518 leading tobacco manufacturers shall be deposited into the permanent state trust fund created by
29519 and operated under Utah Constitution Article XXII, Section 4.
29520 (5) On and after July 1, 2007, 40% of all funds of every kind that are received by the
29521 state that are related to the settlement agreement that the state entered into with leading tobacco
29522 manufacturers on November 23, 1998, shall be deposited into the permanent state trust fund
29523 created by and operated under Utah Constitution Article XXII, Section 4.
29524 (6) Funds in the permanent state trust fund shall be deposited or invested pursuant to
29525 Section 51-7-12.1.
29526 (7) (a) In accordance with Utah Constitution Article XXII, Section 4, the interest and
29527 dividends earned annually from the permanent state trust fund shall be deposited in the General
29528 Fund. There shall be transferred on an ongoing basis from the General Fund to the permanent
29529 state trust fund created under Utah Constitution Article XXII, Section 4, an amount equal to
29530 50% of the interest and dividends earned annually from the permanent state trust fund. The
29531 amount transferred into the fund under this Subsection (7)(a) shall be treated as principal.
29532 (b) Any annual interest or dividends earned from the permanent state trust fund that
29533 remain in the General Fund after Subsection (7)(a) may be appropriated by the Legislature.
29534 (c) Any realized or unrealized gains or losses on investments in the permanent state
29535 trust fund shall remain in the permanent state trust fund.
29536 (8) This section does not apply to funds deposited under Chapter 97a, Infrastructure
29537 and Economic Diversification Investment Account and Severance Tax Holding Account into
29538 the permanent state trust fund.
29539 Section 615. Section **51-9-203**, which is renumbered from Section 63-97-401 is

29540 renumbered and amended to read:

29541 **[~~63-97-401~~]. 51-9-203. Requirements for tobacco programs.**

29542 (1) To be eligible to receive funding under this [~~chapter~~] part for a tobacco prevention,
29543 reduction, cessation, or control program, an organization, whether private, governmental, or
29544 quasi-governmental, shall:

29545 (a) submit a request to the Department of Health containing the following information:

29546 (i) for media campaigns to prevent or reduce smoking, the request shall demonstrate
29547 sound management and periodic evaluation of the campaign's relevance to the intended
29548 audience, particularly in campaigns directed toward youth, including audience awareness of the
29549 campaign and recollection of the main message;

29550 (ii) for school-based education programs to prevent and reduce youth smoking, the
29551 request shall describe how the program will be effective in preventing and reducing youth
29552 smoking;

29553 (iii) for community-based programs to prevent and reduce smoking, the request shall
29554 demonstrate that the proposed program:

29555 (A) has a comprehensive strategy with a clear mission and goals;

29556 (B) provides for committed, caring, and professional leadership; and

29557 (C) if directed toward youth:

29558 (I) offers youth-centered activities in youth accessible facilities;

29559 (II) is culturally sensitive, inclusive, and diverse;

29560 (III) involves youth in the planning, delivery, and evaluation of services that affect
29561 them; and

29562 (IV) offers a positive focus that is inclusive of all youth; and

29563 (iv) for enforcement, control, and compliance program, the request shall demonstrate
29564 that the proposed program can reasonably be expected to reduce the extent to which tobacco
29565 products are available to individuals under the age of 19;

29566 (b) agree, by contract, to file an annual written report with the Department of Health.
29567 The report shall contain the following:

29568 (i) the amount funded;

29569 (ii) the amount expended;

29570 (iii) a description of the program or campaign and the number of adults and youth who

29571 participated;
29572 (iv) specific elements of the program or campaign meeting the applicable criteria set
29573 forth in Subsection (1)(a); and
29574 (v) a statement concerning the success and effectiveness of the program or campaign;
29575 (c) agree, by contract, to not use any funds received under this [~~chapter~~] part directly or
29576 indirectly, to:
29577 (i) engage in any lobbying or political activity, including the support of, or opposition
29578 to, candidates, ballot questions, referenda, or similar activities; or
29579 (ii) engage in litigation with any tobacco manufacturer, retailer, or distributor, except to
29580 enforce:
29581 (A) the provisions of the Master Settlement Agreement;
29582 (B) Title 26, Chapter 38, Utah Clean Air Act;
29583 (C) Title 26, Chapter 42, Civil Penalties for Tobacco Sales to Underaged Persons; and
29584 (D) Title 77, Chapter 39, Sale of Tobacco and Alcohol to Underaged Persons; and
29585 (d) agree, by contract, to repay the funds provided under this [~~chapter~~] part if the
29586 organization:
29587 (i) fails to file a timely report as required by Subsection (1)(b); or
29588 (ii) uses any portion of the funds in violation of Subsection (1)(c).
29589 (2) The Department of Health shall review and evaluate the success and effectiveness
29590 of any program or campaign that receives funding pursuant to a request submitted under
29591 Subsection (1). The review and evaluation:
29592 (a) shall include a comparison of annual smoking trends;
29593 (b) may be conducted by an independent evaluator; and
29594 (c) may be paid for by funds appropriated from the account for that purpose.
29595 (3) The Department of Health shall annually report to the Health and Human Services
29596 Appropriations Subcommittee on the reviews conducted pursuant to Subsection (2).
29597 (4) An organization that fails to comply with the contract requirements set forth in
29598 Subsection (1) shall:
29599 (a) repay the state as provided in Subsection (1)(d); and
29600 (b) be disqualified from receiving funds under this [~~chapter~~] part in any subsequent
29601 fiscal year.

29602 (5) The attorney general shall be responsible for recovering funds that are required to
29603 be repaid to the state under this section.
29604 (6) Nothing in this section may be construed as applying to funds that are not
29605 appropriated under this [~~chapter~~] part.
29606 Section 616. Section **51-9-301**, which is renumbered from Section 63-97a-101 is
29607 renumbered and amended to read:
29608 **Part 3. Infrastructure and Economic Diversification Investment**
29609 **Account and Severance Tax Holding Account**
29610 **[~~63-97a-101~~]. 51-9-301. Title.**
29611 This [~~chapter~~] part is known as the "Infrastructure and Economic Diversification
29612 Investment Account and Severance Tax Holding Account."
29613 Section 617. Section **51-9-302**, which is renumbered from Section 63-97a-102 is
29614 renumbered and amended to read:
29615 **[~~63-97a-102~~]. 51-9-302. Definitions.**
29616 As used in this [~~chapter~~] part:
29617 (1) "Infrastructure and Economic Diversification Investment Account" means the
29618 Infrastructure and Economic Diversification Investment Account created in Section
29619 [~~63-97a-201~~] 51-9-303.
29620 (2) "Permanent state trust fund" means the permanent state trust fund created under
29621 Utah Constitution Article XXII, Section 4.
29622 (3) "Severance Tax Holding Account" means the Severance Tax Holding Account
29623 created in Section [~~63-97a-202~~] 51-9-304.
29624 Section 618. Section **51-9-303**, which is renumbered from Section 63-97a-201 is
29625 renumbered and amended to read:
29626 **[~~63-97a-201~~]. 51-9-303. Creation of Infrastructure and Economic**
29627 **Diversification Investment Account.**
29628 (1) (a) There is created a restricted account within the General Fund known as the
29629 "Infrastructure and Economic Diversification Investment Account."
29630 (b) The Infrastructure and Economic Diversification Investment Account shall consist
29631 of:
29632 (i) all monies credited to the account under Section [~~63-97a-202~~] 51-9-304;

29633 (ii) appropriations from the Legislature;
29634 (iii) grants from private foundations; and
29635 (iv) interest and investment earnings on account monies.
29636 (2) (a) The Infrastructure and Economic Diversification Investment Account shall earn
29637 interest.
29638 (b) All interest earned on monies in the Infrastructure and Economic Diversification
29639 Investment Account shall be deposited into the Infrastructure and Economic Diversification
29640 Investment Account.
29641 (3) The Legislature may appropriate monies from the Infrastructure and Economic
29642 Diversification Investment Account for infrastructure and economic diversification investment
29643 projects.
29644 Section 619. Section **51-9-304**, which is renumbered from Section 63-97a-202 is
29645 renumbered and amended to read:
29646 **[~~63-97a-202~~]. 51-9-304. Creation of Severance Tax Holding Account --**
29647 **Distribution of funds in the account.**
29648 (1) (a) There is created a restricted account within the General Fund known as the
29649 "Severance Tax Holding Account."
29650 (b) The Severance Tax Holding Account shall consist of:
29651 (i) appropriations from the Legislature;
29652 (ii) grants from private foundations; and
29653 (iii) interest and investment earnings on Severance Tax Holding Account monies.
29654 (2) (a) The Severance Tax Holding Account shall earn interest.
29655 (b) All interest earned on monies in the Severance Tax Holding Account shall be
29656 deposited into the Severance Tax Holding Account.
29657 (3) If authorized by law the Division of Finance shall deposit all of the monies in the
29658 Severance Tax Holding Account as of June 30, 2009, into the permanent state trust fund.
29659 (4) The state treasurer shall invest and separately account for the earnings on funds that
29660 are deposited into the permanent state trust fund under this section.
29661 (5) (a) In accordance with Utah Constitution Article XXII, Section 4, the interest and
29662 dividends earned annually on revenue from severance taxes that are deposited into the
29663 permanent state trust fund shall be deposited in the General Fund.

29664 (b) Interest and dividends earned on revenue from severance taxes that are deposited in
29665 the General Fund pursuant to Subsection (5)(a) shall be credited to the Infrastructure and
29666 Economic Diversification Investment Account created in Section [~~63-97a-201~~] 51-9-303.
29667 Section 620. Section **51-9-401**, which is renumbered from Section 63-63a-1 is
29668 renumbered and amended to read:
29669 **Part 4. Crime Victims Reparations Trust, Public Safety Support Funds, Substance**
29670 **Abuse Prevention Account, and Services for Victims of Domestic Violence Account**
29671 **[~~63-63a-1~~]. 51-9-401. Surcharge -- Application and exemptions.**
29672 (1) (a) A surcharge shall be paid on all criminal fines, penalties, and forfeitures
29673 imposed by the courts.
29674 (b) The surcharge shall be:
29675 (i) 85% upon conviction of a:
29676 (A) felony;
29677 (B) class A misdemeanor;
29678 (C) violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless
29679 Driving; or
29680 (D) class B misdemeanor not classified within Title 41, Motor Vehicles, including
29681 violation of comparable county or municipal ordinances; or
29682 (ii) 35% upon conviction of any other offense, including violation of county or
29683 municipal ordinances not subject to the 85% surcharge.
29684 (2) The surcharge may not be imposed:
29685 (a) upon nonmoving traffic violations;
29686 (b) upon court orders when the offender is ordered to perform compensatory service
29687 work in lieu of paying a fine; and
29688 (c) upon penalties assessed by the juvenile court as part of the nonjudicial adjustment
29689 of a case under Section 78-3a-502.
29690 (3) (a) The surcharge and the exceptions under Subsections (1) and (2) also apply to
29691 all fines, penalties, and forfeitures imposed on juveniles for conduct that would be criminal if
29692 committed by an adult.
29693 (b) However, the surcharge does not include amounts assessed or collected separately
29694 by juvenile courts for the Juvenile Restitution Account, which is independent of this [~~chapter~~]

29695 part and does not affect the imposition or collection of the surcharge.
29696 (4) The surcharge under this section shall be imposed in addition to the fine charged
29697 for a civil or criminal offense, and no reduction may be made in the fine charged due to the
29698 surcharge imposition.
29699 (5) Fees, assessments, and surcharges related to criminal or traffic offenses shall be
29700 authorized and managed by this [~~chapter~~] part rather than attached to particular offenses.
29701 Section 621. Section **51-9-402**, which is renumbered from Section 63-63a-2 is
29702 renumbered and amended to read:
29703 **[~~63-63a-2~~]. 51-9-402. Division of collected monies retained by state treasurer**
29704 **and local governmental collecting entity -- Purpose of surcharge -- Allocation of**
29705 **collections -- Financial information.**
29706 (1) The amount of the surcharge imposed under this [~~chapter~~] part by courts of record
29707 shall be collected before any fine and deposited with the state treasurer.
29708 (2) The amount of the surcharge and the amount of criminal fines, penalties, and
29709 forfeitures imposed under this [~~chapter~~] part by courts not of record shall be collected
29710 concurrently.
29711 (a) As monies are collected on criminal fines, penalties, and forfeitures subject to the
29712 85% surcharge, the monies shall be divided pro rata so that the local governmental collecting
29713 entity retains 54% of the collected monies and the state retains 46% of the collected monies.
29714 (b) As monies are collected on criminal fines, penalties, and forfeitures subject to the
29715 35% surcharge, the monies shall be divided pro rata so that the local governmental collecting
29716 entity retains 74% of the collected monies and the state retains 26% of the collected monies.
29717 (c) The court shall deposit with the state treasurer the surcharge portion of all monies
29718 as they are collected.
29719 (3) Courts of record, courts not of record, and administrative traffic proceedings shall
29720 collect financial information to determine:
29721 (a) the total number of cases in which:
29722 (i) a final judgment has been rendered;
29723 (ii) surcharges and fines are paid by partial or installment payment; and
29724 (iii) the judgment is fulfilled by an alternative method upon the court's order;
29725 (b) the total dollar amounts of surcharges owed to the state and fines owed to the state

29726 and county or municipality, including:
29727 (i) waived surcharges;
29728 (ii) uncollected surcharges; and
29729 (iii) collected surcharges.
29730 (4) The courts of record, courts not of record, and administrative traffic proceedings
29731 shall report all collected financial information monthly to the Administrative Office of the
29732 Courts. The collected information shall be categorized by cases subject to the 85% and 35%
29733 surcharge.
29734 (5) The purpose of the surcharge is to finance the trust funds and support accounts as
29735 provided in this [~~chapter~~] part.
29736 (6) (a) From the surcharge, the Division of Finance shall allocate in the manner and for
29737 the purposes described in Sections [~~63-63a-3~~] 51-9-403 through [~~63-63a-10~~] 51-9-411.
29738 (b) Allocations shall be made on a fiscal year basis.
29739 (7) The provisions of [~~Sections 63-63a-1 and 63-63a-2~~] this section and Section
29740 51-9-401 may not impact the distribution and allocation of fines and forfeitures imposed in
29741 accordance with Sections 23-14-13, 78-3-14.5, and 78-5-116.
29742 Section 622. Section **51-9-403**, which is renumbered from Section 63-63a-3 is
29743 renumbered and amended to read:
29744 **[~~63-63a-3~~]. 51-9-403. EMS share of surcharge -- Accounting.**
29745 (1) The Division of Finance shall allocate 14% of the collected surcharge established in
29746 Section [~~63-63a-1~~] 51-9-401, but not to exceed the amount appropriated by the Legislature, to
29747 the Emergency Medical Services (EMS) Grants Program Account under Section 26-8a-207.
29748 (2) The amount shall be recorded by the Department of Health as a dedicated credit.
29749 Section 623. Section **51-9-404**, which is renumbered from Section 63-63a-4 is
29750 renumbered and amended to read:
29751 **[~~63-63a-4~~]. 51-9-404. Distribution of surcharge amounts.**
29752 (1) In this section:
29753 (a) "Reparation fund" means the Crime Victim Reparation Fund.
29754 (b) "Safety account" means the Public Safety Support Account.
29755 (2) (a) There is created a restricted special revenue fund known as the "Crime Victim
29756 Reparation Fund" to be administered and distributed as provided in this [~~chapter~~] part by the

29757 Reparations Office under [~~Title 63, Chapter 25a, Part 4,~~] Title 63M, Chapter 7, Part 5, Crime
29758 Victims' Reparations Act, in cooperation with the Division of Finance.
29759 (b) Monies deposited in this fund are for victim reparations, criminal justice and
29760 substance abuse, other victim services, and, as appropriated, for administrative costs of the
29761 Commission on Criminal and Juvenile Justice under [~~Title 63, Chapter 25a~~] Title 63M,
29762 Chapter 7.
29763 (3) (a) There is created a restricted account in the General Fund known as the "Public
29764 Safety Support Account" to be administered and distributed by the Department of Public Safety
29765 in cooperation with the Division of Finance as provided in this [~~chapter~~] part.
29766 (b) Monies deposited in this account shall be appropriated to:
29767 (i) the Division of Peace Officer Standards and Training (POST) as described in Title
29768 53, Chapter 6, Peace Officer Standards and Training Act; and
29769 (ii) the Office of the Attorney General for the support of the Utah Prosecution Council
29770 established in Title 67, Chapter 5a, and the fulfillment of the council's duties.
29771 (4) The Division of Finance shall allocate from the collected surcharge established in
29772 Section [~~63-63a-1~~] 51-9-401:
29773 (a) 35% to the reparation fund;
29774 (b) 18.5% to the safety account for POST, but not to exceed the amount appropriated
29775 by the Legislature; and
29776 (c) 3% to the safety account for support of the Utah Prosecution Council, but not to
29777 exceed the amount appropriated by the Legislature.
29778 (5) (a) In addition to the funding provided by other sections of this [~~chapter~~] part, a
29779 percentage of the income earned by inmates working for correctional industries in a federally
29780 certified private sector/prison industries enhancement program shall be deposited in the
29781 reparation fund.
29782 (b) The percentage of income deducted from inmate pay under Subsection (5)(a) shall
29783 be determined by the executive director of the Department of Corrections in accordance with
29784 the requirements of the private sector/prison industries enhancement program.
29785 (6) (a) In addition to other monies collected from the surcharge, judges are encouraged
29786 to, and may in their discretion, impose additional reparations to be paid into the reparation fund
29787 by convicted criminals.

29788 (b) The additional discretionary reparations may not exceed the statutory maximum
29789 fine permitted by Title 76, Utah Criminal Code, for that offense.
29790 Section 624. Section **51-9-405**, which is renumbered from Section 63-63a-5 is
29791 renumbered and amended to read:
29792 **[~~63-63a-5~~]. 51-9-405. Substance Abuse Prevention Account established --**
29793 **Funding -- Uses.**
29794 (1) There is created a restricted account within the General Fund known as the
29795 Substance Abuse Prevention Account.
29796 (2) (a) The Division of Finance shall allocate to the Substance Abuse Prevention
29797 Account from the collected surcharge established in Section [~~63-63a-1~~] 51-9-401:
29798 (i) 2.5% for the juvenile court, but not to exceed the amount appropriated by the
29799 Legislature; and
29800 (ii) 2.5% for the State Office of Education, but not to exceed the amount appropriated
29801 by the Legislature.
29802 (b) The juvenile court shall use the allocation to pay for community service programs
29803 required by Subsection 78-3a-118(2)(m).
29804 (c) The State Office of Education shall use the allocation in public school programs
29805 for:
29806 (i) substance abuse prevention and education;
29807 (ii) substance abuse prevention training for teachers and administrators; and
29808 (iii) district and school programs to supplement, not supplant, existing local prevention
29809 efforts in cooperation with local substance abuse authorities.
29810 Section 625. Section **51-9-406**, which is renumbered from Section 63-63a-6 is
29811 renumbered and amended to read:
29812 **[~~63-63a-6~~]. 51-9-406. Victims of Domestic Violence Services Account**
29813 **established -- Funding -- Uses.**
29814 (1) There is created a restricted account in the General Fund known as the Victims of
29815 Domestic Violence Services Account.
29816 (2) (a) The Division of Finance shall allocate to the Victims of Domestic Violence
29817 Services Account from the collected surcharge established in Section [~~63-63a-1~~] 51-9-401:
29818 (i) 4% for the Division for Domestic Violence Services, but not to exceed the amount

29819 appropriated by the Legislature; and
29820 (ii) .5% for the Office of the Attorney General, but not to exceed the amount
29821 appropriated by the Legislature.
29822 (b) The attorney general shall use the allocation for training municipal and county
29823 attorneys in the prosecution of domestic violence offenses.
29824 Section 626. Section **51-9-407**, which is renumbered from Section 63-63a-7 is
29825 renumbered and amended to read:
29826 **[~~63-63a-7~~]. 51-9-407. Intoxicated Driver Rehabilitation Account share of**
29827 **surcharge.**
29828 The Division of Finance shall allocate 7.5% of the collected surcharge established in
29829 Section [~~63-63a-1~~] 51-9-401, but not to exceed the amount appropriated by the Legislature, to
29830 the Intoxicated Driver Rehabilitation Account established by Section 62A-15-503.
29831 Section 627. Section **51-9-408**, which is renumbered from Section 63-63a-8 is
29832 renumbered and amended to read:
29833 **[~~63-63a-8~~]. 51-9-408. Children's Legal Defense Account.**
29834 (1) There is created a restricted account within the General Fund known as the
29835 Children's Legal Defense Account.
29836 (2) The purpose of the Children's Legal Defense Account is to provide for programs
29837 that protect and defend the rights, safety, and quality of life of children.
29838 (3) The Legislature shall appropriate money from the account for the administrative
29839 and related costs of the following programs:
29840 (a) implementing the Mandatory Educational Course on Children's Needs for
29841 Divorcing Parents relating to the effects of divorce on children as provided in Sections 30-3-4,
29842 30-3-7, 30-3-10.3, 30-3-11.3, 30-3-15.3, and 30-3-18, and the Mediation Pilot Program - Child
29843 Custody or Parent-time as provided in Sections 30-3-15.3 and 30-3-18;
29844 (b) implementing the use of guardians ad litem as provided in Sections 30-3-5.2,
29845 78-3a-318, 78-3a-912, 78-11-6, and 78-7-9; the training of guardian ad litems and volunteers as
29846 provided in Section 78-3a-912; and termination of parental rights as provided in Sections
29847 78-3a-118, 78-3a-119, 78-3a-903, and Title 78, Chapter 3a, Part 4, Termination of Parental
29848 Rights Act. This account may not be used to supplant funding for the guardian ad litem
29849 program in the juvenile court as provided in Section 78-3a-912; and

29850 (c) implementing and administering the Expedited Parent-time Enforcement Pilot
29851 Program as provided in Section 30-3-38.
29852 (4) The following withheld fees shall be allocated only to the Children's Legal Defense
29853 Account and used only for the purposes provided in Subsections (3)(a) through (c):
29854 (a) the additional $10 fee withheld on every marriage license issued in the state of Utah
29855 as provided in Section 17-16-21; and
29856 (b) a fee of $4 shall be withheld from the existing civil filing fee collected on any
29857 complaint, affidavit, or petition in a civil, probate, or adoption matter in every court of record.
29858 (5) The Division of Finance shall allocate the monies described in Subsection (4) from
29859 the General Fund to the Children's Legal Defense Account.
29860 (6) Any funds in excess of $200,000 remaining in the restricted account as of June 30
29861 of any fiscal year shall lapse into the General Fund.
29862 Section 628. Section **51-9-409**, which is renumbered from Section 63-63a-8.5 is
29863 renumbered and amended to read:
29864 **[~~63-63a-8.5~~]. 51-9-409. Guardian Ad Litem Services Account established**
29865 **-- Funding -- Uses.**
29866 There is created in the General Fund a restricted account known as the Guardian Ad
29867 Litem Services Account, for the purpose of funding the Office of the Guardian Ad Litem
29868 Director, in accordance with the provisions of Sections 78-3a-911 and 78-3a-912. The
29869 Division of Finance shall allocate 1.75% of the collected surcharge established in Section
29870 [~~63-63a-1~~] 51-9-401 to the Guardian Ad Litem Services Account. That amount may not,
29871 however, exceed the amount appropriated by the Legislature.
29872 Section 629. Section **51-9-410**, which is renumbered from Section 63-63a-9 is
29873 renumbered and amended to read:
29874 **[~~63-63a-9~~]. 51-9-410. Statewide Warrant Operations Account -- Share of**
29875 **surcharge -- Use.**
29876 (1) There is created a restricted account within the General Fund known as the
29877 Statewide Warrant Operations Account.
29878 (2) The Division of Finance shall allocate 2.5% of the collected surcharge established
29879 under Section [~~63-63a-1~~] 51-9-401, but not to exceed the amount appropriated by the
29880 Legislature, to this account.

29881 (3) The Legislature may appropriate money from the restricted account to the
29882 Department of Public Safety to pay for statewide warrant system costs incurred under Section
29883 53-10-208.
29884 Section 630. Section **51-9-411**, which is renumbered from Section 63-63a-10 is
29885 renumbered and amended to read:
29886 **[~~63-63a-10~~]. 51-9-411. Law Enforcement Operations Account -- Share of**
29887 **surcharge -- Uses.**
29888 (1) As used in this section:
29889 (a) "Account" means the Law Enforcement Operations Account.
29890 (b) "Commission" means the Commission on Criminal and Juvenile Justice created in
29891 Section [~~63-25a-101~~] 63M-7-201.
29892 (c) "Law enforcement agency" means a state or local law enforcement agency.
29893 (d) "Other appropriate agency" means a state or local government agency, or a nonprofit
29894 organization, that works to prevent illegal drug activity and enforce laws regarding illegal drug
29895 activity and related criminal activity by:
29896 (i) programs, including education, prevention, treatment, and research programs; and
29897 (ii) enforcement of laws regarding illegal drugs.
29898 (2) There is created a restricted account within the General Fund known as the Law
29899 Enforcement Operations Account.
29900 (3) (a) The Division of Finance shall allocate the balance of the collected surcharge
29901 under Section [~~63-63a-1~~] 51-9-401 that is not allocated under [~~Title 63, Chapter 63a~~] Title 51,
29902 Chapter 9, Part 4, Crime Victim Reparation Trust, Public Safety Support Funds, Substance
29903 Abuse Prevention Account, and Services for Victims of Domestic Violence Account, to the
29904 account, to be appropriated by the Legislature.
29905 (b) Money in the account shall be appropriated to the commission for implementing
29906 law enforcement operations and programs related to reducing illegal drug activity and related
29907 criminal activity as listed in Subsection (5).
29908 (4) (a) The commission shall allocate grants of funds from the account for the purposes
29909 under Subsection (5) to state, local, or multijurisdictional law enforcement agencies and other
29910 appropriate agencies.
29911 (b) The grants shall be made by an application process established by the commission

29912 in accordance with Subsection (6).
29913 (5) (a) The first priority of the commission is to annually allocate not more than
29914 $2,500,000, depending upon funding available from other sources, to directly fund the
29915 operational costs of state and local law enforcement agencies' drug or crime task forces,
29916 including multijurisdictional task forces.
29917 (b) The second priority of the commission is to allocate grants for specified law
29918 enforcement agency functions and other agency functions as the commission finds appropriate
29919 to more effectively reduce illegal drug activity and related criminal activity, including
29920 providing education, prevention, treatment, and research programs.
29921 (6) (a) In allocating grants and determining the amount of the grants, the commission
29922 shall consider:
29923 (i) the demonstrated ability of the agency to appropriately use the grant to implement
29924 the proposed functions and how this function or task force will add to the law enforcement
29925 agency's current efforts to reduce illegal drug activity and related criminal activity; and
29926 (ii) the agency's cooperation with other state and local agencies and task forces.
29927 (b) Agencies qualify for a grant only if they demonstrate compliance with all reporting
29928 and policy requirements applicable under this section and under [~~Title 63, Chapter 25a~~] Title
29929 63M, Chapter 7, Criminal Justice and Substance Abuse, in order to qualify as a potential grant
29930 recipient.
29931 (7) Recipient agencies may only use grant monies after approval or appropriation by
29932 the agency's governing body, and a determination that the grant monies are nonlapsing.
29933 (8) A recipient law enforcement agency may use funds granted under this section only
29934 for the purposes stated by the commission in the grant.
29935 (9) For each fiscal year, any law enforcement agency that receives a grant from the
29936 commission under this section shall prepare, and file with the commission and the state auditor,
29937 a report in a form specified by the commission. The report shall include the following
29938 regarding each grant:
29939 (a) the agency's name;
29940 (b) the amount of the grant;
29941 (c) the date of the grant;
29942 (d) how the grant has been used; and

29943 (e) a statement signed by both the agency's or political subdivision's executive officer
29944 or designee and by the agency's legal counsel, that all grant funds were used for law
29945 enforcement operations and programs approved by the commission and that relate to reducing
29946 illegal drug activity and related criminal activity, as specified in the grant.
29947 (10) The commission shall report in writing to the legislative Law Enforcement and
29948 Criminal Justice Interim Committee annually regarding the grants allocated under this section,
29949 including the amounts and uses of the grants.
29950 Section 631. Section **51-9-501**, which is renumbered from Section 63-88-101 is
29951 renumbered and amended to read:
29952 **Part 5. Navajo Trust Fund**
29953 **[~~63-88-101~~]. 51-9-501. Definitions.**
29954 As used in this [~~chapter~~] part:
29955 (1) "Administrative expenditures" means:
29956 (a) expenditures for professional services;
29957 (b) expense reimbursement for the Dineh Committee; and
29958 (c) expense reimbursement, salaries, and benefits for the trust administrator and the
29959 trust administrator's staff.
29960 (2) "Assessment" means taking one of the following actions to assess the health,
29961 education, and general welfare needs of Navajos:
29962 (a) a survey of Navajos that includes:
29963 (i) a random sample large enough to secure an accurate representation of their needs;
29964 and
29965 (ii) a response rate large enough to provide an accurate representation of those needs;
29966 (b) at least three public hearings held to survey and solicit Navajo needs that are
29967 advertised for two weeks before the hearing by:
29968 (i) announcements by the:
29969 (A) Utah Navajo Chapters, if allowed by the chapter; and
29970 (B) Blue Mountain Dine';
29971 (ii) notice posted in the chapter buildings and other public locations, if allowed by the
29972 chapter;
29973 (iii) notice of the meeting announced on the radio or television; and

29974 (iv) notice of the meeting published at least once per week for two consecutive weeks
29975 in any newspapers of general circulation within the Navajo community; or
29976 (c) a physical inventory:
29977 (i) conducted by the Office of Trust Administrator;
29978 (ii) coordinated with:
29979 (A) each Utah Navajo Chapter;
29980 (B) the Blue Mountain Dine'; and
29981 (C) other sources; and
29982 (iii) conducted to determine needs including:
29983 (A) the number and capacity of public facilities;
29984 (B) the extent of graveled and paved:
29985 (I) roads; or
29986 (II) air strips;
29987 (C) the inventory of water resources;
29988 (D) the extent of residential electrical power distribution; and
29989 (E) the number and condition of housing units.
29990 (3) "Assessment analysis results" means the analysis:
29991 (a) of the results of the assessment required by Section [~~63-88-105~~] 51-9-505; and
29992 (b) that is developed by the Dineh Committee and the trust administrator in accordance
29993 with Section [~~63-88-105~~] 51-9-505.
29994 (4) "Blue Mountain Dine'" means the off-reservation Navajo community organization
29995 known as the Blue Mountain Dine'.
29996 (5) "Board of trustees" or "board" means the board of trustees created in Section
29997 [~~63-88-103~~] 51-9-503.
29998 (6) "Business enterprise" means a sole proprietorship, partnership, corporation, or other
29999 private entity organized to provide goods or services for a profit.
30000 (7) "Capital" means an investment by the owner of a business enterprise:
30001 (a) in:
30002 (i) cash;
30003 (ii) equipment;
30004 (iii) land; or

30005 (iv) other assets similar to that described in Subsections (7)(a)(i) through (iii); and
30006 (b) that is pledged to be used in the operation of the business enterprise.
30007 (8) "Dineh Committee" means the Dineh Committee created in Section [~~63-88-107~~]
30008 51-9-507.
30009 (9) "Income" means all revenues from investments made by the state treasurer of the
30010 trust fund principal.
30011 (10) "Navajos" means San Juan County, Utah Navajos.
30012 (11) "Office of Trust Administrator" means the office created in Section [~~63-88-104~~]
30013 51-9-504.
30014 (12) "Principal" means:
30015 (a) the balance of the trust fund as of February 26, 1992; and
30016 (b) all revenue to the trust fund from whatever source except income as defined in
30017 Subsection (9).
30018 (13) "Service provider" means any of the following that provides goods or services to
30019 Navajos:
30020 (a) a business enterprise;
30021 (b) a private nonprofit organization; or
30022 (c) a government entity.
30023 (14) "Trust administrator" means the professional trust administrator appointed as
30024 provided in this [~~chapter~~] part.
30025 (15) "Trust fund" or "fund" means the Navajo Trust Fund created by Section
30026 [~~63-88-102~~] 51-9-502.
30027 (16) "Utah Navajo Chapter" means the following chapters of the Navajo Nation:
30028 (a) Aneth Chapter;
30029 (b) Mexican Water Chapter;
30030 (c) Navajo Mountain Chapter;
30031 (d) Oljato Chapter;
30032 (e) Dennehotso Chapter;
30033 (f) Red Mesa Chapter; and
30034 (g) Teec Nos Pos Chapter.
30035 Section 632. Section **51-9-502**, which is renumbered from Section 63-88-102 is

30036 renumbered and amended to read:
30037 **[~~63-88-102~~]. 51-9-502. Trust Fund -- Creation -- Oversight.**
30038 (1) There is created a private-purpose trust fund entitled the "Navajo Trust Fund."
30039 (2) The fund consists of:
30040 (a) revenues received by the state that represent the 37-1/2% of the net oil royalties
30041 from the Aneth Extension of the Navajo Indian Reservation required by P.L. 72-403, 47 Stat.
30042 1418, to be paid to the state;
30043 (b) monies received by the trust administrator or Dineh Committee from any contracts
30044 executed by:
30045 (i) the trust administrator;
30046 (ii) the board; or
30047 (iii) the Dineh Committee;
30048 (c) appropriations made to the fund by the Legislature, if any;
30049 (d) income as defined in Subsection [~~63-88-101~~] 51-9-501(9); and
30050 (e) other revenues received from other sources.
30051 (3) The Division of Finance shall account for the receipt and expenditures of fund
30052 monies.
30053 (4) (a) The state treasurer shall invest fund monies by following the procedures and
30054 requirements of Title 51, Chapter 7, State Money Management Act.
30055 (b) (i) The fund shall earn interest.
30056 (ii) The state treasurer shall deposit all interest or other revenue earned from
30057 investment of the fund back into the fund.
30058 (5) The state auditor shall:
30059 (a) conduct an annual audit of the fund's finances, internal controls, and compliance
30060 with statutes, rules, policies, and regulations according to the procedures and requirements of
30061 Title 67, Chapter 3, Auditor; and
30062 (b) deliver a copy of that audit report to the:
30063 (i) board;
30064 (ii) trust administrator;
30065 (iii) Dineh Committee;
30066 (iv) Office of Legislative Research and General Counsel for presentation to the Native

30067 American Legislative Liaison Committee, created in Section 36-22-1;
30068 (v) governor's office;
30069 (vi) Division of Indian Affairs;
30070 (vii) U.S. Bureau of Indian Affairs;
30071 (viii) Navajo Nation; and
30072 (ix) U.S. Secretary of the Interior.
30073 Section 633. Section **51-9-503**, which is renumbered from Section 63-88-103 is
30074 renumbered and amended to read:
30075 **[~~63-88-103~~]. 51-9-503. Board of Trustees of the Utah Navajo Trust Fund.**
30076 (1) (a) There is created a Board of Trustees of the Utah Navajo Trust Fund composed
30077 of three members:
30078 (i) the State Treasurer;
30079 (ii) the Director of the Division of Finance; and
30080 (iii) a state officer or employee appointed by the governor, with the consent of the
30081 Senate, to a four-year term.
30082 (b) The State Treasurer is chair of the board.
30083 (c) Three members of the board are a quorum.
30084 (d) (i) State government officer and employee members who do not receive salary, per
30085 diem, or expenses from their agency for their service may receive per diem and expenses
30086 incurred in the performance of their official duties from the board at the rates established by the
30087 Division of Finance under Sections 63A-3-106 and 63A-3-107.
30088 (ii) State government officer and employee members may decline to receive per diem
30089 and expenses for their service.
30090 (2) (a) The board shall either:
30091 (i) contract with a person to act as trust administrator by following the procedures and
30092 requirements of [~~Chapter 56,~~] Title 63G, Chapter 6, Utah Procurement Code and, where not
30093 provided for by this [~~chapter~~] part, define the trust administrator's duties and responsibilities; or
30094 (ii) if unable to find a qualified person under Subsection (2)(a)(i) to act as trust
30095 administrator for a reasonable cost, hire a qualified person to act as trust administrator and,
30096 where not provided for by this [~~chapter~~] part, define the trust administrator's duties and
30097 responsibilities.

30098 (b) If the board hires a trust administrator under authority of Subsection (2)(a)(ii), the
30099 board may hire, or authorize the trust administrator to hire, other persons necessary to assist the
30100 trust administrator and the board to perform the duties required by this [~~chapter~~] part.
30101 (3) The board shall:
30102 (a) on behalf of the state, act as trustee of the trust fund and exercise the state's
30103 fiduciary responsibilities;
30104 (b) meet at least once every other month;
30105 (c) review and approve all policies, projections, rules, criteria, procedures, forms,
30106 standards, and performance goals established by the trust administrator;
30107 (d) review and approve the trust fund budget prepared by the trust administrator;
30108 (e) review all progress reports from programs financed by the trust fund;
30109 (f) review financial records of the trust fund, including trust fund receipts,
30110 expenditures, and investments; and
30111 (g) do any other things necessary to perform the state of Utah's fiduciary obligations
30112 under the trust fund.
30113 (4) The attorney general shall:
30114 (a) act as legal counsel and provide legal representation to the Board of Trustees; and
30115 (b) attend, or direct an attorney from the attorney general's office to attend, each
30116 meeting of the Board of Trustees.
30117 Section 634. Section **51-9-504**, which is renumbered from Section 63-88-104 is
30118 renumbered and amended to read:
30119 **[~~63-88-104~~]. 51-9-504. Office of Trust Administrator -- Creation.**
30120 (1) If the board appoints a trust administrator under Subsection [~~63-88-103~~] 51-9-503
30121 (2)(a)(ii), there is created an Office of Trust Administrator in the Department of Administrative
30122 Services.
30123 (2) (a) The trust administrator appointed as provided in [~~Section 63-88-103~~]
30124 Subsection 51-9-503(2)(a)(ii) shall administer the office.
30125 (b) The Department of Administrative Services shall provide physical space and
30126 logistical and administrative support to the office but may not direct the activities of the office
30127 or the trust administrator.
30128 (c) The Board of Trustees and the Office of Trust Administrator shall assume all of the

30129 functions, powers, duties, rights, and responsibilities of:
30130 (i) the Commission of State Indian Affairs;
30131 (ii) the Board of Indian Affairs;
30132 (iii) the Dineh Committee, except as provided in this [~~chapter~~] part; and
30133 (iv) the Division of Indian Affairs, on all matters connected with the trust fund or its
30134 proceeds.
30135 Section 635. Section **51-9-505**, which is renumbered from Section 63-88-105 is
30136 renumbered and amended to read:
30137 **[~~63-88-105~~]. 51-9-505. Trust administrator -- Duties.**
30138 (1) Under the direction of the board, the trust administrator shall:
30139 (a) review the documents and decisions highlighting the history of the trust fund,
30140 including:
30141 (i) the Nelson report, prepared as part of the Bigman v. Utah Navajo Development
30142 Council Inc. C77-0031;
30143 (ii) the November 1991 performance audit of the Utah Navajo Trust Fund by the
30144 legislative auditor general;
30145 (iii) Sakezzie v. Utah Indian Affairs Commission, 198 F. Supp. 218 (1961);
30146 (iv) Sakezzie v. Utah Indian Affairs Commission, 215 F. Supp. 12 (1963); and
30147 (v) the September 8, 1977, consent decree, the stipulation dated November 29, 1984,
30148 modifying the consent decree, and the court's memorandum opinion dated September 25, 1978,
30149 in Bigman v. Utah Navajo Development Council, Inc., C77-0031;
30150 (b) review all potential sources of trust fund revenues;
30151 (c) prepare annual projections of monies that will be available for Navajo programs;
30152 (d) identify all property owned by the trust fund;
30153 (e) establish and maintain a record system to retain records relating to the trust fund's
30154 property;
30155 (f) review all existing and proposed programs financed by the trust fund;
30156 (g) evaluate whether or not the programs described in Subsection (1)(f) are the most
30157 practical and cost-efficient means to provide the desired benefit to Navajos;
30158 (h) consult regularly with the administrators of all programs financed by the trust fund
30159 to obtain progress reports on all programs;

30160 (i) attend all meetings of:
30161 (i) the Dineh Committee; and
30162 (ii) the board of trustees;
30163 (j) establish written policies identifying expenses payable from the fund for Dineh
30164 Committee members;
30165 (k) certify that all expenditures from the trust fund:
30166 (i) comply with the state's fiduciary responsibilities as trustee of the fund; and
30167 (ii) are consistent with this section;
30168 (l) make an annual report:
30169 (i) to the:
30170 (A) board;
30171 (B) the governor; and
30172 (C) the Native American Legislative Liaison Committee, created in Section 36-22-1;
30173 and
30174 (ii) that:
30175 (A) identifies the source and amount of all revenue received by the fund;
30176 (B) identifies the recipient, purpose, and amount of all expenditures from the fund;
30177 (C) identifies specifically each of the fund's investments and the actual return and the
30178 rate of return from each investment; and
30179 (D) recommends any necessary statutory changes to:
30180 (I) improve administration of the fund; or
30181 (II) protect the state from liability as trustee;
30182 (m) establish, in conjunction with the state treasurer, the state auditor, and the Division
30183 of Finance, appropriate accounting practices for all trust fund receipts, expenditures, and
30184 investments according to generally accepted accounting principles;
30185 (n) provide summary records of trust fund receipts, expenditures, and investments to
30186 the board and to the Dineh Committee at each of their meetings;
30187 (o) pay administrative expenses from the fund;
30188 (p) report monthly to the board about:
30189 (i) the trust administrator's activities; and
30190 (ii) the status of the trust fund; and

30191 (q) call additional meetings of the Dineh Committee when necessary.
30192 (2) In conjunction with the Dineh Committee and under the direction of the board, the
30193 trust administrator shall:
30194 (a) subject to Subsection (4), conduct an assessment at least every two years of the
30195 needs of Navajos;
30196 (b) before the beginning of each fiscal year, based on the assessment required by
30197 Subsection (2)(a), develop assessment analysis results that allow the establishment of a list of
30198 the needs of Navajos for that year to be used for the annual budget;
30199 (c) before the beginning of each fiscal year, develop and approve an annual budget for
30200 the trust fund;
30201 (d) develop an ethics and conflict of interest policy that emphasizes the need to avoid
30202 even the appearance of conflict of interest or impropriety that is to apply to:
30203 (i) the trust administrator;
30204 (ii) the trust administrator's employees; and
30205 (iii) the Dineh Committee;
30206 (e) require the trust administrator, each of the trust administrator's employees, and each
30207 Dineh Committee member to sign and keep on file written documentation that acknowledges:
30208 (i) their receipt of the ethics and conflict of interest policy described in Subsection
30209 (2)(d); and
30210 (ii) their willingness to abide by the provisions of the ethics and conflict of interest
30211 policy described in Subsection (2)(d); and
30212 (f) make expenditures from the fund "for the health, education, and general welfare of
30213 the Navajo Indians, residing in San Juan County" as required by:
30214 (i) P.L. 72-403, 47 Stat. 1418 (1933);
30215 (ii) P.L. 90-306, 82 Stat. 121 (1968); and
30216 (iii) this [~~chapter~~] <u>part</u>.
30217 (3) The trust administrator, under direction of the board, may:
30218 (a) contract with public and private entities; and
30219 (b) unless prohibited by law or the requirements of this [~~chapter~~] <u>part</u>, acquire and hold
30220 monies and other property received in the administration of the trust fund.
30221 (4) (a) Notwithstanding Subsection [~~63-88-101~~] <u>51-9-501</u>(2), the trust administrator

30222 shall ensure that at least every six years the assessment includes:
30223 (i) a survey as described in Subsection [~~63-88-101~~] 51-9-501(2)(a); or
30224 (ii) public hearings as described in Subsection [~~63-88-101~~] 51-9-501(2)(b).
30225 (b) Subsection (2)(a) does not prohibit the trust administrator from conducting a
30226 physical inventory as defined in Subsection [~~63-88-101~~] 51-9-501(2)(c) during the same year a
30227 survey or public hearing is required.
30228 Section 636. Section **51-9-506**, which is renumbered from Section 63-88-106 is
30229 renumbered and amended to read:
30230 **[~~63-88-106~~]. 51-9-506. Expenditures from the trust fund.**
30231 (1) (a) Under the direction of the board of trustees, the trust administrator may make
30232 expenditures to invest in business enterprises:
30233 (i) as authorized and limited by this section; and
30234 (ii) giving consideration to the advice of the Dineh Committee.
30235 (b) When making expenditures to invest in a business enterprise the trust administrator:
30236 (i) may expend trust monies only on a business enterprise located in San Juan County;
30237 (ii) may expend trust fund monies only:
30238 (A) to invest in a joint business enterprise; and
30239 (B) when the other party's capital investment is larger than the trust fund's expenditure;
30240 and
30241 (iii) may not continue to make expenditures to or in support of a business enterprise if
30242 the business enterprise fails to show a profit within three years.
30243 (2) (a) Before making any expenditures to a business enterprise or service provider
30244 from the trust fund, the trust administrator shall:
30245 (i) comply with [~~Title 63, Chapter 56~~] Title 63G, Chapter 6, Utah Procurement Code;
30246 and
30247 (ii) review and approve the business enterprise's or service provider's entire budget.
30248 (b) The trust administrator may require that a business enterprise or service provider
30249 modify its budget or meet other conditions precedent established by the trust administrator
30250 before the business enterprise or service provider may receive expenditures from the trust fund.
30251 (3) The trust administrator shall make all expenditures from the trust fund that are not
30252 administrative expenditures by:

30253 (a) preparing a written document that:
30254 (i) defines specifically how the expenditure from the trust fund may be used;
30255 (ii) establishes any conditions precedent to its use; and
30256 (iii) requires the recipient of trust fund monies to provide the trust administrator with
30257 progress reports detailing how program funds have been expended; and
30258 (b) obtaining the signature of the recipient on that document before releasing any
30259 monies from the trust fund.
30260 (4) The trust administrator shall:
30261 (a) make rules in accordance with Subsection (6) that:
30262 (i) establish policies and criteria for expenditure of the trust fund monies that take into
30263 account the assessment analysis results; and
30264 (ii) establish performance evaluation criteria with which to evaluate the success of
30265 expenditures from the trust fund after they are made;
30266 (b) develop procedures, forms, and standards for persons seeking distribution of trust
30267 fund monies that implement the policies and criteria for expenditures established by rule;
30268 (c) evaluate all requests for expenditures of trust fund monies against:
30269 (i) the policies and criteria established by rule; and
30270 (ii) the requestor's success in meeting performance evaluation criteria and goals in any
30271 prior receipt of trust fund monies;
30272 (d) develop performance goals for each trust fund expenditure that implement the
30273 performance evaluation criteria established in rule; and
30274 (e) monitor and evaluate each trust fund expenditure based upon the performance goals
30275 and performance evaluation criteria created under this Subsection (4).
30276 (5) The trust administrator may expend trust monies for per diem and expenses
30277 incurred by the Dineh Committee in performance of their official duties.
30278 (6) The trust administrator shall make a rule described in Subsection (4)(a):
30279 (a) in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
30280 Administrative Rulemaking Act;
30281 (b) with the input and recommendation of the Dineh Committee; and
30282 (c) with the approval of the board of trustees.
30283 Section 637. Section **51-9-507**, which is renumbered from Section 63-88-107 is

30284 renumbered and amended to read:
30285 **[~~63-88-107~~]. 51-9-507. Utah Dineh Committee.**
30286 (1) There is created the Dineh Committee.
30287 (2) (a) The governor, with the consent of the Senate, shall appoint nine members to the
30288 committee.
30289 (b) In making an appointment under Subsection (2)(a), the governor shall ensure that:
30290 (i) each member of the committee is an individual:
30291 (A) who is an enrolled member of the Navajo Nation; and
30292 (B) whose name and tribal number are contained in the trust fund's population
30293 database; and
30294 (ii) the committee includes:
30295 (A) two registered members of the Aneth Chapter of the Navajo Nation who reside in
30296 San Juan County, Utah;
30297 (B) one registered member of the Blue Mountain Dine' who resides in San Juan
30298 County, Utah;
30299 (C) one registered member of the Mexican Water Chapter of the Navajo Nation who
30300 resides in San Juan County, Utah;
30301 (D) one registered member of the Navajo Mountain Chapter of the Navajo Nation who
30302 resides in San Juan County, Utah;
30303 (E) subject to Subsection (11), two members who reside in San Juan County, Utah:
30304 (I) one of which shall be a registered member of the Oljato Chapter of the Navajo
30305 Nation; and
30306 (II) one of which shall be a registered member of either the Oljato Chapter or the
30307 Dennehotso Chapter of the Navajo Nation;
30308 (F) one registered member of the Red Mesa Chapter of the Navajo Nation who resides
30309 in San Juan County, Utah; and
30310 (G) one registered member of the Teec Nos Pos Chapter of the Navajo Nation who
30311 resides in San Juan County, Utah.
30312 (3) (a) (i) Each of the Utah Navajo Chapters, except the Aneth, Oljato, and Dennehotso
30313 chapters, shall submit to the governor the names of three nominees to the Dineh Committee
30314 chosen by the chapter.

30315 (ii) The governor shall select one of the three persons submitted under Subsection
30316 (3)(a)(i) as that chapter's representative on the Dineh Committee.
30317 (b) (i) The Blue Mountain Dine' shall submit to the governor the names of three
30318 nominees to the Dineh Committee.
30319 (ii) The governor shall select one of the three persons submitted under Subsection
30320 (3)(b)(i) as the Blue Mountain Dine' representative on the Dineh Committee.
30321 (c) (i) The Aneth Chapter shall submit to the governor the names of six nominees to
30322 the Dineh Committee chosen by the chapter.
30323 (ii) The governor shall select two of the six persons submitted under Subsection
30324 (3)(c)(i) to be the Aneth Chapter's representatives on the Dineh Committee.
30325 (d) (i) The Oljato Chapter shall submit to the governor the names of six nominees to
30326 the Dineh Committee chosen by the chapter.
30327 (ii) One of the six names submitted under Subsection (3)(d)(i) may be a registered
30328 member of the Dennehotso Chapter.
30329 (iii) The governor shall select two of the six persons submitted under Subsection
30330 (3)(d)(i) to be the representatives on the Dineh Committee of the Oljato and Dennehotso
30331 chapters.
30332 (4) The governor may not appoint any person who is currently, or who, within the last
30333 12 months, has been an officer, director, employee, or contractor of any business enterprise or
30334 service provider that solicits, accepts, or receives a benefit from an expenditure of:
30335 (a) the Division of Indian Affairs; or
30336 (b) the trust fund established in this [~~chapter~~] <u>part</u>.
30337 (5) (a) Except as provided in Subsection (5)(b) and other than the amount authorized
30338 by this section for Dineh Committee member expenses, a person appointed to the Dineh
30339 Committee may not solicit, accept, or receive any benefit from an expenditure of:
30340 (i) the Division of Indian Affairs;
30341 (ii) the trust fund; or
30342 (iii) the Division of Indian Affairs or trust fund as an officer, director, employee, or
30343 contractor of any business enterprise or service provider that solicits, accepts, or receives a
30344 benefit from the expenditure of:
30345 (A) the Division of Indian Affairs; or

30346 (B) the trust fund.
30347 (b) A member of the Dineh Committee may receive a benefit from an expenditure of
30348 the trust fund if:
30349 (i) when the benefit is discussed by the Dineh Committee:
30350 (A) the member discloses that the member may receive the benefit;
30351 (B) the member physically leaves the room in which the Dineh Committee is
30352 discussing the benefit; and
30353 (C) the Dineh Committee approves the member receiving the benefit by a unanimous
30354 vote of members present at the meeting discussing the benefit;
30355 (ii) a Utah Navajo Chapter requests that the benefit be received by the member;
30356 (iii) the member is in compliance with the ethics and conflict of interest policy required
30357 under Subsection [~~63-88-105~~] 51-9-505(2)(d);
30358 (iv) (A) the expenditure from the trust fund is made in accordance with this [~~chapter~~]
30359 part; and
30360 (B) the benefit is no greater than the benefit available to members of the Navajo Nation
30361 whose name and tribal number are contained in the trust fund's population database; and
30362 (v) the member is not receiving the benefit as an officer, director, employee, or
30363 contractor of any business enterprise or service provider.
30364 (c) A business enterprise or service provider that has a member as an officer, director,
30365 employee, or contractor may not receive a benefit under Subsection (5)(b).
30366 (6) (a) (i) Except as required by Subsection (6)(a)(ii), as terms of current committee
30367 members expire, the governor shall appoint each new member or reappointed member to a
30368 four-year term.
30369 (ii) Notwithstanding the requirements of Subsection (6)(a)(i), the governor shall, at the
30370 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
30371 committee members are staggered so that approximately half of the committee is appointed
30372 every two years.
30373 (b) Except as provided in Subsection (6)(c), committee members shall serve until their
30374 successors are appointed and qualified.
30375 (c) (i) If a committee member is absent from three consecutive committee meetings, or
30376 if the committee member has violated the ethical or conflict of interest policies established by

30377 statute or by the committee:
30378 (A) that member's appointment is terminated;
30379 (B) the position is vacant; and
30380 (C) the governor shall appoint a replacement.
30381 (ii) When a vacancy occurs in the membership for any reason, the replacement shall be
30382 appointed for the unexpired term according to the procedures of this section.
30383 (7) (a) The committee shall select a chair and a vice chair from its membership each
30384 two years subsequent to the appointment of new members.
30385 (b) Five members of the committee are a quorum for the transaction of business.
30386 (c) The committee shall:
30387 (i) comply with the procedures and requirements of Title 52, Chapter 4, Open and
30388 Public Meetings Act;
30389 (ii) ensure that all of its meetings are held at or near:
30390 (A) a chapter house or meeting hall of a Utah Navajo Chapter; or
30391 (B) other places in Utah that the committee considers practical and appropriate; and
30392 (iii) ensure that all of its meetings are public hearings at which any resident of San Juan
30393 County may appear and speak.
30394 (8) (a) A member shall receive no compensation or benefits for the member's services,
30395 but may receive per diem and expenses incurred in the performance of the member's official
30396 duties at the rates established by the Division of Finance under Sections 63A-3-106 and
30397 63A-3-107 from the trust fund.
30398 (b) A member may decline to receive per diem and expenses for their service.
30399 (9) The Office of Trust Administrator is staff to the committee.
30400 (10) The committee shall advise the trust administrator about the expenditure of trust
30401 fund monies.
30402 (11) If both members appointed under Subsection (2)(b)(ii)(E) are registered members
30403 of the Oljato Chapter, the two members shall attend Dennehotso Chapter meetings as
30404 practicable.
30405 Section 638. Section **51-9-601**, which is renumbered from Section 63-12-1 is
30406 renumbered and amended to read:
30407 **Part 6. Forest Reserve Fund**

30408 **[~~63-12-1~~]. 51-9-601. Act of Congress accepted.**
30409 The state of Utah renews its acceptance of the apportionment of moneys received from
30410 forest reserves made by Act of Congress approved June 30, 1906 and all acts amendatory
30411 thereof and supplementary thereto, and renews its acceptance of said Act of Congress upon the
30412 terms and conditions set forth in said act; the said apportionment being for the benefit of the
30413 public schools and public roads of the counties wherein may be situated the respective forest
30414 reserves.
30415 Section 639. Section **51-9-602**, which is renumbered from Section 63-12-2 is
30416 renumbered and amended to read:
30417 **[~~63-12-2~~]. 51-9-602. Special fund created.**
30418 The moneys which shall come into the hands of the state treasurer from the United
30419 States pursuant to said act and all acts amendatory thereof and supplementary thereto shall
30420 constitute a fund to be known as the "County Road and School Fund from Forest Reserves."
30421 Section 640. Section **51-9-603**, which is renumbered from Section 63-12-4 is
30422 renumbered and amended to read:
30423 **[~~63-12-4~~]. 51-9-603. Apportionment by the county legislative body.**
30424 The county legislative body of each county participating therein shall immediately upon
30425 receipt of the apportionment proceed to apportion the same in the manner following, to wit:
30426 One-half to the several school districts of the county, according to the number of school
30427 children residing in each of said districts over six and under eighteen years of age, and one-half
30428 for the improvement of the public roads in said county.
30429 Section 641. Section **52-4-203** is amended to read:
30430 **52-4-203. Minutes of open meetings -- Public records -- Recording of meetings.**
30431 (1) Except as provided under Subsection (8), written minutes and a recording shall be
30432 kept of all open meetings.
30433 (2) Written minutes of an open meeting shall include:
30434 (a) the date, time, and place of the meeting;
30435 (b) the names of members present and absent;
30436 (c) the substance of all matters proposed, discussed, or decided by the public body
30437 which may include a summary of comments made by members of the public body;
30438 (d) a record, by individual member, of each vote taken by the public body;

30439 (e) the name of each person who is not a member of the public body, and upon
30440 recognition by the presiding member of the public body, provided testimony or comments to
30441 the public body;
30442 (f) the substance, in brief, of the testimony or comments provided by the public under
30443 Subsection (2)(e); and
30444 (g) any other information that any member requests be entered in the minutes or
30445 recording.
30446 (3) A recording of an open meeting shall:
30447 (a) be a complete and unedited record of all open portions of the meeting from the
30448 commencement of the meeting through adjournment of the meeting; and
30449 (b) be properly labeled or identified with the date, time, and place of the meeting.
30450 (4) (a) The minutes and recordings of an open meeting are public records and shall be
30451 available within a reasonable time after the meeting.
30452 (b) An open meeting record kept only by a recording must be converted to written
30453 minutes within a reasonable time upon request.
30454 (5) All or any part of an open meeting may be independently recorded by any person in
30455 attendance if the recording does not interfere with the conduct of the meeting.
30456 (6) Minutes or recordings of an open meeting that are required to be retained
30457 permanently shall be maintained in or converted to a format that meets long-term records
30458 storage requirements.
30459 (7) Written minutes and recordings of open meetings are public records under [~~Title~~
30460 ~~63, Chapter 2~~] Title 63G, Chapter 2, Government Records Access and Management Act, but
30461 written minutes shall be the official record of action taken at the meeting.
30462 (8) Either written minutes or a recording shall be kept of:
30463 (a) an open meeting that is a site visit or a traveling tour, if no vote or action is taken
30464 by the public body; and
30465 (b) an open meeting of a local district under Title 17B, Limited Purpose Local
30466 Government Entities - Local Districts, or special service district under Title 17A, Chapter 2,
30467 Part 13, Utah Special Service District Act, if the district's annual budgeted expenditures for all
30468 funds, excluding capital expenditures and debt service, are $50,000 or less.
30469 Section 642. Section **52-4-206** is amended to read:

30470 **52-4-206. Record of closed meetings.**
30471 (1) Except as provided under Subsection (6), if a public body closes a meeting under
30472 Subsection 52-4-205(1), the public body:
30473 (a) shall make a recording of the closed portion of the meeting; and
30474 (b) may keep detailed written minutes that disclose the content of the closed portion of
30475 the meeting.
30476 (2) A recording of a closed meeting shall be complete and unedited from the
30477 commencement of the closed meeting through adjournment of the closed meeting.
30478 (3) The recording and any minutes of a closed meeting shall include:
30479 (a) the date, time, and place of the meeting;
30480 (b) the names of members present and absent; and
30481 (c) the names of all others present except where the disclosure would infringe on the
30482 confidentiality necessary to fulfill the original purpose of closing the meeting.
30483 (4) Minutes or recordings of a closed meeting that are required to be retained
30484 permanently shall be maintained in or converted to a format that meets long-term records
30485 storage requirements.
30486 (5) Both a recording and written minutes of closed meetings are protected records
30487 under [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records Access and
30488 Management Act, except that the records may be disclosed under a court order only as
30489 provided under Section 52-4-304.
30490 (6) If a public body closes a meeting exclusively for the purposes described under
30491 Subsection 52-4-205(1)(a) or Subsection 52-4-205(1)(f):
30492 (a) the person presiding shall sign a sworn statement affirming that the sole purpose for
30493 closing the meeting was to discuss the purposes described under Subsection 52-4-205(1)(a) or
30494 Subsection 52-4-205(1)(f); and
30495 (b) the provisions of Subsection (1) of this section do not apply.
30496 Section 643. Section **52-4-304** is amended to read:
30497 **52-4-304. Action challenging closed meeting.**
30498 (1) Notwithstanding the procedure established under Subsection [~~63-2-202~~]
30499 63G-2-202(7), in any action brought under the authority of this chapter to challenge the legality
30500 of a closed meeting held by a public body, the court shall:

30501 (a) review the recording or written minutes of the closed meeting in camera; and
30502 (b) decide the legality of the closed meeting.
30503 (2) (a) If the judge determines that the public body did not violate Section 52-4-204,
30504 52-4-205, or 52-4-206 regarding closed meetings, the judge shall dismiss the case without
30505 disclosing or revealing any information from the recording or minutes of the closed meeting.
30506 (b) If the judge determines that the public body violated Section 52-4-204, 52-4-205, or
30507 52-4-206 regarding closed meetings, the judge shall publicly disclose or reveal from the
30508 recording or minutes of the closed meeting all information about the portion of the meeting that
30509 was illegally closed.
30510 Section 644. Section **52-6-101** is enacted to read:
30511 **CHAPTER 6. REIMBURSEMENT OF LEGAL FEES AND**
30512 **COSTS TO OFFICERS AND EMPLOYEES ACT**
30513 **Part 1. General Provisions**
30514 **52-6-101. Title.**
30515 This chapter is known as the "Reimbursement of Legal Fees and Costs to Officers and
30516 Employees Act."
30517 Section 645. Section **52-6-102**, which is renumbered from Section 63-30a-1 is
30518 renumbered and amended to read:
30519 **[~~63-30a-1~~]. 52-6-102. Definitions.**
30520 As used in this act:
30521 (1) "Officer or employee" means any individual who at the time of an event giving rise
30522 to a claim under this act is or was elected or appointed to or employed by a public entity,
30523 whether or not compensated, but does not include an independent contractor.
30524 (2) "Public entity" means the state or any political subdivision of it or any office,
30525 department, division, board, agency, commission, council, authority, institution, hospital,
30526 school, college, university, or other instrumentality of the state or any such political
30527 subdivision.
30528 Section 646. Section **52-6-201**, which is renumbered from Section 63-30a-2 is
30529 renumbered and amended to read:
30530 **Part 2. Attorney Fees and Court Costs**
30531 **[~~63-30a-2~~]. 52-6-201. Indictment or information against officer or employee --**

30532 **Reimbursement of attorney fees and court costs incurred in defense.**
30533 (1) If a state grand jury indicts, or if an information is filed against, an officer or
30534 employee, in connection with or arising out of any act or omission of that officer or employee
30535 during the performance of [~~his~~] the officer or employee's duties, within the scope of [~~his~~] the
30536 officer or employee's employment, or under color of [~~his~~] the officer or employee's authority,
30537 and that indictment or information is quashed or dismissed or results in a judgment of acquittal,
30538 unless the indictment or information is quashed or dismissed upon application or motion of the
30539 prosecuting attorney, that officer or employee shall be entitled to recover reasonable
30540 [~~attorneys'~~] attorney fees and court costs necessarily incurred in the defense of that indictment
30541 or information from the public entity, unless the officer or employee is found guilty of
30542 substantially the same misconduct that formed the basis for the indictment or information.
30543 (2) If the officer or employee is acquitted of some of the charges or counts, or portions
30544 of the indictment or information are quashed or dismissed, that officer or employee shall be
30545 entitled to recover from the public entity reasonable [~~attorneys'~~] attorney fees and court costs
30546 necessarily incurred in the defense of those charges, counts, or portions of the indictment or
30547 information that were quashed, dismissed, or resulted in a judgment of acquittal, unless the
30548 misconduct covered by those charges, counts, or portions of the indictment or information that
30549 were quashed, dismissed, or resulted in a judgment of acquittal is substantially the same
30550 misconduct that formed the basis for charges, counts, or portions of the indictment or
30551 information of which the officer or employee was found guilty.
30552 (3) An officer or employee who recovers under this section shall also be entitled to
30553 recover reasonable [~~attorneys'~~] attorney fees and costs necessarily incurred by the officer or
30554 employee in recovering the [~~attorneys'~~] attorney fees and costs allowed under this section,
30555 including [~~attorneys'~~] attorney fees and costs incurred on appeal.
30556 (4) Notwithstanding any other provision of this section, an officer or employee may not
30557 recover for the costs incurred in defense of any charge, count, or portion of the indictment or
30558 information that is quashed or dismissed upon application or motion of the prosecuting
30559 attorney.
30560 Section 647. Section **52-6-202**, which is renumbered from Section 63-30a-3 is
30561 renumbered and amended to read:
30562 **[~~63-30a-3~~]. 52-6-202. Payment of reimbursement of attorney fees and court**

30563 **costs.**
30564 (1) A request for reimbursement of [~~attorneys'~~] attorney fees and court costs shall be
30565 filed in the manner provided in Sections [~~63-30d-902~~] 63G-7-902 and [~~63-30d-903~~]
30566 63G-7-903.
30567 (2) (a) Any reimbursement of [~~attorneys'~~] attorney fees and court costs filed on behalf
30568 of an officer or employee of the state shall be paid from funds appropriated to the department
30569 or division that employed the officer or employee at the time of the act or omission that gave
30570 rise to the indictment or information.
30571 (b) If those funds are unavailable, the reimbursement shall be paid from the General
30572 Fund upon approval by the Board of Examiners and legislative appropriation.
30573 Section 648. Section **52-7-101** is enacted to read:
30574 **CHAPTER 7. PUBLIC OFFICERS' ATTORNEY FEES ACT**
30575 **Part 1. General Provisions**
30576 **52-7-101. Title.**
30577 This chapter is known as the "Public Officers' Attorney Fees Act."
30578 Section 649. Section **52-7-102**, which is renumbered from Section 63-30c-1 is
30579 renumbered and amended to read:
30580 **[~~63-30c-1~~]. 52-7-102. "Public officer" defined.**
30581 As used in this chapter:
30582 "Public officer" means a member of the Utah State Senate, a member of the Utah State
30583 House of Representatives, the governor, lieutenant governor, state auditor, state treasurer,
30584 attorney general, or any justice or judge of a court of record.
30585 Section 650. Section **52-7-201**, which is renumbered from Section 63-30c-2 is
30586 renumbered and amended to read:
30587 **Part 2. Claims for Attorney Fees**
30588 **[~~63-30c-2~~]. 52-7-201. Reimbursement of attorney fees and court costs in Article**
30589 **V lawsuits.**
30590 If any public officer is named as a defendant in a civil suit that alleges a violation of
30591 Article V of the Utah Constitution, and that lawsuit is dismissed or results in a judgment in
30592 favor of the defendant, the public officer may, by complying with the requirements and
30593 procedures of this chapter, submit a claim to the state for reimbursement of [~~his~~] the

30594 defendant's reasonable [~~attorneys'~~] attorney fees and court costs necessarily incurred in the
30595 defense of that civil suit.
30596 Section 651. Section **52-7-202**, which is renumbered from Section 63-30c-3 is
30597 renumbered and amended to read:
30598 **[~~63-30c-3~~]. 52-7-202. Procedure for submitting claim -- Representation of**
30599 **certain public officers by named counsel -- Certain claims barred.**
30600 (1) From and after July 1, 1987, within 30 days after [~~he~~] a public officer is served with
30601 a copy of the complaint, a public officer named as a defendant in a civil suit that alleges a
30602 violation of Article V of the Utah Constitution shall provide the Legislative Management
30603 Committee and the legislative general counsel with the following information:
30604 (a) a brief summary of the claims against him;
30605 (b) the name of the attorney or law firm that will represent him;
30606 (c) the estimated hourly fee that the attorney or law firm will charge for representing
30607 the public officer; and
30608 (d) an estimate of the hours that the attorney projects are necessary to resolve the
30609 lawsuit.
30610 (2) (a) Unless prohibited by the rules governing the conduct of attorneys adopted by the
30611 Utah Supreme Court under the authority of Article VIII, Sec. 4 of the Utah Constitution, the
30612 Office of the Attorney General, the Office of Legislative Research and General Counsel, or the
30613 general counsel for the judicial branch shall represent a public officer named as a defendant in
30614 a civil suit that alleges a violation of Article V of the Utah Constitution if the Utah
30615 Constitution, statutes, or rules require that such representation be provided.
30616 (b) If a public officer is represented by the Office of the Attorney General, the Office of
30617 Legislative Research and General Counsel, or the general counsel of the judicial branch under
30618 Subsection (2)(a), the public officer may not present a claim for [~~attorneys'~~] attorney fees or
30619 court costs under this chapter.
30620 Section 652. Section **52-7-203**, which is renumbered from Section 63-30c-4 is
30621 renumbered and amended to read:
30622 **[~~63-30c-4~~]. 52-7-203. No review by Board of Examiners.**
30623 The Board of Examiners may not review any claims submitted under the authority of
30624 this chapter.

30625 Section 653. Section **52-7-204**, which is renumbered from Section 63-30c-5 is
30626 renumbered and amended to read:
30627 **[~~63-30c-5~~]. 52-7-204. Claim and bill given to legislative fiscal analyst and Office**
30628 **of Legislative Research and General Counsel -- Independent review available -- Private**
30629 **sources of funds to be considered -- Power of Legislature to adjust or refuse claim.**
30630 (1) A public officer who meets the requirements of this chapter shall submit [~~his~~] the
30631 public officer's claim for payment of [~~attorneys'~~] attorney fees and court costs, and a copy of
30632 the bills that the public officer received from the attorney who represented him, to both the
30633 Office of the Legislative Fiscal Analyst and the Office of Legislative Research and General
30634 Counsel.
30635 (2) Upon receipt of a claim from the public officer, the legislative fiscal analyst or the
30636 legislative general counsel may, at the direction of the Legislative Management Committee,
30637 submit the claim for [~~attorneys'~~] attorney fees to an independent entity to review the [~~attorneys'~~]
30638 attorney fees and to recommend an appropriate fee.
30639 (3) In considering whether or not to pay the claim, the Legislature may consider
30640 whether or not there are other sources, including private sources, to pay the claim.
30641 (4) The Legislature may pay the claim in full, adjust the claim, or refuse to pay the
30642 claim.
30643 Section 654. Section **52-7-301**, which is renumbered from Section 63-30c-6 is
30644 renumbered and amended to read:
30645 **Part 3. Application**
30646 **[~~63-30c-6~~]. 52-7-301. Retrospective application of chapter.**
30647 This chapter applies to any claim arising prior to the effective date of this chapter if that
30648 claim is filed with the Legislature within two years after the lawsuit was filed.
30649 Section 655. Section **52-8-101**, which is renumbered from Section 63-93-101 is
30650 renumbered and amended to read:
30651 **CHAPTER 8. REPORTS AND NOTICES**
30652 **Part 1. General Provisions**
30653 **[~~63-93-101~~]. 52-8-101. Title.**
30654 This chapter [~~shall be~~] is known as "Reports and Notices."
30655 Section 656. Section **52-8-102**, which is renumbered from Section 63-93-102 is

30656 renumbered and amended to read:
30657 **[~~63-93-102~~]. 52-8-102. Definitions.**
30658 As used in this chapter:
30659 (1) "Attribution" means to be responsible for the truth, correctness, and accuracy of a
30660 report.
30661 (2) "Chief executive officer" means:
30662 (a) the governor, for the state;
30663 (b) the chair of the county commission or the county executive, for a county; and
30664 (c) the mayor, for a municipality, or if governed under a council-manager form of
30665 government, the chair of the council.
30666 (3) "Government entity" includes the state, its agencies and institutions, each county,
30667 municipality, school district, local district, and special service district in Utah.
30668 (4) "Promotional literature" means reports whose primary or secondary purpose is to
30669 provide nonresidents with information about the government entity that produced the report.
30670 (5) (a) "Report" means each account, statement, record of proceedings, summary of
30671 activities, and other written or printed document required by statute that is prepared or
30672 produced by a government entity that is distributed to the public.
30673 (b) "Report" does not mean written or printed documents whose primary purpose is to
30674 provide biographical information about government officials.
30675 Section 657. Section **52-8-201**, which is renumbered from Section 63-93-201 is
30676 renumbered and amended to read:
30677 **Part 2. Penalties**
30678 **[~~63-93-201~~]. 52-8-201. Prohibition.**
30679 (1) Except as provided in Subsection (2), a government entity may not include, as part
30680 of any report, the photograph or likeness of any elected official.
30681 (2) A report may contain the photograph or likeness of the chief executive officer of a
30682 government entity if the report is promotional literature.
30683 Section 658. Section **52-8-202**, which is renumbered from Section 63-93-202 is
30684 renumbered and amended to read:
30685 **[~~63-93-202~~]. 52-8-202. Penalties.**
30686 If an elected official's photograph or likeness appears on any report in violation of this

30687 section that was prepared under the authority or at the direction of the elected official, that
30688 elected official is personally liable for the cost of preparing and distributing the report.
30689 Section 659. Section **52-9-101**, which is renumbered from Section 63-96-101 is
30690 renumbered and amended to read:

30691 **CHAPTER 9. ELECTED OFFICIALS' FUNDS**

30692 **Part 1. General Provisions**

30693 **[~~63-96-101~~]. 52-9-101. Title.**
30694 This chapter [~~shall be~~] is known as "Elected Officials' Funds."
30695 Section 660. Section **52-9-102**, which is renumbered from Section 63-96-102 is
30696 renumbered and amended to read:
30697 **[~~63-96-102~~]. 52-9-102. Definitions.**
30698 As used in this chapter:
30699 (1) (a) "Contribution" means any of the following:
30700 (i) a gift, subscription, donation, loan, advance, or deposit of money or anything of
30701 value to a fund;
30702 (ii) an express, legally enforceable contract, promise, or agreement to make a gift,
30703 subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or
30704 anything of value to a fund; or
30705 (iii) any transfer of funds from another elected official or surrogate to the filing elected
30706 official's or surrogate's fund.
30707 (b) "Contribution" does not include money lent to the elected official or surrogate by a
30708 financial institution in the ordinary course of business.
30709 (2) "Disbursement" means monies, transfers, or other withdrawals from a fund for any
30710 purpose.
30711 (3) "Elected official" means each person elected to a state office, county office,
30712 municipal office, school board or school district office, local district office, or special service
30713 district office, but does not include judges standing for retention election.
30714 (4) (a) "Fund" means any sum of money or other resources, however titled or
30715 described, that is segregated, designated, or set aside for the use or benefit of an elected
30716 official.
30717 (b) "Fund" does not mean:

30718 (i) an elected official's or surrogate's private money or public money; or
30719 (ii) campaign funds or accounts established by candidates under the authority of Title
30720 20A, Chapter 11, Part 2, State Office Candidates - Campaign Organization and Financial
30721 Reporting Requirements, Title 20A, Chapter 11, Part 3, Candidates for Legislative Office -
30722 Campaign Organization and Financial Reporting Requirements, and Title 20A, Chapter 11,
30723 Part 4, Officeholder Financial Reporting Requirement.
30724 (5) "Private money" means personal monies used to pay normal expenses for which an
30725 elected official or surrogate is personally liable for state and federal taxes.
30726 (6) "Public money" means monies controlled by an elected official or surrogate in their
30727 public capacity that are accounted for by a governmental entity.
30728 (7) "Surrogate" means any committee, party, organization, or other person or group
30729 who holds or maintains a fund for the benefit of an elected official.
30730 Section 661. Section **52-9-201**, which is renumbered from Section 63-96-103 is
30731 renumbered and amended to read:
30732 **Part 2. Reporting Requirements**
30733 **[~~63-96-103~~]. 52-9-201. Reporting of funds -- Reports are public records.**
30734 (1) (a) By January 5 of each year, each state elected official who has a fund, each
30735 multicounty elected official who has a fund, each surrogate for a state elected official who has a
30736 fund for a state elected official, and each surrogate for a multicounty elected official who has a
30737 fund for a multicounty elected official shall file a funds report containing the information
30738 required by this section with the lieutenant governor.
30739 (b) By January 5 of each year, each local elected official who has a fund and each
30740 surrogate for a local elected official who has a fund for a local elected official shall file a funds
30741 report containing the information required by this section with the county clerk of the county in
30742 which the local elected official exercises [~~his~~] the locally elected official's official duties.
30743 (2) Each report shall contain:
30744 (a) the dollar value of the fund as of December 31 of the previous year;
30745 (b) an itemized list of disbursements from the fund during the previous calendar year
30746 identifying:
30747 (i) the date of each disbursement;
30748 (ii) the name and address of each person or entity to whom a disbursement was made;

30749 and
30750 (iii) the purpose of each disbursement; and
30751 (c) an itemized list of contributions to the fund during the previous calendar year,
30752 identifying:
30753 (i) the date of each contribution; and
30754 (ii) the name and address of each person or entity from whom a contribution was
30755 received.
30756 (3) Reports filed under this section are classified as public records for purposes of
30757 disclosure under [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records Access and
30758 Management Act.
30759 Section 662. Section **53-1-105** is amended to read:
30760 **53-1-105. Rulemaking -- Adjudicative proceedings -- Meetings.**
30761 The commissioner and the department and its boards, councils, divisions, and offices
30762 shall comply with the procedures and requirements of:
30763 (1) [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
30764 in their rulemaking;
30765 (2) [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, in
30766 their adjudicative proceedings; and
30767 (3) Title 52, Chapter 4, Open and Public Meetings Act, in their meetings.
30768 Section 663. Section **53-1-106** is amended to read:
30769 **53-1-106. Department duties -- Powers.**
30770 (1) In addition to the responsibilities contained in this title, the department shall:
30771 (a) make rules and perform the functions specified in Title 41, Chapter 6a, Traffic
30772 Code, including:
30773 (i) setting performance standards for towing companies to be used by the department,
30774 as required by Section 41-6a-1406; and
30775 (ii) advising the Department of Transportation regarding the safe design and operation
30776 of school buses, as required by Section 41-6a-1304;
30777 (b) make rules to establish and clarify standards pertaining to the curriculum and
30778 teaching methods of a motor vehicle accident prevention course under Section 31A-19a-211;
30779 (c) aid in enforcement efforts to combat drug trafficking;

30780 (d) meet with the Department of Technology Services to formulate contracts, establish
30781 priorities, and develop funding mechanisms for dispatch and telecommunications operations;
30782 (e) provide assistance to the Crime Victims' Reparations Board and Reparations Office
30783 in conducting research or monitoring victims' programs, as required by Section [~~63-25a-405~~]
30784 63M-7-505;
30785 (f) develop sexual assault exam protocol standards in conjunction with the Utah
30786 Hospital Association;
30787 (g) engage in emergency planning activities, including preparation of policy and
30788 procedure and rulemaking necessary for implementation of the federal Emergency Planning
30789 and Community Right to Know Act of 1986, as required by Section [~~63-5-5~~] 63K-3-301;
30790 (h) implement the provisions of Section 53-2-202, the Emergency Management
30791 Assistance Compact; and
30792 (i) (i) maintain a database of the information listed below regarding each driver license
30793 or state identification card status check made by a law enforcement officer:
30794 (A) the agency employing the law enforcement officer;
30795 (B) the name of the law enforcement officer or the identifying number the agency has
30796 assigned to the law enforcement officer;
30797 (C) the race and gender of the law enforcement officer;
30798 (D) the purpose of the law enforcement officer's status check, including but not limited
30799 to a traffic stop or a pedestrian stop; and
30800 (E) the race of the individual regarding whom the status check is made, based on the
30801 information provided through the application process under Section 53-3-205 or 53-3-804;
30802 (ii) provide access to the database created in Subsection (1)(i)(i) to the Commission on
30803 Criminal and Juvenile Justice for the purpose of:
30804 (A) evaluating the data;
30805 (B) evaluating the effectiveness of the data collection process; and
30806 (C) reporting and making recommendations to the Legislature; and
30807 (iii) classify any personal identifying information of any individual, including law
30808 enforcement officers, in the database as protected records under Subsection [~~63-2-304~~]
30809 63G-2-305(9).
30810 (2) (a) The department may establish a schedule of fees as required or allowed in this

30811 title for services provided by the department.
30812 (b) The fees shall be established in accordance with Section [~~63-38-3.2~~] 63J-1-303.
30813 (3) The department may establish or contract for the establishment of an Organ
30814 Procurement Donor Registry in accordance with Section 26-28-120.
30815 Section 664. Section **53-1-108** is amended to read:
30816 **53-1-108. Commissioner's powers and duties.**
30817 (1) In addition to the responsibilities contained in this title, the commissioner shall:
30818 (a) administer and enforce this title and Title 41, Chapter 12a, Financial Responsibility
30819 of Motor Vehicle Owners and Operators Act;
30820 (b) appoint deputies, inspectors, examiners, clerical workers, and other employees as
30821 required to properly discharge the duties of the department;
30822 (c) make rules:
30823 (i) governing emergency use of signal lights on private vehicles; and
30824 (ii) allowing privately owned vehicles to be designated for part-time emergency use, as
30825 provided in Section 41-6a-310;
30826 (d) set standards for safety belt systems, as required by Section 41-6a-1803;
30827 (e) serve as the chairman of the Disaster Emergency Advisory Council, as required by
30828 Section [~~63-5-4~~] 63K-3-201;
30829 (f) designate vehicles as "authorized emergency vehicles," as required by Section
30830 41-6a-102; and
30831 (g) on or before January 1, 2003, adopt a written policy that prohibits the stopping,
30832 detention, or search of any person when the action is solely motivated by considerations of
30833 race, color, ethnicity, age, or gender.
30834 (2) The commissioner may:
30835 (a) subject to the approval of the governor, establish division headquarters at various
30836 places in the state;
30837 (b) issue to a special agent a certificate of authority to act as a peace officer and revoke
30838 that authority for cause, as authorized in Section 56-1-21.5;
30839 (c) create specialized units within the commissioner's office for conducting internal
30840 affairs and aircraft operations as necessary to protect the public safety;
30841 (d) cooperate with any recognized agency in the education of the public in safety and

30842 crime prevention and participate in public or private partnerships, subject to Subsection (3);
30843 (e) cooperate in applying for and distributing highway safety program funds; and
30844 (f) receive and distribute federal funding to further the objectives of highway safety in
30845 compliance with the Federal Assistance Management Program Act.
30846 (3) (a) Money may not be expended under Subsection (2)(d) for public safety education
30847 unless it is specifically appropriated by the Legislature for that purpose.
30848 (b) Any recognized agency receiving state money for public safety shall file with the
30849 auditor of the state an itemized statement of all its receipts and expenditures.
30850 Section 665. Section **53-1-110** is amended to read:
30851 **53-1-110. Compilation of highway, traffic, and driver licensing laws -- Printing**
30852 **and distribution -- Fees.**
30853 (1) (a) The commissioner shall compile an edition of the general highway, traffic, and
30854 driver licensing laws of the state as soon as practicable after each regular session of the
30855 Legislature.
30856 (b) The edition shall include laws enacted or amended by the most recent session of
30857 the Legislature.
30858 (2) (a) The Division of Finance shall print a sufficient quantity of the compiled
30859 highway, traffic, and driver licensing laws to distribute copies to all state, county, and local
30860 enforcement agencies, courts, legislators, and other agencies as necessary.
30861 (b) A fee may be assessed for each copy of the compilation issued by the Division of
30862 Finance. The fee shall be established by the Division of Finance in accordance with Section
30863 [~~63-38-3.2~~] 63J-1-303.
30864 Section 666. Section **53-1-117** is amended to read:
30865 **53-1-117. Alcohol or drug enforcement funding -- Rulemaking -- Legislative**
30866 **findings.**
30867 (1) From monies appropriated by the Legislature and any other funds made available
30868 for the purposes described under this section, the department shall assist the law enforcement
30869 agencies of the state and its political subdivisions in the enforcement of alcohol or drug-related
30870 offenses.
30871 (2) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
30872 Administrative Rulemaking Act, the commissioner shall make rules establishing criteria and

30873 procedures for granting monies under this section to law enforcement agencies for:
30874 (a) providing equipment, including drug and alcohol testing equipment;
30875 (b) funding the training and overtime of peace officers; and
30876 (c) managing driving under the influence related abandoned vehicles.
30877 (3) The Legislature finds that these monies are for a general and statewide public
30878 purpose.
30879 Section 667. Section **53-2-102** is amended to read:
30880 **53-2-102. Definitions.**
30881 As used in this part:
30882 (1) "Attack" means a nuclear, conventional, biological, or chemical warfare action
30883 against the United States of America or this state.
30884 (2) "Director" means the division director appointed under Section 53-2-103.
30885 (3) "Disaster" means a situation causing, or threatening to cause, widespread damage,
30886 social disruption, or injury or loss of life or property resulting from attack, internal disturbance,
30887 natural phenomena, or technological hazard.
30888 (4) "Division" means the Division of Homeland Security created in Section 53-2-103.
30889 (5) "Energy" includes the energy resources defined in Section [~~63-53a-1~~] 63K-2-103.
30890 (6) "Expenses" means actual labor costs of government and volunteer personnel,
30891 including workers compensation benefits, fringe benefits, administrative overhead, cost of
30892 equipment, cost of equipment operation, cost of materials, and the cost of any contract labor
30893 and materials.
30894 (7) "Hazardous materials emergency" means a sudden and unexpected release of any
30895 substance that because of its quantity, concentration, or physical, chemical, or infectious
30896 characteristics presents a direct and immediate threat to public safety or the environment and
30897 requires immediate action to mitigate the threat.
30898 (8) "Internal disturbance" means a riot, prison break, disruptive terrorism, or strike.
30899 (9) "Natural phenomena" means any earthquake, tornado, storm, flood, landslide,
30900 avalanche, forest or range fire, drought, or epidemic.
30901 (10) "State of emergency" means a condition in any part of this state that requires state
30902 government emergency assistance to supplement the local efforts of the affected political
30903 subdivision to save lives and to protect property, public health, welfare, or safety in the event

30904 of a disaster, or to avoid or reduce the threat of a disaster.
30905 (11) "Technological hazard" means any hazardous materials accident, mine accident,
30906 train derailment, air crash, radiation incident, pollution, structural fire, or explosion.
30907 Section 668. Section **53-2-102.5** is amended to read:
30908 **53-2-102.5. Loan program for disasters prior to Disaster Recovery Funding Act.**
30909 (1) (a) For each promissory note issued under this section that is unpaid on May 1,
30910 2006, the director shall issue a new promissory note to replace the existing promissory note:
30911 (i) for the principal amount of the unpaid promissory note without accrued interest, if
30912 any;
30913 (ii) due on or before June 30, 2007; and
30914 (iii) with no interest rate.
30915 (b) For a promissory note issued under this section that is unpaid as of April 30, 2007,
30916 the division shall ensure that when the principal on the promissory note is repaid, the
30917 repayment is made to the State Disaster Recovery Restricted Account created in Section
30918 53-2-403.
30919 (2) The director shall ensure that each promissory note issued under this section that is
30920 funded by monies appropriated and available for disaster loans as of January 1, 2006, are due
30921 on or before June 30, 2007.
30922 (3) The Division of Finance shall transfer by no later than June 30, 2007, any monies
30923 repaid under this section to the General Fund Budget Reserve Account established in Section
30924 [~~63-38-2.5~~] 63J-1-202 to the State Disaster Recovery Restricted Account created in Section
30925 53-2-403.
30926 (4) Any amount on a promissory note issued under this section before April 30, 2007
30927 that is unpaid as of June 30, 2007 is forgiven and need not be repaid.
30928 Section 669. Section **53-2-104** is amended to read:
30929 **53-2-104. Division duties -- Powers.**
30930 (1) The division shall:
30931 (a) respond to the policies of the governor and the Legislature;
30932 (b) perform functions relating to emergency services and homeland security matters as
30933 directed by the commissioner;
30934 (c) prepare, implement, and maintain programs and plans to provide for:

30935 (i) prevention and minimization of injury and damage caused by disasters;
30936 (ii) prompt and effective response to and recovery from disasters;
30937 (iii) identification of areas particularly vulnerable to disasters;
30938 (iv) coordination of hazard mitigation and other preventive and preparedness measures
30939 designed to eliminate or reduce disasters;
30940 (v) assistance to local officials, state agencies, and the business and public sectors, in
30941 developing emergency action plans;
30942 (vi) coordination of federal, state, and local emergency activities;
30943 (vii) coordination of emergency operations plans with emergency plans of the federal
30944 government;
30945 (viii) coordination of search and rescue activities;
30946 (ix) coordination of rapid and efficient communications in times of emergency; and
30947 (x) other measures necessary, incidental, or appropriate to this part;
30948 (d) coordinate with local officials, state agencies, and the business and public sectors in
30949 developing, implementing, and maintaining a state energy emergency plan in accordance with
30950 Section 53-2-110; and
30951 (e) administer Part 4, Disaster Recovery Funding Act, in accordance with that part.
30952 (2) The division may consult with the Legislative Management Committee, the Judicial
30953 Council, and legislative and judicial staff offices to assist them in preparing emergency
30954 succession plans and procedures under [~~Title 63, Chapter 5b~~] Title 63K, Chapter 1, Emergency
30955 Interim Succession Act.
30956 Section 670. Section **53-2-105** is amended to read:
30957 **53-2-105. Hazardous materials emergency -- Recovery of expenses.**
30958 (1) (a) The director may recover from those persons whose negligent actions caused the
30959 hazardous materials emergency, expenses incurred by state agencies directly associated with a
30960 response to a hazardous materials emergency taken under authority of this part, [~~Title 63,~~
30961 ~~Chapter 5~~] Title 63K, Chapter 3, Emergency Management Act, or [~~Title 63, Chapter 5a~~] Title
30962 63K, Chapter 2, Disaster Response and Recovery.
30963 (b) The payment of expenses under this Subsection (1) does not constitute an
30964 admission of liability or negligence in any legal action for damages.
30965 (c) The director may obtain assistance from the attorney general or a county attorney of

30966 the affected jurisdiction to assist the director in recovering expenses and legal fees.
30967 (d) Any recovered costs shall be deposited in the General Fund as dedicated credits to
30968 be used by the division to reimburse state and local government agencies for the costs they
30969 have incurred.
30970 (2) (a) If the cost directly associated with emergency response exceeds all available
30971 funds of the division within a given fiscal year, the division, with approval from the governor,
30972 may incur a deficit in its line item budget.
30973 (b) The Legislature shall provide a supplemental appropriation in the following year to
30974 cover the deficit.
30975 (c) The division shall deposit all costs associated with any emergency response that are
30976 collected in subsequent fiscal years into the General Fund.
30977 (3) Any political subdivision may enact local ordinances pursuant to existing statutory
30978 or constitutional authority to provide for the recovery of expenses incurred by the political
30979 subdivision.
30980 Section 671. Section **53-2-106** is amended to read:
30981 **53-2-106. Expenditures authorized by "state of emergency" declaration.**
30982 (1) (a) The director may use funds authorized under [~~Title 63, Chapter 5a~~] Title 63K,
30983 Chapter 2, Disaster Response and Recovery, to provide:
30984 (i) transportation to and from the disaster scene;
30985 (ii) accommodations at the disaster scene for prolonged incidents; and
30986 (iii) emergency purchase of response equipment and supplies in direct support of a
30987 disaster.
30988 (b) The commissioner may authorize the use of funds accrued under [~~Title 63, Chapter~~
30989 ~~5a~~] Title 63K, Chapter 2, only if the governor declares a state of emergency as provided in
30990 [~~Title 63, Chapter 5a~~] Title 63K, Chapter 2, Disaster Response and Recovery.
30991 (2) These funds may not be allocated to a political subdivision unless the political
30992 subdivision has demonstrated that it is beyond its capability to respond to the disaster and that
30993 no other resources are available in sufficient amount to meet the disaster.
30994 Section 672. Section **53-2-107** is amended to read:
30995 **53-2-107. Search and Rescue Financial Assistance Program -- Uses -- Rulemaking**
30996 **-- Distribution.**

30997 (1) "Reimbursable expenses," as used in this section, means those reasonable costs
30998 incidental to search and rescue activities, not including any salary or overtime paid to any
30999 person on a regular or permanent payroll, including permanent part-time employees, of any
31000 agency or political subdivision of the state, including:
31001 (a) rental for fixed wing aircraft, helicopters, snowmobiles, boats, and generators;
31002 (b) replacement and upgrade of search and rescue equipment;
31003 (c) training of search and rescue volunteers; and
31004 (d) any other equipment or expenses necessary or appropriate for conducting search
31005 and rescue activities.
31006 (2) There is created the Search and Rescue Financial Assistance Program within the
31007 division.
31008 (3) (a) The program shall be funded from the following revenue sources:
31009 (i) any voluntary contributions to the state received for search and rescue operations;
31010 (ii) monies received by the state under Section 23-19-42 and Section 41-22-34; and
31011 (iii) appropriations made to the program by the Legislature.
31012 (b) All funding for the program shall be nonlapsing.
31013 (4) The director shall use the monies to reimburse counties for all or a portion of each
31014 county's reimbursable expenses for search and rescue operations subject to:
31015 (a) the approval of the Search and Rescue Advisory Board as provided in Section
31016 53-2-109;
31017 (b) monies available in the program; and
31018 (c) rules made under Subsection (7).
31019 (5) Program monies may not be used to reimburse for any paid personnel costs or paid
31020 man hours spent in emergency response and search and rescue related activities.
31021 (6) The Legislature finds that these funds are for a general and statewide public
31022 purpose.
31023 (7) The division, with the approval of the Search and Rescue Advisory Board, shall
31024 make rules in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
31025 Administrative Rulemaking Act, consistent with this act, establishing:
31026 (a) the costs that qualify as reimbursable expenses;
31027 (b) the procedures of agencies to submit expenses and be reimbursed; and

31028 (c) a formula to govern the distribution of available monies between counties based on:
31029 (i) the total qualifying expenses submitted;
31030 (ii) the number of search and rescue incidents per county population;
31031 (iii) the number of victims that reside outside the county; and
31032 (iv) the number of volunteer hours spent in each county in emergency response and
31033 search and rescue related activities per county population.
31034 Section 673. Section **53-2-110** is amended to read:
31035 **53-2-110. Energy emergency plan.**
31036 (1) The division shall develop an energy emergency plan consistent with [~~Title 63,~~
31037 ~~Chapter 53a~~] Title 63K, Chapter 2, Energy Emergency Powers of Governor.
31038 (2) In developing the energy emergency plan, the division shall coordinate with:
31039 (a) the Division of Public Utilities;
31040 (b) the Division of Oil, Gas, and Mining;
31041 (c) the Division of Air Quality; and
31042 (d) the Department of Agriculture and Food with regard to weights and measures.
31043 (3) The energy emergency plan shall:
31044 (a) designate the division as the entity that will coordinate the implementation of the
31045 energy emergency plan;
31046 (b) provide for annual review of the energy emergency plan;
31047 (c) provide for cooperation with public utilities and other relevant private sector
31048 persons;
31049 (d) provide a procedure for maintaining a current list of contact persons required under
31050 the energy emergency plan; and
31051 (e) provide that the energy emergency plan may only be implemented if the governor
31052 declares:
31053 (i) a state of emergency as provided in [~~Title 63, Chapter 5a~~] Title 63K, Chapter 2,
31054 Disaster Response and Recovery; or
31055 (ii) a state of emergency related to energy as provided in [~~Title 63, Chapter 53a~~] Title
31056 63K, Chapter 2, Energy Emergency Powers of Governor.
31057 (4) If an event requires the implementation of the energy emergency plan, the division
31058 shall report on that event and the implementation of the energy emergency plan to:

31059 (a) the governor; and
31060 (b) the Public Utilities and Technology Interim Committee.
31061 (5) If the energy emergency plan includes a procedure for obtaining information, the
31062 energy emergency plan shall incorporate reporting procedures that conform to existing
31063 requirements of federal, state, and local regulatory authorities wherever possible.
31064 Section 674. Section **53-2-402** is amended to read:
31065 **53-2-402. Definitions.**
31066 (1) Unless otherwise defined in this section, the terms defined in Part 1, Homeland
31067 Security Act, shall have the same meaning for this part.
31068 (2) As used in this part:
31069 (a) "Declared disaster" means one or more events:
31070 (i) within the state;
31071 (ii) that occur within a limited period of time;
31072 (iii) that involve:
31073 (A) a significant number of persons being at risk of bodily harm, sickness, or death; or
31074 (B) a significant portion of real property at risk of loss;
31075 (iv) that are sudden in nature and generally occur less frequently than every three years;
31076 and
31077 (v) that results in:
31078 (A) the president of the United States declaring an emergency or major disaster in the
31079 state;
31080 (B) the governor declaring a state of emergency under [~~Title 63, Chapter 5a~~] Title 63K,
31081 Chapter 2, Disaster Response and Recovery; or
31082 (C) the chief executive officer of a local government declaring a local emergency under
31083 [~~Title 63, Chapter 5a~~] Title 63K, Chapter 2, Disaster Response and Recovery.
31084 (b) "Disaster recovery fund" means the State Disaster Recovery Restricted Account
31085 created in Section 53-2-403.
31086 (c) "Emergency preparedness" means the following done for the purpose of being
31087 prepared for an emergency as defined by the division by rule made in accordance with [~~Title~~
31088 ~~63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
31089 (i) the purchase of equipment;

31090 (ii) the training of personnel; or
31091 (iii) the obtaining of a certification.
31092 (d) (i) "Emergency disaster services" means the following that are of a temporary basis:
31093 (A) evacuation;
31094 (B) shelter;
31095 (C) medical triage;
31096 (D) emergency transportation;
31097 (E) repair of infrastructure;
31098 (F) safety services, including fencing or roadblocks;
31099 (G) sandbagging;
31100 (H) emergency debris removal;
31101 (I) temporary bridges;
31102 (J) procurement and distribution of food, water, or ice;
31103 (K) procurement and deployment of generators;
31104 (L) rescue or recovery; or
31105 (M) services similar to those described in Subsections (2)(d)(i)(A) through (L), as
31106 defined by the division by rule, that are generally required within the first 96 hours of a
31107 declared disaster.
31108 (ii) "Emergency disaster services" does not include:
31109 (A) emergency preparedness; or
31110 (B) notwithstanding whether or not a county participates in the Wildland Fire
31111 Suppression Fund created in Section 65A-8-6.1, any fire suppression or presuppression costs
31112 that may be paid for from the Wildland Fire Suppression Fund if the county participates in the
31113 Wildland Fire Suppression Fund.
31114 (e) "Local fund" means a local government disaster fund created in accordance with
31115 Section 53-2-405.
31116 (f) "Local government" means a county, city, or town.
31117 (g) "Special fund" means a fund other than a general fund of a local government that is
31118 created for a special purpose established under the uniform system of budgeting, accounting,
31119 and reporting.
31120 Section 675. Section **53-2-403** is amended to read:

31121 **53-2-403. State Disaster Recovery Restricted Account.**
31122 (1) (a) There is created a restricted account in the General Fund known as the "State
31123 Disaster Recovery Restricted Account."
31124 (b) The disaster recovery fund shall consist of:
31125 (i) monies deposited into the disaster recovery fund in accordance with Section
31126 53-2-102.5;
31127 (ii) monies deposited into the disaster recovery fund in accordance with Section
31128 [~~63-38-2.7~~] 63J-1-204;
31129 (iii) monies appropriated to the disaster recovery fund by the Legislature;
31130 (iv) any other public or private monies received by the division that are:
31131 (A) given to the division for purposes consistent with this section; and
31132 (B) deposited into the disaster recovery fund at the request of:
31133 (I) the division; or
31134 (II) the person giving the monies; and
31135 (v) interest or other earnings derived from the disaster recovery fund.
31136 (c) Monies in the disaster recovery fund may only be used as follows:
31137 (i) without the monies being appropriated by the Legislature, in any fiscal year the
31138 division may use $100,000 to fund, in accordance with Section 53-2-404, costs to the state of
31139 emergency disaster services in response to a declared disaster; and
31140 (ii) subject to being appropriated by the Legislature, monies not described in
31141 Subsection (1)(c)(i) may be used to fund costs to the state directly related to a declared disaster
31142 that are not costs related to:
31143 (A) emergency disaster services;
31144 (B) emergency preparedness; or
31145 (C) notwithstanding whether or not a county participates in the Wildland Fire
31146 Suppression Fund created in Section 65A-8-6.1, any fire suppression or presuppression costs
31147 that may be paid for from the Wildland Fire Suppression Fund if the county participates in the
31148 Wildland Fire Suppression Fund.
31149 (2) The state treasurer shall invest monies in the disaster recovery fund according to
31150 Title 51, Chapter 7, State Money Management Act, except that the state treasurer shall deposit
31151 all interest or other earnings derived from the disaster recovery fund into the disaster recovery

31152 fund.
31153 (3) (a) Except as provided in Subsection (1), the monies in the disaster recovery fund
31154 may not be diverted, appropriated, or used for a purpose that is not listed in this section.
31155 (b) Notwithstanding Section [~~63-38-3.6~~] 63J-1-307, the Legislature may not
31156 appropriate monies from the disaster recovery fund to eliminate or otherwise reduce an
31157 operating deficit if the monies appropriated from the disaster recovery fund are used for a
31158 purpose other than one listed in this section.
31159 (c) The Legislature may not amend the purposes for which monies in the disaster
31160 recovery fund may be used except by the affirmative vote of two-thirds of all the members
31161 elected to each house.
31162 Section 676. Section **53-2-404** is amended to read:
31163 **53-2-404. State costs for emergency disaster services.**
31164 (1) Subject to this section and Section 53-2-403, the division shall use monies
31165 described in Subsection 53-2-403(1)(c)(i) to fund costs to the state of emergency disaster
31166 services.
31167 (2) Monies paid by the division under this section to government entities and private
31168 persons providing emergency disaster services are subject to [~~Title 63, Chapter 56~~] Title 63G,
31169 Chapter 6, Utah Procurement Code.
31170 Section 677. Section **53-2-509** is amended to read:
31171 **53-2-509. Personnel responding to requests for assistance.**
31172 (1) Each person or entity holding a license, certificate, or other permit evidencing
31173 qualification in a professional, mechanical, or other skill and responding to a request from a
31174 requesting political subdivision shall, while providing assistance during a declared emergency
31175 or during an authorized drill or exercise, be considered to be licensed, certified, or permitted in
31176 the requesting political subdivision, except as limited by the chief executive officer of the
31177 requesting political subdivision.
31178 (2) Each law enforcement officer rendering aid as provided in this part under the
31179 authority of a state of emergency declared by the governor, whether inside or outside the
31180 officer's jurisdiction, shall have all law enforcement powers and the same privileges and
31181 immunities that the officer has in the officer's own jurisdiction.
31182 (3) Each employee of a responding political subdivision responding to a request by or

31183 giving assistance to a requesting political subdivision as provided in this part:
31184 (a) is entitled to:
31185 (i) all applicable workers compensation benefits for injury or death occurring as a
31186 result of the employee's participation in the response or assistance; and
31187 (ii) any additional state or federal benefits available for line of duty injury or death; and
31188 (b) is, for purposes of liability, considered to be an employee of the requesting political
31189 subdivision.
31190 (4) Each responding political subdivision and its employees are immune from liability
31191 arising out of their actions in responding to a request from a requesting political subdivision to
31192 the extent provided in Section [~~63-30d-201~~] 63G-7-201.
31193 Section 678. Section **53-3-104** is amended to read:
31194 **53-3-104. Division duties.**
31195 The division shall:
31196 (1) in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
31197 Administrative Rulemaking Act, make rules:
31198 (a) for examining applicants for a license, as necessary for the safety and welfare of the
31199 traveling public;
31200 (b) for acceptable documentation of an applicant's identity, Utah resident status, Utah
31201 residence address, proof of legal presence, proof of citizenship of a country other than the
31202 United States, and other proof or documentation required under this chapter;
31203 (c) regarding the restrictions to be imposed on a person driving a motor vehicle with a
31204 temporary learner permit or learner permit; and
31205 (d) for exemptions from licensing requirements as authorized in this chapter;
31206 (2) examine each applicant according to the class of license applied for;
31207 (3) license motor vehicle drivers;
31208 (4) file every application for a license received by it and shall maintain indices
31209 containing:
31210 (a) all applications denied and the reason each was denied;
31211 (b) all applications granted; and
31212 (c) the name of every licensee whose license has been suspended, disqualified, or
31213 revoked by the division and the reasons for the action;

31214 (5) suspend, revoke, disqualify, cancel, or deny any license issued in accordance with
31215 this chapter;
31216 (6) file all accident reports and abstracts of court records of convictions received by it
31217 under state law;
31218 (7) maintain a record of each licensee showing [~~his~~] the licensee's convictions and the
31219 traffic accidents in which [~~he~~] the licensee has been involved where a conviction has resulted;
31220 (8) consider the record of a licensee upon an application for renewal of a license and at
31221 other appropriate times;
31222 (9) search the license files, compile, and furnish a report on the driving record of any
31223 person licensed in the state in accordance with Section 53-3-109;
31224 (10) develop and implement a record system as required by Section 41-6a-604;
31225 (11) in accordance with Section 53A-13-208, establish:
31226 (a) procedures and standards to certify teachers of driver education classes to
31227 administer knowledge and skills tests;
31228 (b) minimal standards for the tests; and
31229 (c) procedures to enable school districts to administer or process any tests for students
31230 to receive a class D operator's license;
31231 (12) in accordance with Section 53-3-510, establish:
31232 (a) procedures and standards to certify licensed instructors of commercial driver
31233 training school courses to administer the skills test;
31234 (b) minimal standards for the test; and
31235 (c) procedures to enable licensed commercial driver training schools to administer or
31236 process skills tests for students to receive a class D operator's license; and
31237 (13) provide administrative support to the Driver License Medical Advisory Board
31238 created in Section 53-3-303.
31239 Section 679. Section **53-3-106** is amended to read:
31240 **53-3-106. Disposition of revenues under this chapter -- Restricted account created**
31241 **-- Uses as provided by appropriation -- Nonlapsing.**
31242 (1) There is created within the Transportation Fund a restricted account known as the
31243 "Department of Public Safety Restricted Account."
31244 (2) The account consists of monies generated from the following revenue sources:

31245 (a) all monies received under this chapter;
31246 (b) administrative fees received according to the fee schedule authorized under this
31247 chapter and Section [~~63-38-3.2~~] 63J-1-303; and
31248 (c) any appropriations made to the account by the Legislature.
31249 (3) (a) The account shall earn interest.
31250 (b) All interest earned on account monies shall be deposited in the account.
31251 (4) The expenses of the department in carrying out this chapter shall be provided for by
31252 legislative appropriation from this account.
31253 (5) The amount in excess of $45 of the fees collected under Subsection 53-3-105(30)
31254 shall be appropriated by the Legislature from this account to the department to implement the
31255 provisions of Section 53-1-117, except that of the amount in excess of $45, $40 shall be
31256 deposited in the State Laboratory Drug Testing restricted account created in Section 26-1-34.
31257 (6) All monies received under Subsection 41-6a-1406(6)(b)(ii) shall be appropriated by
31258 the Legislature from this account to the department to implement the provisions of Section
31259 53-1-117.
31260 (7) Appropriations to the department from the account are nonlapsing.
31261 Section 680. Section **53-3-109** is amended to read:
31262 **53-3-109. Records -- Access -- Fees -- Rulemaking.**
31263 (1) (a) Except as provided in this section, all records of the division shall be classified
31264 and disclosed in accordance with [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government
31265 Records Access and Management Act.
31266 (b) The division may only disclose personal identifying information:
31267 (i) when the division determines it is in the interest of the public safety to disclose the
31268 information; and
31269 (ii) in accordance with the federal Driver's Privacy Protection Act of 1994, 18 U.S.C.
31270 Chapter 123.
31271 (c) The division may disclose personal identifying information:
31272 (i) to a licensed private investigator holding a valid agency or registrant license, with a
31273 legitimate business need;
31274 (ii) to an insurer, insurance support organization, or a self-insured entity, or its agents,
31275 employees, or contractors that issues any motor vehicle insurance under Title 31A, Chapter 22,

31276 Part 3, Motor Vehicle Insurance, for use in connection with claims investigation activities,
31277 antifraud activities, rating, or underwriting for any person issued a license certificate under this
31278 chapter; or
31279 (iii) to a depository institution as defined in Section 7-1-103 for use in accordance with
31280 the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. Chapter 123.
31281 (2) (a) A person who receives personal identifying information shall be advised by the
31282 division that the person may not:
31283 (i) disclose the personal identifying information from that record to any other person;
31284 or
31285 (ii) use the personal identifying information from that record for advertising or
31286 solicitation purposes.
31287 (b) Any use of personal identifying information by an insurer or insurance support
31288 organization, or by a self-insured entity or its agents, employees, or contractors not authorized
31289 by Subsection (1)(c)(ii) is:
31290 (i) an unfair marketing practice under Section 31A-23a-402; or
31291 (ii) an unfair claim settlement practice under Subsection 31A-26-303(3).
31292 (3) (a) Notwithstanding the provisions of Subsection (1)(b), the division or its designee
31293 may disclose portions of a driving record, in accordance with this Subsection (3), to an insurer
31294 as defined under Section 31A-1-301, or a designee of an insurer, for purposes of assessing
31295 driving risk on the insurer's current motor vehicle insurance policyholders.
31296 (b) The disclosure under Subsection (3)(a) shall:
31297 (i) include the licensed driver's name, driver license number, date of birth, and an
31298 indication of whether the driver has had a moving traffic violation that is a reportable violation,
31299 as defined under Section 53-3-102 during the previous month;
31300 (ii) be limited to the records of drivers who, at the time of the disclosure, are covered
31301 under a motor vehicle insurance policy of the insurer; and
31302 (iii) be made under a contract with the insurer or a designee of an insurer.
31303 (c) The contract under Subsection (3)(b)(iii) shall specify:
31304 (i) the criteria for searching and compiling the driving records being requested;
31305 (ii) the frequency of the disclosures;
31306 (iii) the format of the disclosures, which may be in bulk electronic form; and

31307 (iv) a reasonable charge for the driving record disclosures under Subsection (3).
31308 (4) The division may:
31309 (a) collect fees in accordance with Section 53-3-105 for searching and compiling its
31310 files or furnishing a report on the driving record of a person;
31311 (b) prepare under the seal of the division and deliver upon request, a certified copy of
31312 any record of the division, and charge a fee under Section [~~63-38-3.2~~] 63J-1-303 for each
31313 document authenticated; and
31314 (c) charge reasonable fees established in accordance with the procedures and
31315 requirements of Section [~~63-38-3.2~~] 63J-1-303 for disclosing personal identifying information
31316 under Subsection (1)(c).
31317 (5) Each certified copy of a driving record furnished in accordance with this section is
31318 admissible in any court proceeding in the same manner as the original.
31319 (6) (a) A driving record furnished under this section may only report on the driving
31320 record of a person for a period of ten years.
31321 (b) Subsection (6)(a) does not apply to court or law enforcement reports and to reports
31322 of commercial driver license violations.
31323 (7) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
31324 Administrative Rulemaking Act, the division may make rules to designate:
31325 (a) what information shall be included in a report on the driving record of a person;
31326 (b) the form of a report or copy of the report which may include electronic format;
31327 (c) the form of a certified copy, as required under Section 53-3-216, which may include
31328 electronic format;
31329 (d) the form of a signature required under this chapter which may include electronic
31330 format;
31331 (e) the form of written request to the division required under this chapter which may
31332 include electronic format;
31333 (f) the procedures, requirements, and formats for disclosing personal identifying
31334 information under Subsection (1)(c); and
31335 (g) the procedures, requirements, and formats necessary for the implementation of
31336 Subsection (3).
31337 Section 681. Section **53-3-205** is amended to read:

31338 **53-3-205. Application for license or endorsement -- Fee required -- Tests --**
31339 **Expiration dates of licenses and endorsements -- Information required -- Previous**
31340 **licenses surrendered -- Driving record transferred from other states -- Reinstatement --**
31341 **Fee required -- License agreement.**
31342 (1) An application for any original license, provisional license, or endorsement shall
31343 be:
31344 (a) made upon a form furnished by the division; and
31345 (b) accompanied by a nonrefundable fee set under Section 53-3-105.
31346 (2) An application and fee for an original provisional class D license or an original
31347 class D license entitle the applicant to:
31348 (a) not more than three attempts to pass both the knowledge and the skills tests for a
31349 class D license within six months of the date of the application;
31350 (b) a learner permit if needed pending completion of the application and testing
31351 process; and
31352 (c) an original class D license and license certificate after all tests are passed.
31353 (3) An application and fee for an original class M license entitle the applicant to:
31354 (a) not more than three attempts to pass both the knowledge and skills tests for a class
31355 M license within six months of the date of the application;
31356 (b) a motorcycle learner permit if needed after the knowledge test is passed; and
31357 (c) an original class M license and license certificate after all tests are passed.
31358 (4) An application and fee for a motorcycle or taxicab endorsement entitle the
31359 applicant to:
31360 (a) not more than three attempts to pass both the knowledge and skills tests within six
31361 months of the date of the application;
31362 (b) a motorcycle learner permit if needed after the motorcycle knowledge test is
31363 passed; and
31364 (c) a motorcycle or taxicab endorsement when all tests are passed.
31365 (5) An application and fees for a commercial class A, B, or C license entitle the
31366 applicant to:
31367 (a) not more than two attempts to pass a knowledge test and not more than two
31368 attempts to pass a skills test within six months of the date of the application;

31369 (b) a commercial driver instruction permit if needed after the knowledge test is passed;
31370 and
31371 (c) an original commercial class A, B, or C license and license certificate when all
31372 applicable tests are passed.
31373 (6) An application and fee for a CDL endorsement entitle the applicant to:
31374 (a) not more than two attempts to pass a knowledge test and not more than two
31375 attempts to pass a skills test within six months of the date of the application; and
31376 (b) a CDL endorsement when all tests are passed.
31377 (7) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement
31378 test within the number of attempts provided in Subsection (5) or (6), each test may be taken
31379 two additional times within the six months for the fee provided in Section 53-3-105.
31380 (8) (a) Except as provided under Subsections (8)(f), (g), and (h), an original license
31381 expires on the birth date of the applicant in the fifth year following the year the license
31382 certificate was issued.
31383 (b) Except as provided under Subsections (8)(f), (g), and (h), a renewal or an extension
31384 to a license expires on the birth date of the licensee in the fifth year following the expiration
31385 date of the license certificate renewed or extended.
31386 (c) Except as provided under Subsections (8)(f) and (g), a duplicate license expires on
31387 the same date as the last license certificate issued.
31388 (d) An endorsement to a license expires on the same date as the license certificate
31389 regardless of the date the endorsement was granted.
31390 (e) A license and any endorsement to the license held by a person ordered to active
31391 duty and stationed outside Utah in any of the armed forces of the United States, which expires
31392 during the time period the person is stationed outside of the state, is valid until 90 days after the
31393 person has been discharged or has left the service, unless:
31394 (i) the license is suspended, disqualified, denied, or has been cancelled or revoked by
31395 the division; or
31396 (ii) the licensee updates the information or photograph on the license certificate.
31397 (f) An original license or a renewal to an original license obtained using proof under
31398 Subsection (9)(a)(i)(E)(III) expires on the date of the expiration of the applicant's foreign visa,
31399 permit, or other document granting legal presence in the United States or on the date provided

31400 under this Subsection (8), whichever is sooner.
31401 (g) (i) An original license or a renewal or a duplicate to an original license expires on
31402 the next birth date of the applicant or licensee beginning on July 1, 2005 if:
31403 (A) the license was obtained without using a Social Security number as required under
31404 Subsection (9); and
31405 (B) the license certificate or driving privilege card is not clearly distinguished as
31406 required under Subsection 53-3-207(6).
31407 (ii) A driving privilege card issued or renewed under Section 53-3-207 expires on the
31408 birth date of the applicant in the first year following the year that the driving privilege card was
31409 issued or renewed.
31410 (iii) The expiration dates provided under Subsections (8)(g)(i) and (ii) do not apply to
31411 an original license or driving privilege card or to the renewal of an original license or driving
31412 privilege card with an expiration date provided under Subsection (8)(f).
31413 (h) An original license or a renewal to an original license expires on the birth date of
31414 the applicant in the first year following the year that the license was issued if the applicant is
31415 required to register as a sex offender under Section 77-27-21.5.
31416 (9) (a) In addition to the information required by [~~Title 63, Chapter 46b~~] Title 63G,
31417 Chapter 4, Administrative Procedures Act, for requests for agency action, each applicant shall:
31418 (i) provide the applicant's:
31419 (A) full legal name;
31420 (B) birth date;
31421 (C) gender;
31422 (D) between July 1, 2002 and July 1, 2007, race in accordance with the categories
31423 established by the United States Census Bureau;
31424 (E) (I) Social Security number;
31425 (II) temporary identification number (ITIN) issued by the Internal Revenue Service for
31426 a person who does not qualify for a Social Security number; or
31427 (III) (Aa) proof that the applicant is a citizen of a country other than the United States;
31428 (Bb) proof that the applicant does not qualify for a Social Security number; and
31429 (Cc) proof of legal presence in the United States, as authorized under federal law; and
31430 (F) Utah residence address as documented by a form acceptable under rules made by

31431 the division under Section 53-3-104, unless the application is for a temporary CDL issued
31432 under Subsection 53-3-407(2)(b);
31433 (ii) provide a description of the applicant;
31434 (iii) state whether the applicant has previously been licensed to drive a motor vehicle
31435 and, if so, when and by what state or country;
31436 (iv) state whether the applicant has ever had any license suspended, cancelled, revoked,
31437 disqualified, or denied in the last six years, or whether the applicant has ever had any license
31438 application refused, and if so, the date of and reason for the suspension, cancellation,
31439 revocation, disqualification, denial, or refusal;
31440 (v) state whether the applicant intends to make an anatomical gift under Title 26,
31441 Chapter 28, Revised Uniform Anatomical Gift Act, in compliance with Subsection (16);
31442 (vi) state whether the applicant is required to register as a sex offender under Section
31443 77-27-21.5;
31444 (vii) state whether the applicant is a military veteran and does or does not authorize
31445 sharing the information with the state Department of Veterans' Affairs;
31446 (viii) provide all other information the division requires; and
31447 (ix) sign the application which signature may include an electronic signature as defined
31448 in Section 46-4-102.
31449 (b) Each applicant shall have a Utah residence address, unless the application is for a
31450 temporary CDL issued under Subsection 53-3-407(2)(b).
31451 (c) The division shall maintain on its computerized records an applicant's:
31452 (i) (A) Social Security number;
31453 (B) temporary identification number (ITIN); or
31454 (C) other number assigned by the division if Subsection (9)(a)(i)(E)(III) applies; and
31455 (ii) indication whether the applicant is required to register as a sex offender under
31456 Section 77-27-21.5.
31457 (d) An applicant may not be denied a license for refusing to provide race information
31458 required under Subsection (9)(a)(i)(D).
31459 (10) The division shall require proof of every applicant's name, birthdate, and
31460 birthplace by at least one of the following means:
31461 (a) current license certificate;

31462 (b) birth certificate;
31463 (c) Selective Service registration; or
31464 (d) other proof, including church records, family Bible notations, school records, or
31465 other evidence considered acceptable by the division.
31466 (11) When an applicant receives a license in another class, all previous license
31467 certificates shall be surrendered and canceled. However, a disqualified commercial license may
31468 not be canceled unless it expires before the new license certificate is issued.
31469 (12) (a) When an application is received from a person previously licensed in another
31470 state to drive a motor vehicle, the division shall request a copy of the driver's record from the
31471 other state.
31472 (b) When received, the driver's record becomes part of the driver's record in this state
31473 with the same effect as though entered originally on the driver's record in this state.
31474 (13) An application for reinstatement of a license after the suspension, cancellation,
31475 disqualification, denial, or revocation of a previous license shall be accompanied by the
31476 additional fee or fees specified in Section 53-3-105.
31477 (14) A person who has an appointment with the division for testing and fails to keep
31478 the appointment or to cancel at least 48 hours in advance of the appointment shall pay the fee
31479 under Section 53-3-105.
31480 (15) A person who applies for an original license or renewal of a license agrees that the
31481 person's license is subject to any suspension or revocation authorized under this title or Title
31482 41, Motor Vehicles.
31483 (16) (a) The indication of intent under Subsection (9)(a)(v) shall be authenticated by
31484 the licensee in accordance with division rule.
31485 (b) (i) Notwithstanding [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government
31486 Records Access and Management Act, the division may, upon request, release to an organ
31487 procurement organization, as defined in Section 26-28-102, the names and addresses of all
31488 persons who under Subsection (9)(a)(v) indicate that they intend to make an anatomical gift.
31489 (ii) An organ procurement organization may use released information only to:
31490 (A) obtain additional information for an anatomical gift registry; and
31491 (B) inform licensees of anatomical gift options, procedures, and benefits.
31492 (17) Notwithstanding [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records

31493 Access and Management Act, the division may release to the Department of Veterans' Affairs
31494 the names and addresses of all persons who indicate their status as a veteran under Subsection
31495 (9)(a)(vii).
31496 (18) The division and its employees are not liable, as a result of false or inaccurate
31497 information provided under Subsection (9)(a)(v) or (vii), for direct or indirect:
31498 (a) loss;
31499 (b) detriment; or
31500 (c) injury.
31501 (19) A person who knowingly fails to provide the information required under
31502 Subsection (9)(a)(vi) is guilty of a class A misdemeanor.
31503 Section 682. Section **53-3-221 (Superseded 07/01/08)** is amended to read:
31504 **53-3-221 (Superseded 07/01/08). Offenses which may result in denial, suspension,**
31505 **disqualification, or revocation of license without hearing -- Additional grounds for**
31506 **suspension -- Point system for traffic violations -- Notice and hearing -- Reporting of**
31507 **traffic violation procedures.**
31508 (1) By following the emergency procedures in [~~Title 63, Chapter 46b~~] Title 63G,
31509 Chapter 4, Administrative Procedures Act, the division may immediately deny, suspend,
31510 disqualify, or revoke the license of any person without hearing and without receiving a record
31511 of the person's conviction of crime when the division has been notified or has reason to believe
31512 the person:
31513 (a) has committed any offenses for which mandatory suspension or revocation of a
31514 license is required upon conviction under Section 53-3-220;
31515 (b) has, by reckless or unlawful driving of a motor vehicle, caused or contributed to an
31516 accident resulting in death or injury to any other person, or serious property damage;
31517 (c) is incompetent to drive a motor vehicle or is afflicted with mental or physical
31518 infirmities or disabilities rendering it unsafe for the person to drive a motor vehicle upon the
31519 highways;
31520 (d) has committed a serious violation of the motor vehicle laws of this state;
31521 (e) has knowingly acquired, used, displayed, or transferred an item that purports to be
31522 an authentic driver license certificate issued by a governmental entity if the item is not an
31523 authentic driver license certificate or has permitted an unlawful use of the license as prohibited

31524 under Section 53-3-229; or
31525 (f) has been convicted of serious offenses against traffic laws governing the movement
31526 of motor vehicles with a frequency that indicates a disrespect for traffic laws and a disregard
31527 for the safety of other persons on the highways.
31528 (2) (a) The division may suspend the license of a person under Subsection (1) when the
31529 person has failed to comply with the terms stated on a traffic citation issued in this state, except
31530 this Subsection (2) does not apply to highway weight limit violations or violations of law
31531 governing the transportation of hazardous materials.
31532 (b) This Subsection (2) applies to parking and standing violations only if a court has
31533 issued a warrant for the arrest of a person for failure to post bail, appear, or otherwise satisfy
31534 the terms of the citation.
31535 (c) (i) This Subsection (2) may not be exercised unless notice of the pending
31536 suspension of the driving privilege has been sent at least ten days previously to the person at
31537 the address provided to the division.
31538 (ii) After clearance by the division, a report authorized by Section 53-3-104 may not
31539 contain any evidence of a suspension that occurred as a result of failure to comply with the
31540 terms stated on a traffic citation.
31541 (3) (a) The division may suspend the license of a person under Subsection (1) when the
31542 division has been notified by a court that the person has an outstanding unpaid fine, an
31543 outstanding incomplete restitution requirement, or an outstanding warrant levied by order of a
31544 court.
31545 (b) The suspension remains in effect until the division is notified by the court that the
31546 order has been satisfied.
31547 (c) After clearance by the division, a report authorized by Section 53-3-104 may not
31548 contain any evidence of the suspension.
31549 (4) The division shall make rules establishing a point system as provided for in this
31550 Subsection (4).
31551 (a) (i) The division shall assign a number of points to each type of moving traffic
31552 violation as a measure of its seriousness.
31553 (ii) The points shall be based upon actual relationships between types of traffic
31554 violations and motor vehicle traffic accidents.

31555 (b) Every person convicted of a traffic violation shall have assessed against [~~his~~] the
31556 person's driving record the number of points that the division has assigned to the type of
31557 violation of which the person has been convicted, except that the number of points assessed
31558 shall be decreased by 10% if on the abstract of the court record of the conviction the court has
31559 graded the severity of violation as minimum, and shall be increased by 10% if on the abstract
31560 the court has graded the severity of violation as maximum.
31561 (c) (i) A separate procedure for assessing points for speeding offenses shall be
31562 established by the division based upon the severity of the offense.
31563 (ii) The severity of a speeding violation shall be graded as:
31564 (A) "minimum" for exceeding the posted speed limit by up to ten miles per hour;
31565 (B) "intermediate" for exceeding the posted speed limit by from 11 to 20 miles per
31566 hour; and
31567 (C) "maximum" for exceeding the posted speed limit by 21 or more miles per hour.
31568 (iii) Consideration shall be made for assessment of no points on minimum speeding
31569 violations, except for speeding violations in school zones.
31570 (d) (i) Points assessed against a person's driving record shall be deleted for violations
31571 occurring before a time limit set by the division.
31572 (ii) The time limit may not exceed three years.
31573 (iii) The division may also delete points to reward violation-free driving for periods of
31574 time set by the division.
31575 (e) (i) By publication in two newspapers having general circulation throughout the
31576 state, the division shall give notice of the number of points it has assigned to each type of
31577 traffic violation, the time limit set by the division for the deletion of points, and the point level
31578 at which the division will generally take action to deny or suspend under this section.
31579 (ii) The division may not change any of the information provided above regarding
31580 points without first giving new notice in the same manner.
31581 (5) (a) (i) Upon denying or suspending the license of a person under this section, the
31582 division shall immediately notify the licensee in a manner specified by the division and afford
31583 him an opportunity for a hearing in the county where the licensee resides.
31584 (ii) The hearing shall be documented, and the division or its authorized agent may
31585 administer oaths, may issue subpoenas for the attendance of witnesses and the production of

31586 relevant books and papers, and may require a reexamination of the licensee.
31587 (iii) One or more members of the division may conduct the hearing, and any decision
31588 made after a hearing before any number of the members of the division is as valid as if made
31589 after a hearing before the full membership of the division.
31590 (iv) After the hearing the division shall either rescind its order of denial or suspension,
31591 extend the denial or suspension of the license, or revoke the license.
31592 (b) The denial or suspension of the license remains in effect pending qualifications
31593 determined by the division regarding a person:
31594 (i) whose license has been denied or suspended following reexamination;
31595 (ii) who is incompetent to drive a motor vehicle;
31596 (iii) who is afflicted with mental or physical infirmities that might make him dangerous
31597 on the highways; or
31598 (iv) who may not have the necessary knowledge or skill to drive a motor vehicle safely.
31599 (6) (a) The division may suspend or revoke the license of any resident of this state
31600 upon receiving notice of the conviction of that person in another state of an offense committed
31601 there that, if committed in this state, would be grounds for the suspension or revocation of a
31602 license.
31603 (b) The division may, upon receiving a record of the conviction in this state of a
31604 nonresident driver of a motor vehicle or motorboat of any offense under the motor vehicle laws
31605 of this state, forward a certified copy of the record to the motor vehicle administrator in the
31606 state where the person convicted is a resident.
31607 (7) (a) The division may suspend or revoke the license of any nonresident to drive a
31608 motor vehicle in this state for any cause for which the license of a resident driver may be
31609 suspended or revoked.
31610 (b) Any nonresident who drives a motor vehicle upon a highway when [~~his~~] the
31611 person's license has been suspended or revoked by the division is guilty of a class C
31612 misdemeanor.
31613 (8) (a) The division may not deny or suspend the license of any person for a period of
31614 more than one year except:
31615 (i) for failure to comply with the terms of a traffic citation under Subsection (2);
31616 (ii) upon receipt of a second or subsequent order suspending juvenile driving privileges

31617 under Section 53-3-219;
31618 (iii) when extending a denial or suspension upon receiving certain records or reports
31619 under Subsection 53-3-220(2); and
31620 (iv) for failure to give and maintain owner's or operator's security under Section
31621 41-12a-411.
31622 (b) The division may suspend the license of a person under Subsection (2) until [~~he~~]
31623 the person shows satisfactory evidence of compliance with the terms of the traffic citation.
31624 (9) (a) By following the emergency procedures in [~~Title 63, Chapter 46b~~] Title 63G,
31625 Chapter 4, Administrative Procedures Act, the division may immediately suspend the license of
31626 any person without hearing and without receiving a record of [~~his~~] the person's conviction for a
31627 crime when the division has reason to believe that the person's license was granted by the
31628 division through error or fraud or that the necessary consent for the license has been withdrawn
31629 or is terminated.
31630 (b) The procedure upon suspension is the same as under Subsection (5), except that
31631 after the hearing the division shall either rescind its order of suspension or cancel the license.
31632 (10) (a) The division, having good cause to believe that a licensed driver is
31633 incompetent or otherwise not qualified to be licensed, may upon notice in a manner specified
31634 by the division of at least five days to the licensee require him to submit to an examination.
31635 (b) Upon the conclusion of the examination the division may suspend or revoke the
31636 person's license, permit him to retain the license, or grant a license subject to a restriction
31637 imposed in accordance with Section 53-3-208.
31638 (c) Refusal or neglect of the licensee to submit to an examination is grounds for
31639 suspension or revocation of [~~his~~] the licensee's license.
31640 (11) (a) Except as provided in Subsection (11)(b), a report authorized by Section
31641 53-3-104 may not contain any evidence of a conviction for speeding on an interstate system in
31642 this state if the conviction was for a speed of ten miles per hour or less, above the posted speed
31643 limit and did not result in an accident, unless authorized in a manner specified by the division
31644 by the individual whose report is being requested.
31645 (b) The provisions of Subsection (11)(a) do not apply for:
31646 (i) a CDL license holder; or
31647 (ii) a violation that occurred in a commercial motor vehicle.

31648 (12) (a) By following the emergency procedures in [~~Title 63, Chapter 46b~~] Title 63G,
31649 Chapter 4, Administrative Procedures Act, the division may immediately suspend the license of
31650 a person if it has reason to believe that the person is the owner of a motor vehicle for which
31651 security is required under Title 41, Chapter 12a, Vehicle Financial Responsibility of Motor
31652 Vehicle Owners and Operators Act, and has driven the motor vehicle or permitted it to be
31653 driven within this state without the security being in effect.
31654 (b) Section 41-12a-411 regarding the requirement of proof of owner's or operator's
31655 security applies to persons whose driving privileges are suspended under this Subsection (12).
31656 (c) If the division exercises the right of immediate suspension granted under this
31657 Subsection (12), the notice and hearing provisions of Subsection (5) apply.
31658 (d) A person whose license suspension has been sustained or whose license has been
31659 revoked by the division under this subsection may file a request for agency action requesting a
31660 hearing.
31661 (13) Any suspension or revocation of a person's license under this section also
31662 disqualifies any license issued to that person under Part 4 of this chapter.
31663 Section 683. Section **53-3-221 (Effective 07/01/08)** is amended to read:
31664 **53-3-221 (Effective 07/01/08). Offenses which may result in denial, suspension,**
31665 **disqualification, or revocation of license without hearing -- Additional grounds for**
31666 **suspension -- Point system for traffic violations -- Notice and hearing -- Reporting of**
31667 **traffic violation procedures.**
31668 (1) By following the emergency procedures in [~~Title 63, Chapter 46b~~] Title 63G,
31669 Chapter 4, Administrative Procedures Act, the division may immediately deny, suspend,
31670 disqualify, or revoke the license of any person without hearing and without receiving a record
31671 of the person's conviction of crime when the division has been notified or has reason to believe
31672 the person:
31673 (a) has committed any offenses for which mandatory suspension or revocation of a
31674 license is required upon conviction under Section 53-3-220;
31675 (b) has, by reckless or unlawful driving of a motor vehicle, caused or contributed to an
31676 accident resulting in death or injury to any other person, or serious property damage;
31677 (c) is incompetent to drive a motor vehicle or is afflicted with mental or physical
31678 infirmities or disabilities rendering it unsafe for the person to drive a motor vehicle upon the

31679 highways;
31680 (d) has committed a serious violation of the motor vehicle laws of this state;
31681 (e) has knowingly acquired, used, displayed, or transferred an item that purports to be
31682 an authentic driver license certificate issued by a governmental entity if the item is not an
31683 authentic driver license certificate or has permitted an unlawful use of the license as prohibited
31684 under Section 53-3-229; or
31685 (f) has been convicted of serious offenses against traffic laws governing the movement
31686 of motor vehicles with a frequency that indicates a disrespect for traffic laws and a disregard
31687 for the safety of other persons on the highways.
31688 (2) (a) The division may suspend the license of a person under Subsection (1) when the
31689 person has failed to comply with the terms stated on a traffic citation issued in this state, except
31690 this Subsection (2) does not apply to highway weight limit violations or violations of law
31691 governing the transportation of hazardous materials.
31692 (b) This Subsection (2) applies to parking and standing violations only if a court has
31693 issued a warrant for the arrest of a person for failure to post bail, appear, or otherwise satisfy
31694 the terms of the citation.
31695 (c) (i) This Subsection (2) may not be exercised unless notice of the pending
31696 suspension of the driving privilege has been sent at least ten days previously to the person at
31697 the address provided to the division.
31698 (ii) After clearance by the division, a report authorized by Section 53-3-104 may not
31699 contain any evidence of a suspension that occurred as a result of failure to comply with the
31700 terms stated on a traffic citation.
31701 (3) (a) The division may suspend the license of a person under Subsection (1) when the
31702 division has been notified by a court that the person has an outstanding unpaid fine, an
31703 outstanding incomplete restitution requirement, or an outstanding warrant levied by order of a
31704 court.
31705 (b) The suspension remains in effect until the division is notified by the court that the
31706 order has been satisfied.
31707 (c) After clearance by the division, a report authorized by Section 53-3-104 may not
31708 contain any evidence of the suspension.
31709 (4) The division shall make rules establishing a point system as provided for in this

31710 Subsection (4).
31711 (a) (i) The division shall assign a number of points to each type of moving traffic
31712 violation as a measure of its seriousness.
31713 (ii) The points shall be based upon actual relationships between types of traffic
31714 violations and motor vehicle traffic accidents.
31715 (b) Every person convicted of a traffic violation shall have assessed against [~~his~~] the
31716 person's driving record the number of points that the division has assigned to the type of
31717 violation of which the person has been convicted, except that the number of points assessed
31718 shall be decreased by 10% if on the abstract of the court record of the conviction the court has
31719 graded the severity of violation as minimum, and shall be increased by 10% if on the abstract
31720 the court has graded the severity of violation as maximum.
31721 (c) (i) A separate procedure for assessing points for speeding offenses shall be
31722 established by the division based upon the severity of the offense.
31723 (ii) The severity of a speeding violation shall be graded as:
31724 (A) "minimum" for exceeding the posted speed limit by up to ten miles per hour;
31725 (B) "intermediate" for exceeding the posted speed limit by from 11 to 20 miles per
31726 hour; and
31727 (C) "maximum" for exceeding the posted speed limit by 21 or more miles per hour.
31728 (iii) Consideration shall be made for assessment of no points on minimum speeding
31729 violations, except for speeding violations in school zones.
31730 (d) (i) Points assessed against a person's driving record shall be deleted for violations
31731 occurring before a time limit set by the division.
31732 (ii) The time limit may not exceed three years.
31733 (iii) The division may also delete points to reward violation-free driving for periods of
31734 time set by the division.
31735 (e) (i) By publication in two newspapers having general circulation throughout the
31736 state, the division shall give notice of the number of points it has assigned to each type of
31737 traffic violation, the time limit set by the division for the deletion of points, and the point level
31738 at which the division will generally take action to deny or suspend under this section.
31739 (ii) The division may not change any of the information provided above regarding
31740 points without first giving new notice in the same manner.

31741 (5) (a) (i) Upon denying or suspending the license of a person under this section, the
31742 division shall immediately notify the licensee in a manner specified by the division and afford
31743 him an opportunity for a hearing in the county where the licensee resides.
31744 (ii) The hearing shall be documented, and the division or its authorized agent may
31745 administer oaths, may issue subpoenas for the attendance of witnesses and the production of
31746 relevant books and papers, and may require a reexamination of the licensee.
31747 (iii) One or more members of the division may conduct the hearing, and any decision
31748 made after a hearing before any number of the members of the division is as valid as if made
31749 after a hearing before the full membership of the division.
31750 (iv) After the hearing the division shall either rescind its order of denial or suspension,
31751 extend the denial or suspension of the license, or revoke the license.
31752 (b) The denial or suspension of the license remains in effect pending qualifications
31753 determined by the division regarding a person:
31754 (i) whose license has been denied or suspended following reexamination;
31755 (ii) who is incompetent to drive a motor vehicle;
31756 (iii) who is afflicted with mental or physical infirmities that might make him dangerous
31757 on the highways; or
31758 (iv) who may not have the necessary knowledge or skill to drive a motor vehicle safely.
31759 (6) (a) Subject to Subsection (6)(d), the division shall suspend a person's license when
31760 the division receives notice from the Office of Recovery Services that the Office of Recovery
31761 Services has ordered the suspension of the person's license.
31762 (b) A suspension under Subsection (6)(a) shall remain in effect until the division
31763 receives notice from the Office of Recovery Services that the Office of Recovery Services has
31764 rescinded the order of suspension.
31765 (c) After an order of suspension is rescinded under Subsection (6)(b), a report
31766 authorized by Section 53-3-104 may not contain any evidence of the suspension.
31767 (d) (i) If the division suspends a person's license under this Subsection (6), the division
31768 shall, upon application, issue a temporary limited driver license to the person if that person
31769 needs a driver license for employment, education, or child visitation.
31770 (ii) The temporary limited driver license described in this section:
31771 (A) shall provide that the person may operate a motor vehicle only for the purpose of

31772 driving to or from the person's place of employment, education, or child visitation;
31773 (B) shall prohibit the person from driving a motor vehicle for any purpose other than a
31774 purpose described in Subsection (6)(d)(ii)(A); and
31775 (C) shall expire 90 days after the day on which the temporary limited driver license is
31776 issued.
31777 (iii) (A) During the period beginning on the day on which a temporary limited driver
31778 license is issued under this Subsection (6), and ending on the day that the temporary limited
31779 driver license expires, the suspension described in this Subsection (6) only applies if the person
31780 who is suspended operates a motor vehicle for a purpose other than employment, education, or
31781 child visitation.
31782 (B) Upon expiration of a temporary limited driver license described in this Subsection
31783 (6)(d):
31784 (I) a suspension described in Subsection (6)(a) shall be in full effect until the division
31785 receives notice, under Subsection (6)(b), that the order of suspension is rescinded; and
31786 (II) a person suspended under Subsection (6)(a) may not drive a motor vehicle for any
31787 reason.
31788 (iv) The division is not required to issue a limited driver license to a person under this
31789 Subsection (6)(d) if there are other legal grounds for the suspension of the person's driver
31790 license.
31791 (v) The division shall make rules, in accordance with [~~Title 63, Chapter 46a~~] Title
31792 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this part.
31793 (7) (a) The division may suspend or revoke the license of any resident of this state
31794 upon receiving notice of the conviction of that person in another state of an offense committed
31795 there that, if committed in this state, would be grounds for the suspension or revocation of a
31796 license.
31797 (b) The division may, upon receiving a record of the conviction in this state of a
31798 nonresident driver of a motor vehicle or motorboat of any offense under the motor vehicle laws
31799 of this state, forward a certified copy of the record to the motor vehicle administrator in the
31800 state where the person convicted is a resident.
31801 (8) (a) The division may suspend or revoke the license of any nonresident to drive a
31802 motor vehicle in this state for any cause for which the license of a resident driver may be

31803 suspended or revoked.
31804 (b) Any nonresident who drives a motor vehicle upon a highway when [~~his~~] the
31805 person's license has been suspended or revoked by the division is guilty of a class C
31806 misdemeanor.
31807 (9) (a) The division may not deny or suspend the license of any person for a period of
31808 more than one year except:
31809 (i) for failure to comply with the terms of a traffic citation under Subsection (2);
31810 (ii) upon receipt of a second or subsequent order suspending juvenile driving privileges
31811 under Section 53-3-219;
31812 (iii) when extending a denial or suspension upon receiving certain records or reports
31813 under Subsection 53-3-220(2);
31814 (iv) for failure to give and maintain owner's or operator's security under Section
31815 41-12a-411; or
31816 (v) when the division suspends the license under Subsection (6).
31817 (b) The division may suspend the license of a person under Subsection (2) until [~~he~~]
31818 the person shows satisfactory evidence of compliance with the terms of the traffic citation.
31819 (10) (a) By following the emergency procedures in [~~Title 63, Chapter 46b~~] Title 63G,
31820 Chapter 4, Administrative Procedures Act, the division may immediately suspend the license of
31821 any person without hearing and without receiving a record of [~~his~~] the perons's conviction for a
31822 crime when the division has reason to believe that the person's license was granted by the
31823 division through error or fraud or that the necessary consent for the license has been withdrawn
31824 or is terminated.
31825 (b) The procedure upon suspension is the same as under Subsection (5), except that
31826 after the hearing the division shall either rescind its order of suspension or cancel the license.
31827 (11) (a) The division, having good cause to believe that a licensed driver is
31828 incompetent or otherwise not qualified to be licensed, may upon notice in a manner specified
31829 by the division of at least five days to the licensee require him to submit to an examination.
31830 (b) Upon the conclusion of the examination the division may suspend or revoke the
31831 person's license, permit him to retain the license, or grant a license subject to a restriction
31832 imposed in accordance with Section 53-3-208.
31833 (c) Refusal or neglect of the licensee to submit to an examination is grounds for

31834 suspension or revocation of [~~his~~] the licensee's license.
31835 (12) (a) Except as provided in Subsection (12)(b), a report authorized by Section
31836 53-3-104 may not contain any evidence of a conviction for speeding on an interstate system in
31837 this state if the conviction was for a speed of ten miles per hour or less, above the posted speed
31838 limit and did not result in an accident, unless authorized in a manner specified by the division
31839 by the individual whose report is being requested.
31840 (b) The provisions of Subsection (12)(a) do not apply for:
31841 (i) a CDL license holder; or
31842 (ii) a violation that occurred in a commercial motor vehicle.
31843 (13) (a) By following the emergency procedures in [~~Title 63, Chapter 46b~~] Title 63G,
31844 Chapter 4, Administrative Procedures Act, the division may immediately suspend the license of
31845 a person if it has reason to believe that the person is the owner of a motor vehicle for which
31846 security is required under Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle
31847 Owners and Operators Act, and has driven the motor vehicle or permitted it to be driven within
31848 this state without the security being in effect.
31849 (b) Section 41-12a-411 regarding the requirement of proof of owner's or operator's
31850 security applies to persons whose driving privileges are suspended under this Subsection (13).
31851 (c) If the division exercises the right of immediate suspension granted under this
31852 Subsection (13), the notice and hearing provisions of Subsection (5) apply.
31853 (d) A person whose license suspension has been sustained or whose license has been
31854 revoked by the division under this Subsection (13) may file a request for agency action
31855 requesting a hearing.
31856 (14) Any suspension or revocation of a person's license under this section also
31857 disqualifies any license issued to that person under Part 4, Uniform Driver License Act, of this
31858 chapter.
31859 Section 684. Section **53-3-221.5 (Effective 07/01/08)** is amended to read:
31860 **53-3-221.5 (Effective 07/01/08). Disclosure of license information to the Office of**
31861 **Recovery Services.**
31862 (1) The division shall disclose to the Office of Recovery Services the name, address,
31863 and other identifying information of each person:
31864 (a) to whom a license has been issued; or

31865 (b) whose driving privileges have been suspended, revoked, or reinstated.
31866 (2) All information received by the Office of Recovery Services under this section is
31867 subject to [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records Access and
31868 Management Act.
31869 Section 685. Section **53-3-303.5** is amended to read:
31870 **53-3-303.5. Driver License Medical Advisory Board -- Medical waivers.**
31871 (1) The Driver License Medical Advisory Board shall:
31872 (a) advise the director of the division; and
31873 (b) establish and recommend in a manner specified by the board functional ability
31874 profile guidelines and standards for determining the physical, mental, and emotional
31875 capabilities of applicants for specific types of licenses, appropriate to various driving abilities.
31876 (2) (a) The Driver License Medical Advisory Board shall establish fitness standards,
31877 including provisions for a waiver of specified federal driver's physical qualifications under 49
31878 CFR 391.41, for intrastate commercial driving privileges.
31879 (b) The standards under this Subsection (2) may only be implemented if the United
31880 States Department of Transportation (USDOT) will not impose any sanctions, including
31881 funding sanctions, against the state.
31882 (3) In case of uncertainty of interpretation of these guidelines and standards, or in
31883 special circumstances, applicants may request a review of any division decision by a panel of
31884 board members. All of the actions of the director and board are subject to judicial review.
31885 (4) (a) If a person applies for a waiver established under Subsection (2), the applicant
31886 shall bear any costs directly associated with the cost of administration of the waiver program,
31887 with respect to the applicant's application, in addition to any fees required under Section
31888 53-3-105.
31889 (b) The division shall establish any additional fee necessary to administer the license
31890 under this Subsection (4) in accordance with Section [~~63-38-3.2~~] 63J-1-303.
31891 Section 686. Section **53-3-304** is amended to read:
31892 **53-3-304. Licensing of impaired persons -- Medical review -- Restricted license --**
31893 **Procedures.**
31894 (1) (a) If the division has reason to believe that an applicant for a license is an impaired
31895 person, the division may require one or both of the following:

31896 (i) a physical examination of the applicant by a health care professional and the
31897 submittal by the health care professional of a signed medical report indicating the results of the
31898 physical examination;
31899 (ii) a follow-up medical review of the applicant by a health care professional and
31900 completion of a medical report at intervals established by the division under standards
31901 recommended by the board.
31902 (b) The format of the medical report required under Subsection (a) shall be devised by
31903 the division with the advice of the board and shall elicit the necessary medical information to
31904 determine whether it would be a public safety hazard to permit the applicant to drive a motor
31905 vehicle on the highways.
31906 (2) (a) The division may grant a restricted license to an impaired person who is
31907 otherwise qualified to obtain a license.
31908 (b) The license continues in effect until its expiration date so long as the licensee
31909 complies with the requirements set forth by the division.
31910 (c) The license renewal is subject to the conditions of this section.
31911 (d) Any physical, mental, or emotional impairment of the applicant that in the opinion
31912 of the division does not affect the applicant's ability to exercise reasonable and ordinary control
31913 at all times in driving a motor vehicle upon the highway, does not prevent granting a license to
31914 the applicant.
31915 (3) (a) If an examination is required under this section, the division is not bound by the
31916 recommendation of the examining health care professional but shall give fair consideration to
31917 the recommendation in acting upon the application. The criterion is whether upon all the
31918 evidence it is safe to permit the applicant to drive a motor vehicle.
31919 (b) In deciding whether to grant or deny a license, the division may be guided by the
31920 opinion of experts in the fields of diagnosing and treating mental, physical, or emotional
31921 disabilities and may take into consideration any other factors that bear on the issue of public
31922 safety.
31923 (4) Information provided under this section relating to physical, mental, or emotional
31924 impairment is classified under [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records
31925 Access and Management Act.
31926 Section 687. Section **53-3-505** is amended to read:

31927 **53-3-505. School license -- Contents of rules.**
31928 (1) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
31929 Administrative Rulemaking Act, the commissioner shall make rules regarding the requirements
31930 for:
31931 (a) a school license, including requirements concerning:
31932 (i) locations;
31933 (ii) equipment;
31934 (iii) courses of instruction;
31935 (iv) instructors;
31936 (v) previous records of the school and instructors;
31937 (vi) financial statements;
31938 (vii) schedule of fees and charges;
31939 (viii) character and reputation of the operators and instructors;
31940 (ix) insurance as the commissioner determines necessary to protect the interests of the
31941 public; and
31942 (x) other provisions the commissioner may prescribe for the protection of the public;
31943 and
31944 (b) an instructor's license, including requirements concerning:
31945 (i) moral character;
31946 (ii) physical condition;
31947 (iii) knowledge of the courses of instruction;
31948 (iv) motor vehicle laws and safety principles and practices;
31949 (v) previous personnel and employment records; and
31950 (vi) other provisions the commissioner may prescribe for the protection of the public;
31951 (c) applications for licenses; and
31952 (d) minimum standards for:
31953 (i) driving simulation devices that are fully interactive under Subsection
31954 53-3-505.5(2)(b); and
31955 (ii) driving simulation devices that are not fully interactive under Subsection
31956 53-3-505.5(2)(c).
31957 (2) Rules made by the commissioner shall require that a commercial driver training

31958 school offering motorcycle rider education meet or exceed the standards established by the
31959 Motorcycle Safety Foundation.
31960 (3) Rules made by the commissioner shall require that an instructor of motorcycle rider
31961 education meet or exceed the standards for certification established by the Motorcycle Safety
31962 Foundation.
31963 (4) The commissioner may call upon the state superintendent of public instruction for
31964 assistance in formulating appropriate rules.
31965 Section 688. Section **53-3-506** is amended to read:
31966 **53-3-506. License expiration and renewal -- Fee required -- Disposition of**
31967 **revenue.**
31968 (1) (a) All commercial driver training school licenses, commercial testing only school
31969 licenses, school operator licenses, and instructor licenses:
31970 (i) expire one year from the date of issuance; and
31971 (ii) may be renewed upon application to the commissioner as prescribed by rule.
31972 (b) Each application for an original or renewal school license, school operator license,
31973 or instructor license shall be accompanied by a fee determined by the department under Section
31974 [~~63-38-3.2~~] 63J-1-303.
31975 (c) A license fee may not be refunded if the license is rejected, suspended, or revoked.
31976 (2) The license fees collected under this part shall be:
31977 (a) placed in a fund designated as the "Commercial Driver Training Law Fund"; and
31978 (b) used under the supervision and direction of the director of the Division of Finance
31979 for the administration of this part.
31980 Section 689. Section **53-3-510** is amended to read:
31981 **53-3-510. Instructors certified to administer skills tests.**
31982 (1) (a) The division shall establish procedures and standards to certify licensed
31983 instructors of driver training courses under this part to administer skills tests.
31984 (b) An instructor may not administer a skills test under this section to a student that
31985 took the course from the same school or the same instructor.
31986 (2) The division is the certifying authority.
31987 (3) (a) Subject to Subsection (1), an instructor certified under this section may give
31988 skills tests designed for driver training courses authorized under this part.

31989 (b) The division shall establish minimal standards for the test that is at least as difficult
31990 as those required to receive a class D operator's license under Title 53, Chapter 3, Uniform
31991 Driver License Act.
31992 (c) A student who fails the skills test given by an instructor certified under this section
31993 may apply for a class D operator's license under Title 53, Chapter 3, Part 2, Driver Licensing
31994 Act, and complete the skills test at a division office.
31995 (4) A student who successfully passes the test given by a certified driver training
31996 instructor under this section satisfies the driving parts of the test required for a class D
31997 operator's license.
31998 (5) The division shall establish procedures to enable licensed commercial driver
31999 training schools to administer or process the skills test authorized under this section for a class
32000 D operator's license.
32001 (6) The division shall establish the standards and procedures required under this
32002 section by rules made in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
32003 Administrative Rulemaking Act.
32004 Section 690. Section **53-3-805** is amended to read:
32005 **53-3-805. Identification card -- Contents -- Specifications.**
32006 (1) (a) The division shall issue an identification card that bears:
32007 (i) the distinguishing number assigned to the person by the division;
32008 (ii) the name, birth date, and Utah residence address of the person;
32009 (iii) a brief description of the person for the purpose of identification;
32010 (iv) a photograph of the person;
32011 (v) a photograph or other facsimile of the person's signature; and
32012 (vi) an indication whether the person intends to make an anatomical gift under Title 26,
32013 Chapter 28, Revised Uniform Anatomical Gift Act.
32014 (b) An identification card issued by the division may not bear the person's Social
32015 Security number or place of birth.
32016 (2) (a) The card shall be of an impervious material, resistant to wear, damage, and
32017 alteration.
32018 (b) Except as provided under Section 53-3-806, the size, form, and color of the card is
32019 prescribed by the commissioner.

32020 (3) At the applicant's request, the card may include a statement that the applicant has a
32021 special medical problem or allergies to certain drugs, for the purpose of medical treatment.
32022 (4) (a) The indication of intent under Subsection 53-3-804(2)(j) shall be authenticated
32023 by the applicant in accordance with division rule.
32024 (b) (i) Notwithstanding [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government
32025 Records Access and Management Act, the division may, upon request, release to an organ
32026 procurement organization, as defined in Section 26-28-102, the names and addresses of all
32027 persons who under Subsection 53-3-804(2)(j) indicate that they intend to make an anatomical
32028 gift.
32029 (ii) An organ procurement organization may use released information only to:
32030 (A) obtain additional information for an anatomical gift registry; and
32031 (B) inform applicants of anatomical gift options, procedures, and benefits.
32032 (5) Notwithstanding [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records
32033 Access and Management Act, the division may release to the Department of Veterans' Affairs
32034 the names and addresses of all persons who indicate their status as a veteran under Subsection
32035 53-3-804(2)(l).
32036 (6) The division and its employees are not liable, as a result of false or inaccurate
32037 information provided under Subsection 53-3-804(2)(j) or (l), for direct or indirect:
32038 (a) loss;
32039 (b) detriment; or
32040 (c) injury.
32041 Section 691. Section **53-3-903** is amended to read:
32042 **53-3-903. Motorcycle Rider Education Program.**
32043 (1) (a) The division shall develop standards for and administer the Motorcycle Rider
32044 Education Program.
32045 (b) The division shall make rules in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
32046 Chapter 3, Utah Administrative Rulemaking Act, to implement this chapter.
32047 (2) The program shall include:
32048 (a) a novice rider training course;
32049 (b) a rider training course for experienced riders; and
32050 (c) an instructor training course.

32051 (3) The division may expand the program to include:
32052 (a) enhancing public awareness of motorcycle riders;
32053 (b) increasing the awareness of motorcycle riders of the effects of alcohol and drugs;
32054 (c) motorcycle rider skills improvement;
32055 (d) program and other motorcycle safety promotion; and
32056 (e) improvement of motorcycle licensing efforts.
32057 (4) (a) Rider training courses shall be open to all residents of the state who either hold
32058 a valid driver's license for any classification or are eligible for a temporary motorcycle learner's
32059 permit.
32060 (b) An adequate number of novice rider training courses shall be provided to meet the
32061 reasonably anticipated needs of all persons in the state who are eligible and who desire to
32062 participate in the program.
32063 (c) Program delivery may be phased in over a reasonable period of time.
32064 (5) (a) The division may enter into contracts with either public or private institutions to
32065 provide a rider training course approved by the division.
32066 (b) The institution shall issue certificates of completion in the manner and form
32067 prescribed by the director to persons who satisfactorily complete the requirements of the
32068 course.
32069 (c) An institution conducting a rider training course may charge a reasonable tuition fee
32070 to cover the cost of offering the course.
32071 (d) (i) The division may use program funds to defray its own expenses in administering
32072 the program.
32073 (ii) The division may reimburse entities that offer approved courses for actual expenses
32074 incurred in offering the courses, up to a limit established by the division based upon available
32075 program funds.
32076 (iii) Any reimbursement paid to an entity must be entirely reflected by the entity in
32077 reduced course enrollment fees for students.
32078 (6) (a) Standards for the motorcycle rider training courses, including standards for
32079 course curriculum, materials, and student evaluation, and standards for the training and
32080 approval of instructors shall meet or exceed established national standards for motorcycle rider
32081 training courses prescribed by the Motorcycle Safety Foundation.

32082 (b) Motorcycle rider training courses shall be taught only by instructors approved under
32083 Section 53-3-904.
32084 (c) Motorcycle rider training courses for novices shall include at least eight hours of
32085 practice riding.
32086 (7) The commissioner shall appoint a full-time program coordinator to oversee and
32087 direct the program.
32088 Section 692. Section **53-5-704** is amended to read:
32089 **53-5-704. Division duties -- Permit to carry concealed firearm -- Certification for**
32090 **concealed firearms instructor -- Requirements for issuance -- Violation -- Denial,**
32091 **suspension, or revocation -- Appeal procedure.**
32092 (1) (a) The division or its designated agent shall issue a permit to carry a concealed
32093 firearm for lawful self defense to an applicant who is 21 years of age or older within 60 days
32094 after receiving an application, unless during the 60-day period the division finds proof that the
32095 applicant is not of good character.
32096 (b) The permit is valid throughout the state for five years, without restriction, except as
32097 otherwise provided by Section 53-5-710.
32098 (2) (a) An applicant satisfactorily demonstrates good character if the applicant:
32099 (i) has not been convicted of a felony;
32100 (ii) has not been convicted of a crime of violence;
32101 (iii) has not been convicted of an offense involving the use of alcohol;
32102 (iv) has not been convicted of an offense involving the unlawful use of narcotics or
32103 other controlled substances;
32104 (v) has not been convicted of an offense involving moral turpitude;
32105 (vi) has not been convicted of an offense involving domestic violence;
32106 (vii) has not been adjudicated by a state or federal court as mentally incompetent,
32107 unless the adjudication has been withdrawn or reversed; and
32108 (viii) is qualified to purchase and possess a firearm pursuant to Section 76-10-503 and
32109 federal law.
32110 (b) In assessing good character under Subsection (2)(a), the licensing authority shall
32111 consider mitigating circumstances.
32112 (3) (a) The division may deny, suspend, or revoke a concealed firearm permit if it has

32113 reasonable cause to believe that the applicant has been or is a danger to self or others as
32114 demonstrated by evidence, including:
32115 (i) past pattern of behavior involving unlawful violence or threats of unlawful violence;
32116 (ii) past participation in incidents involving unlawful violence or threats of unlawful
32117 violence; or
32118 (iii) conviction of an offense in violation of Title 76, Chapter 10, Part 5, Weapons.
32119 (b) The division may not deny, suspend, or revoke a concealed firearm permit solely
32120 for a single conviction for an infraction violation of Title 76, Chapter 10, Part 5, Weapons.
32121 (c) In determining whether the applicant has been or is a danger to self or others, the
32122 division may inspect:
32123 (i) expunged records of arrests and convictions of adults as provided in Section
32124 77-18-15; and
32125 (ii) juvenile court records as provided in Section 78-3a-206.
32126 (d) (i) If a person granted a permit under this part has been charged with a crime of
32127 violence in any state, the division shall suspend the permit.
32128 (ii) Upon notice of the acquittal of the person charged, or notice of the charges having
32129 been dropped, the division shall immediately reinstate the suspended permit.
32130 (4) A former peace officer who departs full-time employment as a peace officer, in an
32131 honorable manner, shall be issued a concealed firearm permit within five years of that
32132 departure if the officer meets the requirements of this section.
32133 (5) Except as provided in Subsection (6), the licensing authority shall also require the
32134 applicant to provide:
32135 (a) the address of the applicant's permanent residence;
32136 (b) one recent dated photograph;
32137 (c) one set of fingerprints; and
32138 (d) evidence of general familiarity with the types of firearms to be concealed as defined
32139 in Subsection (7).
32140 (6) An applicant who is a law enforcement officer under Section 53-13-103 may
32141 provide a letter of good standing from the officer's commanding officer in place of the evidence
32142 required by Subsection (5)(d).
32143 (7) (a) General familiarity with the types of firearms to be concealed includes training

32144 in:
32145 (i) the safe loading, unloading, storage, and carrying of the types of firearms to be
32146 concealed; and
32147 (ii) current laws defining lawful use of a firearm by a private citizen, including lawful
32148 self-defense, use of force by a private citizen, including use of deadly force, transportation, and
32149 concealment.
32150 (b) Evidence of general familiarity with the types of firearms to be concealed may be
32151 satisfied by one of the following:
32152 (i) completion of a course of instruction conducted by a national, state, or local
32153 firearms training organization approved by the division;
32154 (ii) certification of general familiarity by a person who has been certified by the
32155 division, which may include a law enforcement officer, military or civilian firearms instructor,
32156 or hunter safety instructor; or
32157 (iii) equivalent experience with a firearm through participation in an organized
32158 shooting competition, law enforcement, or military service.
32159 (c) Instruction taken by a student under Subsection (7)(b) shall be in person and not
32160 through electronic means.
32161 (8) (a) An applicant for certification as a Utah concealed firearms instructor shall:
32162 (i) be at least 21 years of age;
32163 (ii) be currently eligible to possess a firearm under Section 76-10-503 and federal law;
32164 (iii) have a current National Rifle Association certification or its equivalent as
32165 determined by the division; and
32166 (iv) for certificates issued beginning July 1, 2006, have taken a course of instruction
32167 and passed a certification test as described in Subsection (8)(c).
32168 (b) An instructor's certification is valid for three years from the date of issuance, unless
32169 revoked by the division.
32170 (c) (i) In order to obtain initial certification or renew a certification, an instructor shall
32171 attend an instructional course and pass a test under the direction of the division.
32172 (ii) (A) Beginning May 1, 2006, the division shall provide or contract to provide the
32173 course referred to in Subsection (8)(c)(i) twice every year.
32174 (B) The course shall include instruction on current Utah law related to firearms,

32175 including concealed carry statutes and rules, and the use of deadly force by private citizens.
32176 (d) (i) Each applicant for certification under this Subsection (8) shall pay a fee of
32177 $50.00 at the time of application for initial certification.
32178 (ii) The renewal fee for the certificate is $25.
32179 (iii) The fees paid under Subsections (8)(d)(i) and (ii) may be used by the division as a
32180 dedicated credit to cover the cost incurred in maintaining and improving the instruction
32181 program required for concealed firearm instructors under this Subsection (8).
32182 (9) A certified concealed firearms instructor shall provide each of the instructor's
32183 students with the required course of instruction outline approved by the division.
32184 (10) (a) (i) A concealed firearms instructor is required to provide a signed certificate to
32185 a person successfully completing the offered course of instruction.
32186 (ii) The instructor shall sign the certificate with the exact name indicated on the
32187 instructor's certification issued by the division under Subsection (8).
32188 (iii) (A) The certificate shall also have affixed to it the instructor's official seal, which
32189 is the exclusive property of the instructor and may not be used by any other person.
32190 (B) The instructor shall destroy the seal upon revocation or expiration of the
32191 instructor's certification under Subsection (8).
32192 (C) The division shall determine the design and content of the seal to include at least
32193 the following:
32194 (I) the instructor's name as it appears on the instructor's certification;
32195 (II) the words "Utah Certified Concealed Firearms Instructor," "state of Utah," and "my
32196 certification expires on (the instructor's certification expiration date)"; and
32197 (III) the instructor's business or residence address.
32198 (D) The seal shall be affixed to each student certificate issued by the instructor in a
32199 manner that does not obscure or render illegible any information or signatures contained in the
32200 document.
32201 (b) The applicant shall provide the certificate to the division in compliance with
32202 Subsection (5)(d).
32203 (11) The division may deny, suspend, or revoke the certification of a concealed
32204 firearms instructor if it has reason to believe the applicant has:
32205 (a) become ineligible to possess a firearm under Section 76-10-503 or federal law; or

32206 (b) knowingly and willfully provided false information to the division.
32207 (12) A concealed firearms instructor has the same appeal rights as set forth in
32208 Subsection (15).
32209 (13) In providing instruction and issuing a permit under this part, the concealed
32210 firearms instructor and the licensing authority are not vicariously liable for damages caused by
32211 the permit holder.
32212 (14) An individual who knowingly and willfully provides false information on an
32213 application filed under this part is guilty of a class B misdemeanor, and the application may be
32214 denied, or the permit may be suspended or revoked.
32215 (15) (a) In the event of a denial, suspension, or revocation of a permit, the applicant
32216 may file a petition for review with the board within 60 days from the date the denial,
32217 suspension, or revocation is received by the applicant by certified mail, return receipt
32218 requested.
32219 (b) The denial of a permit shall be in writing and shall include the general reasons for
32220 the action.
32221 (c) If an applicant appeals the denial to the review board, the applicant may have access
32222 to the evidence upon which the denial is based in accordance with [~~Title 63, Chapter 2~~] Title
32223 63G, Chapter 2, Government Records Access and Management Act.
32224 (d) On appeal to the board, the agency has the burden of proof by a preponderance of
32225 the evidence.
32226 (e) (i) Upon a ruling by the board on the appeal of a denial, the division shall issue a
32227 final order within 30 days stating the board's decision.
32228 (ii) The final order shall be in the form prescribed by Subsection [~~63-46b-5~~]
32229 63G-4-203(1)(i).
32230 (iii) The final order is final agency action for purposes of judicial review under Section
32231 [~~63-46b-15~~] 63G-4-402.
32232 (16) The commissioner may make rules in accordance with [~~Title 63, Chapter 46a~~]
32233 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to administer this
32234 chapter.
32235 Section 693. Section **53-5-705** is amended to read:
32236 **53-5-705. Temporary permit to carry concealed firearm -- Denial, suspension, or**

32237 **revocation -- Appeal.**
32238 (1) The division or its designated agent may issue a temporary permit to carry a
32239 concealed firearm to a person who:
32240 (a) has applied for a permit under Section 53-5-704;
32241 (b) has applied for a temporary permit under this section; and
32242 (c) meets the criteria required in Subsections (2) and (3).
32243 (2) To receive a temporary permit under this section, the applicant shall demonstrate in
32244 writing to the satisfaction of the licensing authority extenuating circumstances that would
32245 justify issuing a temporary permit.
32246 (3) A temporary permit may not be issued under this section until preliminary record
32247 checks regarding the applicant have been made with the National Crime Information Center
32248 and the division to determine any criminal history.
32249 (4) A temporary permit is valid only for a maximum of 90 days or any lesser period
32250 specified by the division, or until a permit under Section 53-5-704 is issued to the holder of the
32251 temporary permit, whichever period is shorter.
32252 (5) The licensing authority may deny, suspend, or revoke a temporary permit prior to
32253 expiration if the commissioner determines:
32254 (a) the circumstances justifying the temporary permit no longer exist; or
32255 (b) the holder of the temporary permit does not meet the requirements for a permit
32256 under Section 53-5-704.
32257 (6) (a) The denial, suspension, or revocation of a temporary permit shall be in writing
32258 and shall include the reasons for the action.
32259 (b) The licensing authority's decision to deny, suspend, or revoke a temporary permit
32260 may not be appealed to the board.
32261 (c) Denial, suspension, or revocation under this subsection is final action for purposes
32262 of judicial review under Section [~~63-46b-15~~] 63G-4-402.
32263 Section 694. Section **53-5-708** is amended to read:
32264 **53-5-708. Permit -- Names private.**
32265 (1) When any permit is issued, a record shall be maintained in the office of the
32266 licensing authority. Notwithstanding the requirements of Subsection [~~63-2-301(1)~~]
32267 63G-2-301(2)(b), the names, addresses, telephone numbers, dates of birth, and Social Security

32268 numbers of persons receiving permits are protected records under Subsection [~~63-2-304~~]
32269 63G-2-305 (10).
32270 (2) Copies of each permit issued shall be filed immediately by the licensing authority
32271 with the division.
32272 Section 695. Section **53-5a-101**, which is renumbered from Section 63-98-101 is
32273 renumbered and amended to read:
32274 **CHAPTER 5a. FIREARM LAWS**
32275 **[~~63-98-101~~]. 53-5a-101. Title.**
32276 This chapter is known as "Firearm Laws."
32277 Section 696. Section **53-5a-102**, which is renumbered from Section 63-98-102 is
32278 renumbered and amended to read:
32279 **[~~63-98-102~~]. 53-5a-102. Uniform firearm laws.**
32280 (1) The individual right to keep and bear arms being a constitutionally protected right
32281 under Article I, Section 6 of the Utah Constitution, the Legislature finds the need to provide
32282 uniform civil and criminal firearm laws throughout the state.
32283 (2) Except as specifically provided by state law, a local authority or state entity may
32284 not:
32285 (a) prohibit an individual from owning, possessing, purchasing, selling, transferring,
32286 transporting, or keeping a firearm at the individual's place of residence, property, business, or
32287 in any vehicle lawfully in the individual's possession or lawfully under the individual's control;
32288 or
32289 (b) require an individual to have a permit or license to purchase, own, possess,
32290 transport, or keep a firearm.
32291 (3) In conjunction with Title 76, Chapter 10, Part 5, Weapons, this section is uniformly
32292 applicable throughout this state and in all its political subdivisions and municipalities.
32293 (4) All authority to regulate firearms is reserved to the state except where the
32294 Legislature specifically delegates responsibility to local authorities or state entities.
32295 (5) Unless specifically authorized by the Legislature by statute, a local authority or
32296 state entity may not enact, establish, or enforce any ordinance, regulation, rule, or policy
32297 pertaining to firearms that in any way inhibits or restricts the possession or use of firearms on
32298 either public or private property.

32299 (6) As used in this section:
32300 (a) "firearm" has the same meaning as defined in Subsection 76-10-501(9); and
32301 (b) "local authority or state entity" includes public school districts, public schools, and
32302 state institutions of higher education.
32303 (7) Nothing in this section restricts or expands private property rights.
32304 Section 697. Section **53-6-105** is amended to read:
32305 **53-6-105. Duties of director -- Powers -- Rulemaking.**
32306 (1) The director, with the advice of the council, shall:
32307 (a) prescribe standards for the certification of a peace officer training academy, certify
32308 an academy that meets the prescribed standards, and prescribe standards for revocation of
32309 certification for cause;
32310 (b) prescribe minimum qualifications for certification of peace officers appointed or
32311 elected to enforce the laws of this state and its subdivisions and prescribe standards for
32312 revocation of certification for cause;
32313 (c) establish minimum requirements for the certification of training instructors and
32314 establish standards for revocation of certification;
32315 (d) provide for the issuance of appropriate certificates to those peace officers
32316 completing the basic training programs offered by a certified academy or those persons who
32317 pass a certification examination as provided for in this chapter;
32318 (e) consult and cooperate with certified academy administrators and instructors for the
32319 continued development and improvement of the basic training programs provided by the
32320 certified academy and for the further development and implementation of advanced in-service
32321 training programs;
32322 (f) consult and cooperate with state institutions of higher education to develop
32323 specialized courses of study for peace officers in the areas of criminal justice, police
32324 administration, criminology, social sciences, and other related disciplines;
32325 (g) consult and cooperate with other departments, agencies, and local governments
32326 concerned with peace officer training;
32327 (h) perform any other acts necessary to develop peace officer training programs within
32328 the state;
32329 (i) report to the council at regular meetings of the council and when the council

32330 requires;
32331 (j) recommend peace officer standards and training requirements to the commissioner,
32332 governor, and the Legislature; and
32333 (k) make rules as provided in this chapter.
32334 (2) With the permission of the commissioner, the director may execute contracts on
32335 behalf of the division with criminal justice agencies to provide training for employees of those
32336 agencies if:
32337 (a) the employees or the employing agency pay a registration fee equivalent to the cost
32338 of the training; and
32339 (b) the contract does not reduce the effectiveness of the division in its primary
32340 responsibility of providing training for peace officers of the state.
32341 (3) The director may:
32342 (a) revoke certification of a certified academy for cause; and
32343 (b) make training aids and materials available to local law enforcement agencies.
32344 (4) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
32345 Administrative Rulemaking Act, and consistent with Title 53, Chapter 6, Part 3, Dispatcher
32346 Training and Certification Act, the director shall, with the advice of the council, make rules:
32347 (a) establishing minimum requirements for the certification of dispatcher training
32348 instructors in a certified academy or interagency program and standards for revocation of this
32349 certification;
32350 (b) establishing approved curriculum and a basic schedule for the basic dispatcher
32351 training course and the content of the dispatcher certification examination;
32352 (c) providing for the issuance of appropriate certificates to a person who completes the
32353 basic dispatcher course or who passes a dispatcher certification examination as provided for in
32354 this chapter;
32355 (d) establishing approved courses for certified dispatchers' annual training; and
32356 (e) establishing a reinstatement procedure for a certified dispatcher who has not
32357 obtained the required annual training hours.
32358 Section 698. Section **53-6-213** is amended to read:
32359 **53-6-213. Appropriations from reparation fund.**
32360 (1) The Legislature shall appropriate from the fund established in [~~Title 63, Chapter~~

32361 ~~25a, Part 4, the~~] Title 63M, Chapter 7, Part 5, Crime Victims' Reparations Act, to the division,
32362 funds for training of law enforcement officers in the state.
32363 (2) The department shall make an annual report to the Legislature, which includes the
32364 amount received during the previous fiscal year.
32365 Section 699. Section **53-7-204** is amended to read:
32366 **53-7-204. Duties of Utah Fire Prevention Board -- Local administrative duties.**
32367 (1) The board shall:
32368 (a) make rules in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
32369 Administrative Rulemaking Act:
32370 (i) adopting a nationally recognized fire code and the specific edition of that fire code
32371 as the state fire code to be used as the standard;
32372 (ii) establishing minimum standards for the prevention of fire and for the protection of
32373 life and property against fire and panic in any:
32374 (A) publicly owned building, including all public and private schools, colleges, and
32375 university buildings;
32376 (B) building or structure used or intended for use as an asylum, a mental hospital, a
32377 hospital, a sanitarium, a home for the aged, an assisted living facility, a children's home or day
32378 care center, or any similar institutional type occupancy of any capacity; and
32379 (C) place of assemblage where 50 or more persons may gather together in a building,
32380 structure, tent, or room for the purpose of amusement, entertainment, instruction, or education;
32381 (iii) establishing safety and other requirements for placement and discharge of display
32382 fireworks based upon:
32383 (A) the specific edition of the nationally recognized fire code selected by the board
32384 under Subsection (1)(a)(i); and
32385 (B) relevant publications of the National Fire Protection Association;
32386 (iv) establishing minimum safety standards for retail storage, handling, and sale of
32387 class C common state approved explosives;
32388 (v) defining methods to establish proof of competence to place and discharge display
32389 fireworks;
32390 (vi) for deputizing qualified persons to act as deputy fire marshals, and to secure
32391 special services in emergencies;

32392 (vii) implementing Sections 53-7-106 and 53-7-205;
32393 (viii) setting guidelines for use of funding;
32394 (ix) establishing criteria for training and safety equipment grants for fire departments
32395 enrolled in firefighter certification; and
32396 (x) establishing minimum ongoing training standards for hazardous materials
32397 emergency response agencies;
32398 (b) recommend to the commissioner a state fire marshal;
32399 (c) develop policies under which the state fire marshal and [~~his~~] the state fire marshal's
32400 authorized representatives will perform;
32401 (d) provide for the employment of field assistants and other salaried personnel as
32402 required;
32403 (e) prescribe the duties of the state fire marshal and [~~his~~] the state fire marshal's
32404 authorized representatives;
32405 (f) establish a statewide fire prevention, fire education, and fire service training
32406 program in cooperation with the Board of Regents;
32407 (g) establish a statewide fire statistics program for the purpose of gathering fire data
32408 from all political subdivisions of the state;
32409 (h) establish a fire academy in accordance with Section 53-7-204.2;
32410 (i) coordinate the efforts of all people engaged in fire suppression in the state;
32411 (j) work aggressively with the local political subdivisions to reduce fire losses;
32412 (k) regulate the sale and servicing of portable fire extinguishers and automatic fire
32413 suppression systems in the interest of safeguarding lives and property;
32414 (l) establish a certification program for persons who inspect and test automatic fire
32415 sprinkler systems;
32416 (m) establish a certification program for persons who inspect and test fire alarm
32417 systems; and
32418 (n) establish a certification for persons who provide response services regarding
32419 hazardous materials emergencies.
32420 (2) The board may incorporate in its rules by reference, in whole or in part, nationally
32421 recognized and readily available standards and codes pertaining to the protection of life and
32422 property from fire, explosion, or panic.

32423 (3) (a) The board may only make amendments to the state fire code adopted under
32424 Subsection (1)(a)(i) in accordance with Section 53-7-205.
32425 (b) The amendments may be applicable to the entire state or within a city, county, or
32426 fire protection district.
32427 (4) The following functions shall be administered locally by a city, county, or fire
32428 protection district:
32429 (a) issuing permits, including open burning permits pursuant to Sections 11-7-1 and
32430 19-2-114;
32431 (b) creating a local board of appeals in accordance with the state fire code; and
32432 (c) establishing, modifying, or deleting fire flow and water supply requirements.
32433 Section 700. Section **53-7-204.2** is amended to read:
32434 **53-7-204.2. Fire Academy -- Establishment -- Fire Academy Support Account --**
32435 **Funding.**
32436 (1) In this section:
32437 (a) "Account" means the Fire Academy Support Account created in Subsection (4).
32438 (b) "Property insurance premium" means premium paid as consideration for property
32439 insurance as defined in Section 31A-1-301.
32440 (2) The board shall:
32441 (a) establish a fire academy that:
32442 (i) provides instruction and training for paid, volunteer, institutional, and industrial
32443 firefighters;
32444 (ii) develops new methods of firefighting and fire prevention;
32445 (iii) provides training for fire and arson detection and investigation;
32446 (iv) provides public education programs to promote fire safety;
32447 (v) provides for certification of firefighters, pump operators, instructors, and officers;
32448 and
32449 (vi) provides facilities for teaching fire-fighting skills;
32450 (b) establish a cost recovery fee in accordance with Section [~~63-38-3.2~~] 63J-1-303 for
32451 training commercially employed firefighters; and
32452 (c) request funding for the academy.
32453 (3) The board may:

32454 (a) accept gifts, donations, and grants of property and services on behalf of the fire
32455 academy; and
32456 (b) enter into contractual agreements necessary to facilitate establishment of the school.
32457 (4) (a) To provide a funding source for the academy and for the general operation of
32458 the State Fire Marshal Division, there is created in the General Fund a restricted account
32459 known as the Fire Academy Support Account.
32460 (b) The following revenue shall be deposited in the account to implement this section:
32461 (i) the percentage specified in Subsection (5) of the annual tax for each year that is
32462 levied, assessed, and collected under Title 59, Chapter 9, Taxation of Admitted Insurers, upon
32463 property insurance premiums and as applied to fire and allied lines insurance collected by
32464 insurance companies within the state;
32465 (ii) the percentage specified in Subsection (6) of all money assessed and collected upon
32466 life insurance premiums within the state;
32467 (iii) the cost recovery fees established by the board;
32468 (iv) gifts, donations, and grants of property on behalf of the fire academy; and
32469 (v) appropriations made by the Legislature.
32470 (5) The percentage of the tax specified in Subsection (4)(b)(i) to be deposited in the
32471 account each fiscal year is 25%.
32472 (6) The percentage of the money specified in Subsection (4)(b)(ii) to be deposited in
32473 the account each fiscal year is 5%.
32474 Section 701. Section **53-7-216** is amended to read:
32475 **53-7-216. Portable fire extinguishers -- Certification required to service.**
32476 (1) Each firm engaged in the business of servicing portable fire extinguishers or
32477 automatic fire suppression systems that automatically detect fire and discharge an approved fire
32478 extinguishing agent onto or in the area of the fire shall be certified by the state fire marshal.
32479 (2) An application for certification shall be in writing, on forms prescribed by the
32480 board, and require evidence of competency.
32481 (3) The board may establish a fee under Section [~~63-38-3.2~~] 63J-1-303 to be paid upon
32482 application for certification.
32483 (4) This section does not apply to standpipe systems, deluge systems, or automatic fire
32484 sprinkler systems.

32485 Section 702. Section **53-7-225.5** is amended to read:
32486 **53-7-225.5. Inspection and testing of automatic fire sprinkler systems --**
32487 **Certification required.**
32488 (1) Each person engaged in the inspection and testing of automatic fire sprinkler
32489 systems shall be certified by the state fire marshal.
32490 (2) The board shall by rule prescribe an application form and standards for certification
32491 qualification and for renewal and revocation.
32492 (3) Applicants for certification as an automatic fire sprinkler system inspector and
32493 tester shall:
32494 (a) submit a written application on the form prescribed by the board;
32495 (b) provide evidence of competency as required by the board; and
32496 (c) submit the fee established under Subsection (4).
32497 (4) The board may establish an application fee under Section [~~63-38-3.2~~] 63J-1-303.
32498 Section 703. Section **53-7-225.6** is amended to read:
32499 **53-7-225.6. Inspection and testing of fire alarm systems -- Certification and**
32500 **exceptions.**
32501 (1) (a) Each person, other than fire and building inspectors and electricians licensed
32502 under Title 58, Chapter 55, Utah Construction Trades Licensing Act, engaged in the inspection
32503 and testing of fire alarm systems shall be certified by the state fire marshal.
32504 (b) The board shall by administrative rule prescribe:
32505 (i) an application form; and
32506 (ii) standards for certification qualification and for renewal and revocation.
32507 (2) Applicants for certification as a fire alarm system inspector and tester shall:
32508 (a) submit a written application on the form prescribed by the board;
32509 (b) provide evidence of competency as required by the board; and
32510 (c) submit the fee established under Subsection (3).
32511 (3) The board may establish an application fee under Section [~~63-38-3.2~~] 63J-1-303.
32512 Section 704. Section **53-7-314** is amended to read:
32513 **53-7-314. Fees -- Setting -- Deposit -- Use.**
32514 (1) The board shall establish fees authorized in this part in accordance with the
32515 procedures specified in Section [~~63-38-3.2~~] 63J-1-303, but the fees shall be deposited as

32516 provided in Subsection (2).
32517 (2) Fees collected by the division under this part, shall be deposited with the state
32518 treasurer as a nonlapsing dedicated credit, to be used for the implementation of this part.
32519 Section 705. Section **53-7-407 (Effective 07/01/08)** is amended to read:
32520 **53-7-407 (Effective 07/01/08). Implementation -- Effect of part on Model Tobacco**
32521 **Settlement Act and Tobacco Tax and Licensing Act.**
32522 (1) The state fire marshal may promulgate rules and regulations, pursuant to [~~Title 63,~~
32523 ~~Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to
32524 effectuate the purposes of this part.
32525 (2) The State Tax Commission in the regular course of conducting inspections of
32526 wholesale dealers, agents, and retail dealers, as authorized under Title 59, Chapter 14, Cigarette
32527 and Tobacco Tax and Licensing Act, may inspect cigarettes to determine if the cigarettes are
32528 marked as required by Section 53-7-405. If the cigarettes are not marked as required, the State
32529 Tax Commission shall notify the state fire marshal.
32530 (3) Nothing in this part shall affect an entity's obligations pursuant to:
32531 (a) Title 59, Chapter 14, Cigarette and Tobacco Tax and Licensing Act; or
32532 (b) Title 59, Chapter 22, Model Tobacco Settlement Act.
32533 Section 706. Section **53-8-204** is amended to read:
32534 **53-8-204. Division duties -- Official inspection stations -- Permits -- Fees --**
32535 **Suspension or revocation -- Utah-based interstate commercial motor carriers.**
32536 (1) The division shall:
32537 (a) conduct examinations of every safety inspection station permit applicant and safety
32538 inspector certificate applicant to determine whether the applicant is properly equipped and
32539 qualified to make safety inspections;
32540 (b) issue safety inspection station permits and safety inspector certificates to qualified
32541 applicants;
32542 (c) establish application, renewal, and reapplication fees in accordance with Section
32543 [~~63-38-3.2~~] 63J-1-303 for safety inspection station permits and safety inspector certificates;
32544 (d) provide instructions and all necessary forms, including safety inspection
32545 certificates, to safety inspection stations for the inspection of motor vehicles and the issuance
32546 of the safety inspection certificates;

32547 (e) charge a $2 fee for each safety inspection certificate;
32548 (f) investigate complaints regarding safety inspection stations and safety inspectors;
32549 (g) compile and publish all applicable safety inspection laws, rules, instructions, and
32550 standards and distribute them to all safety inspection stations and provide updates to the
32551 compiled laws, rules, instructions, and standards as needed;
32552 (h) establish a fee in accordance with Section [~~63-38-3.2~~] 63J-1-303 to cover the cost
32553 of compiling and publishing the safety inspection laws, rules, instructions, and standards and
32554 any updates; and
32555 (i) assist the council in conducting its meetings and hearings.
32556 (2) (a) (i) Receipts from the fees established in accordance with Subsection (1)(h) are
32557 fixed collections to be used by the division for the expenses of the Utah Highway Patrol
32558 incurred under Subsection (1)(h).
32559 (ii) Funds received in excess of the expenses under Subsection (1)(h) shall be deposited
32560 in the Transportation Fund.
32561 (b) (i) The first $.75 of the fee under Subsection (1)(e) is a dedicated credit to be used
32562 solely by the Utah Highway Patrol for the expenses of administering this section.
32563 (ii) The remaining funds collected under Subsection (1)(e) shall be deposited in the
32564 Transportation Fund.
32565 (iii) The dedicated credits described under Subsection (2)(b)(i) are in addition to any
32566 other appropriations provided to administer the safety inspection program duties under this
32567 section.
32568 (3) The division may:
32569 (a) before issuing a safety inspection permit, require an applicant, other than a fleet
32570 station or government station, to file a bond that will provide a guarantee that the applicant
32571 safety inspection station will make compensation for any damage to a motor vehicle during an
32572 inspection or adjustment due to negligence on the part of an applicant or [~~his~~] the applicant's
32573 employees;
32574 (b) establish procedures governing the issuance of safety inspection certificates to
32575 Utah-based interstate commercial motor carriers; and
32576 (c) suspend, revoke, or refuse renewal of any safety inspection station permit issued
32577 when the division finds that the safety inspection station is not:

32578 (i) properly equipped; or
32579 (ii) complying with rules made by the division; and
32580 (d) suspend, revoke, or refuse renewal of any safety inspection station permit or safety
32581 inspector certificate issued when the station or inspector has violated any safety inspection law
32582 or rule.
32583 (4) The division shall maintain a record of safety inspection station permits and safety
32584 inspector certificates issued, suspended, revoked, or refused renewal under Subsection (3)(c).
32585 (5) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
32586 Administrative Rulemaking Act, the division shall make rules:
32587 (a) setting minimum standards covering the design, construction, condition, and
32588 operation of motor vehicle equipment for safely operating a motor vehicle on the highway;
32589 (b) establishing motor vehicle safety inspection procedures to ensure a motor vehicle
32590 can be operated safely;
32591 (c) establishing safety inspection station building, equipment, and personnel
32592 requirements necessary to qualify to perform safety inspections;
32593 (d) establishing age, training, examination, and renewal requirements to qualify for a
32594 safety inspector certificate;
32595 (e) establishing program guidelines for a school district that elects to implement a
32596 safety inspection apprenticeship program for high school students;
32597 (f) establishing requirements:
32598 (i) designed to protect consumers from unwanted or unneeded repairs or adjustments;
32599 (ii) for maintaining safety inspection records;
32600 (iii) for providing reports to the division; and
32601 (iv) for maintaining and protecting safety inspection certificates;
32602 (g) establishing procedures for a motor vehicle that fails a safety inspection;
32603 (h) setting bonding amounts for safety inspection stations if bonds are required under
32604 Subsection (3)(a); and
32605 (i) establishing procedures for a safety inspection station to follow if the station is
32606 going out of business.
32607 (6) The rules of the division:
32608 (a) shall conform as nearly as practical to federal motor vehicle safety standards

32609 including 49 CFR 393, 396, 396 Appendix G, and Federal Motor Vehicle Safety Standards
32610 205; and
32611 (b) may incorporate by reference, in whole or in part, the federal standards under
32612 Subsection (6)(a) and nationally recognized and readily available standards and codes on motor
32613 vehicle safety.
32614 Section 707. Section **53-8-211** is amended to read:
32615 **53-8-211. Safety inspection of school buses and other vehicles.**
32616 (1) (a) The Highway Patrol shall:
32617 (i) perform safety inspections at least twice each school year on all school buses
32618 operated by each school district and each private school in the state for the transportation of
32619 students, except as otherwise provided in Subsection (1)(b); and
32620 (ii) cause to be removed from the public highways any vehicle found to have
32621 mechanical or other defects under Subsection (1)(a) endangering the safety of passengers and
32622 the public until the defects have been corrected.
32623 (b) (i) A school district or private school may perform the safety inspections of a
32624 school bus that it operates in accordance with rules made by the division under [~~Title 63,~~
32625 ~~Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rule Making Act, and after
32626 consultation with the State Board of Education.
32627 (ii) The rules under Subsection (1)(b)(i) shall include provisions for:
32628 (A) maintaining school bus drivers' hours of service records;
32629 (B) requiring school bus drivers to maintain vehicle condition reports;
32630 (C) maintaining school bus maintenance and repair records; and
32631 (D) validating that defects discovered during the inspection process have been
32632 corrected prior to returning a school bus to service.
32633 (iii) (A) The division shall audit school bus safety operations of each school district
32634 and private school performing inspections under Subsection (b)(i) to ensure compliance with
32635 the rules made under that subsection.
32636 (B) The audit may include both a formal examination of the district's or school's
32637 inspection records and a random physical inspection of buses that have been safety inspected
32638 by the district or the school.
32639 (iv) A school district or school must have a comprehensive school bus maintenance

32640 plan approved by the division in order to participate in the safety inspection program.
32641 (v) A school district or private school may not operate any vehicle found to have
32642 mechanical or other defects that would endanger the safety of passengers and the public until
32643 the defects have been corrected.
32644 (2) Motor vehicles operated by private schools or school districts, and not used for the
32645 transportation of students, are subject to Section 53-8-205.
32646 Section 708. Section **53-9-103** is amended to read:
32647 **53-9-103. Commissioner of Public Safety to administer -- Bureau to issue licenses**
32648 **-- Records -- Bonds -- Rulemaking.**
32649 (1) The commissioner of the Department of Public Safety shall administer this chapter.
32650 (2) (a) The bureau, acting at the direction of the commissioner, shall issue a private
32651 investigator license to any applicant who meets qualifications for licensure under Section
32652 53-9-108.
32653 (b) The bureau shall issue a license to a qualified apprentice applicant within five
32654 business days of receipt of the application.
32655 (3) (a) The bureau shall keep records of:
32656 (i) all applications for licenses under this chapter; and
32657 (ii) all bonds and proof of workers' compensation required to be filed.
32658 (b) The records shall include statements as to whether a license or renewal license has
32659 been issued for each application and bond.
32660 (4) If a license is revoked, suspended, canceled, or denied or if a licensee is placed on
32661 probation, the date of filing the order for revocation, suspension, cancellation, denial, or
32662 probation shall be included in the records.
32663 (5) The bureau shall maintain:
32664 (a) a list of all licensees whose license has been revoked, suspended, placed on
32665 probation, or canceled; and
32666 (b) a written record of complaints filed against licensees.
32667 (6) The commissioner may make rules in accordance with [~~Title 63, Chapter 46a~~] Title
32668 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to administer this chapter.
32669 Section 709. Section **53-9-108** is amended to read:
32670 **53-9-108. Qualifications for licensure.**

32671 (1) (a) An applicant for an agency license under this chapter shall be at least 21 years of
32672 age, a citizen or legal resident of the United States, and of good moral character.
32673 (b) An applicant may not have been:
32674 (i) convicted of a felony;
32675 (ii) convicted of an act involving illegally using, carrying, or possessing a dangerous
32676 weapon;
32677 (iii) convicted of an act of personal violence or force on any person or convicted of
32678 threatening to commit an act of personal violence or force against another person;
32679 (iv) convicted of an act constituting dishonesty or fraud;
32680 (v) convicted of an act involving moral turpitude;
32681 (vi) placed on probation or parole;
32682 (vii) named in an outstanding arrest warrant; or
32683 (viii) convicted of illegally obtaining or disclosing private, controlled, or protected
32684 records as provided in Section [~~63-2-801~~] 63G-2-801.
32685 (c) In assessing good moral character under Subsection (1)(b), the board shall consider
32686 mitigating circumstances presented by an applicant regarding information under Subsections
32687 (1)(b)(vi) and (viii).
32688 (d) If previously or currently licensed in another state or jurisdiction, the applicant shall
32689 be in good standing within that state or jurisdiction.
32690 (e) An applicant shall have completed a minimum of two years, or 2,000 hours, of
32691 investigative experience that consists of actual work performed as a licensed private
32692 investigator for a private agency, or 2,000 hours of work performed in an investigative capacity
32693 for the federal government, or for a state, county, or municipal government.
32694 (f) (i) An applicant for an agency license shall substantiate investigative work
32695 experience claimed as years of qualifying experience and provide the exact details as to the
32696 character and nature of the experience on a form prescribed by the department and certified by
32697 the applicant's employers.
32698 (ii) If the applicant is unable to supply written certification from an employer in whole
32699 or in part, the applicant may offer written certification from persons other than an employer
32700 covering the same subject matter for consideration by the board.
32701 (iii) The applicant shall prove completion of the required experience to the satisfaction

32702 of the board and the board may independently verify the certification offered on behalf of the
32703 applicant.
32704 (2) (a) (i) An applicant for a registrant license shall meet all qualification standards of
32705 this section, except Subsection (1)(d).
32706 (ii) An applicant shall have a minimum of one year, or 1,000 hours, of investigative
32707 experience that consists of actual work performed as a private investigator for a private agency,
32708 the federal government, a state, county, or municipal government.
32709 (b) A licensed registrant, as defined in Section 53-9-102, shall only work as an
32710 employee of, or as an independent contractor with, an agency licensed in Utah and physically
32711 located within Utah, and may not:
32712 (i) advertise [~~his~~] the licensed registrant's services or conduct investigations for the
32713 general public; or
32714 (ii) employ other private investigators or hire them as independent contractors.
32715 (3) (a) An applicant for an apprentice license, lacking the experience required for a
32716 registrant license, shall meet all of the qualification standards in Subsection (1) except
32717 Subsection (1)(d), and shall complete an apprentice application.
32718 (b) (i) An apprentice, as defined in Section 53-9-102, shall work under the direct
32719 supervision and guidance of an agency licensed in Utah and located within Utah, full-time for
32720 one year or for 1,000 hours, prior to acquiring eligibility for a registrant license.
32721 (ii) A licensed apprentice shall only work under the direction of a licensed agency and
32722 may not:
32723 (A) advertise [~~his~~] the licensed apprentice's services or conduct investigations for the
32724 general public;
32725 (B) employ other private investigators; or
32726 (C) obtain information from the Utah State Tax Commission Motor Vehicle Division
32727 or Driver License Division within the Department of Public Safety, except the apprentice may
32728 utilize this information for a legitimate business need and under the direct supervision of a
32729 licensed agency.
32730 (4) (a) An applicant for an agency, registrant, or apprentice license may be eligible for
32731 a license without meeting all or part of the investigative work experience required by this
32732 section if the applicant:

32733 (i) has a criminal justice degree from an accredited college or university;
32734 (ii) is certified by Peace Officer Standards and Training; or
32735 (iii) can substantiate other similar law enforcement or investigative training in the areas
32736 set forth in Subsection 53-9-102(17).
32737 (b) The board shall determine whether or not training may replace the work experience
32738 requirement and to what extent.
32739 Section 710. Section **53-9-113** is amended to read:
32740 **53-9-113. Grounds for denial of a license -- Appeal.**
32741 (1) The board may deny a license or the renewal of a license if the applicant has:
32742 (a) committed an act that, if committed by a licensee, would be grounds for probation,
32743 suspension, or revocation of a license under this chapter;
32744 (b) employed or contracted with a person who has been refused a license under this
32745 chapter or who has had a license revoked;
32746 (c) while not licensed under this chapter, committed, or aided and abetted the
32747 commission of, any act for which a license is required by this chapter; or
32748 (d) knowingly made a material misstatement in connection with an application for a
32749 license or renewal of a license.
32750 (2) (a) The board's denial of a license under this chapter shall:
32751 (i) be in writing;
32752 (ii) describe the basis for the denial; and
32753 (iii) inform the applicant that if the applicant desires a hearing to contest the denial, the
32754 applicant shall submit a request in writing to the board within 30 days after the denial has been
32755 sent by the department by certified mail to the applicant.
32756 (b) The board shall schedule a hearing on the denial for the next board meeting after
32757 the applicant's request for a hearing has been received by the board.
32758 (3) The decision of the board may be appealed to the commissioner, who may:
32759 (a) return the case to the board for reconsideration;
32760 (b) modify the board's decision; or
32761 (c) reverse the board's decision.
32762 (4) The department shall promptly issue a final order of the commissioner and send the
32763 order to the applicant.

32764 (5) Decisions of the commissioner are subject to judicial review pursuant to Section
32765 [~~63-46b-15~~] 63G-4-402.
32766 Section 711. Section **53-9-115** is amended to read:
32767 **53-9-115. Business name and address -- Posting of license -- Advertising.**
32768 (1)(a) Subject to the provisions of this chapter, a licensee may conduct an investigative
32769 business under a name other than the licensee's by:
32770 (i) complying with the requirements of Title 42, Chapter 2, Conducting Business Under
32771 Assumed Name; and
32772 (ii) providing a copy of the filed certificate to the commissioner.
32773 (b) Failure to comply with Subsection (1)(a) shall result in the suspension of the
32774 license.
32775 (2) Each licensee shall have at least one physical location from which the normal
32776 business of the agency is conducted. The address of this location shall be on file with the
32777 commissioner at all times and is not a public record pursuant to Subsection [~~63-2-301(1)~~]
32778 63G-2-301(2)(b)(ii).
32779 (3) The license certificate issued by the commissioner shall be posted in a conspicuous
32780 place in the principal office of the licensee.
32781 (4) Subject to the provisions of this chapter, a licensee may solicit business through any
32782 accepted form of advertising.
32783 (a) Any advertisement shall contain the licensee's name and license number as it
32784 appears on the license certificate.
32785 (b) A licensee may not use false, deceptive, or misleading advertising.
32786 Section 712. Section **53-9-118** is amended to read:
32787 **53-9-118. Grounds for disciplinary action -- Types of action.**
32788 (1) The board may suspend or revoke a license or registration or deny an application for
32789 a license if a person engages in any of the following:
32790 (a) fraud or willful misrepresentation in applying for an original license or renewal of
32791 an existing license;
32792 (b) using any letterhead, advertising, or other printed matter in any manner representing
32793 that the licensee is an instrumentality of the federal government, a state, or any political
32794 subdivision of a state;

32795 (c) using a name different from that under which the licensee is currently licensed for
32796 any advertising, solicitation, or contract to secure business unless the name is an authorized
32797 fictitious name;
32798 (d) impersonating, permitting, or aiding and abetting an employee or independent
32799 contractor to impersonate a peace officer or employee of the United States, any state, or a
32800 political subdivision of a state;
32801 (e) knowingly violating, advising, encouraging, or assisting the violation of any statute,
32802 court order, or injunction in the course of a business regulated under this chapter;
32803 (f) falsifying fingerprints or photographs while operating under this chapter;
32804 (g) conviction of a felony;
32805 (h) conviction of any act involving illegally using, carrying, or possessing a dangerous
32806 weapon;
32807 (i) conviction of any act involving moral turpitude;
32808 (j) conviction of any act of personal violence or force against any person or conviction
32809 of threatening to commit any act of personal violence or force against any person;
32810 (k) soliciting business for an attorney in return for compensation;
32811 (l) conviction of any act constituting dishonesty or fraud;
32812 (m) being placed on probation, parole, or named in an outstanding arrest warrant;
32813 (n) committing or permitting any employee or independent contractor to commit any
32814 act during the period when the license is expired or suspended;
32815 (o) willfully neglecting to render to a client services or a report as agreed between the
32816 parties and for which compensation has been paid or tendered in accordance with the
32817 agreement of the parties unless the licensee chooses to withdraw from the case and returns the
32818 funds for work not yet completed;
32819 (p) the unauthorized release of information acquired on behalf of a client by a licensee,
32820 or its employee or contract agent as a result of activities regulated under this chapter;
32821 (q) failing to cooperate with, misrepresenting to, or refusing access to business or
32822 investigative records requested by the board or an authorized representative of the department
32823 engaged in an official investigation pursuant to this chapter;
32824 (r) employing or contracting with any unlicensed or improperly licensed person or
32825 agency to conduct activities regulated under this chapter if the licensure status was known or

32826 could have been ascertained by reasonable inquiry;
32827 (s) permitting, authorizing, aiding, or in any way assisting an employee to conduct
32828 services as described in this chapter on an independent contractor basis and not under the
32829 authority of the licensed agency;
32830 (t) failure to maintain in full force and effect workers' compensation insurance, if
32831 applicable;
32832 (u) conducting private investigation services regulated by this chapter on a revoked or
32833 suspended license;
32834 (v) accepting employment, contracting, or in any way engaging in employment that has
32835 an adverse impact on investigations being conducted on behalf of clients;
32836 (w) advertising in a false, deceptive, or misleading manner;
32837 (x) refusing to display the identification card issued by the department to any person
32838 having reasonable cause to verify the validity of the license;
32839 (y) committing any act of unprofessional conduct;
32840 (z) conviction of any act of illegally obtaining or disseminating private, controlled, or
32841 protected records under Section [~~63-2-801~~] 63G-2-801; or
32842 (aa) engaging in any other conduct prohibited by this chapter.
32843 (2) (a) If the board finds, based on the investigation, that the public health, safety, or
32844 welfare requires emergency action, the board may order a summary suspension of a license
32845 pending proceedings for revocation or other action.
32846 (b) If the board issues a summary suspension order, the commissioner shall issue to the
32847 licensee a written notice of the order and indicate the licensee's right to request a formal
32848 hearing before the board.
32849 (c) The licensee's request for a formal hearing shall be in writing and received by the
32850 department within 30 working days of the date the summary suspension was sent by the
32851 department to the licensee by certified mail.
32852 (3) If the board finds, based on the investigation or hearing, that a violation under
32853 Subsection (1) has occurred, notice will be sent to the licensee of the board's decision by
32854 mailing a true copy to the licensee's last-known address in the department's files by certified
32855 mail, return receipt requested.
32856 (4) Based on information the board receives from the investigation or during a hearing,

32857 it may do any of the following:
32858 (a) dismiss the complaint if the board believes it is without merit;
32859 (b) take emergency action;
32860 (c) issue a letter of concern, if applicable;
32861 (d) impose a civil fine not to exceed $500;
32862 (e) place the license on suspension for a period of not more than 12 months;
32863 (f) revoke the license or registration; and
32864 (g) place all records, evidence findings, and conclusion, and any other information
32865 pertinent to the investigation, in a confidential and protected records section of the file
32866 maintained at the department.
32867 (5) A letter of concern issued pursuant to Section 53-9-118 is a document that is
32868 retained by the department and may be used in future disciplinary actions against a licensee.
32869 (6) Appeal of the board's decision shall be made in writing to the commissioner within
32870 15 days of the date of issuance of the board's decision. The commissioner shall review the
32871 finding by the board and may affirm, return to the board for reconsideration, reverse, adopt,
32872 modify, supplement, amend, or reject the recommendation of the board.
32873 (7) The department shall issue a final written order within 30 days outlining the
32874 commissioner's decision on the appeal. The final order is final agency action for purposes of
32875 judicial review under Section [~~63-46b-15~~] 63G-4-402.
32876 (8) All fines collected under this section shall be deposited in the General Fund.
32877 Section 713. Section **53-10-108** is amended to read:
32878 **53-10-108. Restrictions on access, use, and contents of division records -- Limited**
32879 **use of records for employment purposes -- Challenging accuracy of records -- Usage fees**
32880 **-- Missing children records.**
32881 (1) Dissemination of information from a criminal history record or warrant of arrest
32882 information from division files is limited to:
32883 (a) criminal justice agencies for purposes of administration of criminal justice and for
32884 employment screening by criminal justice agencies;
32885 (b) noncriminal justice agencies or individuals for any purpose authorized by statute,
32886 executive order, court rule, court order, or local ordinance;
32887 (c) agencies or individuals for the purpose of obtaining required clearances connected

32888 with foreign travel or obtaining citizenship;
32889 (d) (i) agencies or individuals pursuant to a specific agreement with a criminal justice
32890 agency to provide services required for the administration of criminal justice; and
32891 (ii) the agreement shall specifically authorize access to data, limit the use of the data to
32892 purposes for which given, and ensure the security and confidentiality of the data;
32893 (e) agencies or individuals for the purpose of a preplacement adoptive study, in
32894 accordance with the requirements of Section 78-30-3.5;
32895 (f) (i) agencies and individuals as the commissioner authorizes for the express purpose
32896 of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice
32897 agency; and
32898 (ii) private security agencies through guidelines established by the commissioner for
32899 employment background checks for their own employees and prospective employees;
32900 (g) a qualifying entity for employment background checks for their own employees and
32901 persons who have applied for employment with the qualifying entity; and
32902 (h) other agencies and individuals as the commissioner authorizes and finds necessary
32903 for protection of life and property and for offender identification, apprehension, and
32904 prosecution pursuant to an agreement.
32905 (2) An agreement under Subsection (1)(f) or (1)(h) shall specifically authorize access
32906 to data, limit the use of data to research, evaluative, or statistical purposes, preserve the
32907 anonymity of individuals to whom the information relates, and ensure the confidentiality and
32908 security of the data.
32909 (3) (a) Before requesting information under Subsection (1)(g), a qualifying entity must
32910 obtain a signed waiver from the person whose information is requested.
32911 (b) The waiver must notify the signee:
32912 (i) that a criminal history background check will be conducted;
32913 (ii) who will see the information; and
32914 (iii) how the information will be used.
32915 (c) Information received by a qualifying entity under Subsection (1)(g) may only be:
32916 (i) available to persons involved in the hiring or background investigation of the
32917 employee; and
32918 (ii) used for the purpose of assisting in making an employment or promotion decision.

32919 (d) A person who disseminates or uses information obtained from the division under
32920 Subsection (1)(g) for purposes other than those specified under Subsection (3)(c), in addition to
32921 any penalties provided under this section, is subject to civil liability.
32922 (e) A qualifying entity that obtains information under Subsection (1)(g) shall provide
32923 the employee or employment applicant an opportunity to:
32924 (i) review the information received as provided under Subsection (8); and
32925 (ii) respond to any information received.
32926 (f) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
32927 Administrative Rulemaking Act, the division may make rules to implement this Subsection (3).
32928 (g) (i) The applicant fingerprint card fee under Subsection (1)(g) is $15.
32929 (ii) The name check fee under Subsection (1)(g) is $10.
32930 (iii) These fees remain in effect until changed by the division through the process under
32931 Section [~~63-38-3.2~~] 63J-1-303.
32932 (iv) Funds generated under Subsections (3)(g)(i), (3)(g)(ii), and (8)(b) shall be
32933 deposited in the General Fund as a dedicated credit by the department to cover the costs
32934 incurred in providing the information.
32935 (h) The division or its employees are not liable for defamation, invasion of privacy,
32936 negligence, or any other claim in connection with the contents of information disseminated
32937 under Subsection (1)(g).
32938 (4) Any criminal history record information obtained from division files may be used
32939 only for the purposes for which it was provided and may not be further disseminated, except
32940 that a criminal history provided to an agency pursuant to Subsection (1)(e) may be provided by
32941 the agency to the person who is the subject of the history, another licensed child-placing
32942 agency, or the attorney for the adoptive parents for the purpose of facilitating an adoption.
32943 (5) If an individual has no prior criminal convictions, criminal history record
32944 information contained in the division's computerized criminal history files may not include
32945 arrest or disposition data concerning an individual who has been acquitted, [~~his~~] the person's
32946 charges dismissed, or when no complaint against him has been filed.
32947 (6) (a) This section does not preclude the use of the division's central computing
32948 facilities for the storage and retrieval of criminal history record information.
32949 (b) This information shall be stored so it cannot be modified, destroyed, or accessed by

32950 unauthorized agencies or individuals.
32951 (7) Direct access through remote computer terminals to criminal history record
32952 information in the division's files is limited to those agencies authorized by the commissioner
32953 under procedures designed to prevent unauthorized access to this information.
32954 (8) (a) The commissioner shall establish procedures to allow an individual right of
32955 access to review and receive a copy of [~~his~~] the inidividual's criminal history report.
32956 (b) A processing fee for the right of access service, including obtaining a copy of the
32957 individual's criminal history report under Subsection (8)(a) is $10. This fee remains in effect
32958 until changed by the commissioner through the process under Section [~~63-38-3.2~~] 63J-1-303.
32959 (c) (i) The commissioner shall establish procedures for an individual to challenge the
32960 completeness and accuracy of criminal history record information contained in the division's
32961 computerized criminal history files regarding that individual.
32962 (ii) These procedures shall include provisions for amending any information found to
32963 be inaccurate or incomplete.
32964 (9) The private security agencies as provided in Subsection (1)(f)(ii):
32965 (a) shall be charged for access; and
32966 (b) shall be registered with the division according to rules made by the division under
32967 [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
32968 (10) Before providing information requested under this section, the division shall give
32969 priority to criminal justice agencies needs.
32970 (11) (a) Misuse of access to criminal history record information is a class B
32971 misdemeanor.
32972 (b) The commissioner shall be informed of the misuse.
32973 Section 714. Section **53-10-406** is amended to read:
32974 **53-10-406. DNA specimen analysis -- Bureau responsibilities.**
32975 (1) The bureau shall:
32976 (a) store all DNA specimens received and other physical evidence obtained from
32977 analysis of those specimens;
32978 (b) analyze the specimens to establish the genetic profile of the donor or to otherwise
32979 determine the identity of persons or contract with other qualified public or private laboratories
32980 to conduct the analysis;

32981 (c) maintain a criminal identification data base containing information derived from
32982 DNA analysis;
32983 (d) utilize the specimens to create statistical population frequency data bases, provided
32984 that genetic profiles or other information in a population frequency data base may not be
32985 identified with specific individuals;
32986 (e) ensure that the DNA identification system does not provide information allowing
32987 prediction of genetic disease or predisposition to illness; and
32988 (f) make rules in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
32989 Administrative Rulemaking Act, establishing procedures for obtaining, transmitting, and
32990 analyzing DNA specimens and for storing and destroying DNA specimens and other physical
32991 evidence and criminal identification information obtained from the analysis.
32992 (2) Procedures for DNA analysis may include all techniques which the Department of
32993 Public Safety determines are accurate and reliable in establishing identity, including but not
32994 limited to, analysis of DNA, antigen antibodies, polymorphic enzymes, or polymorphic
32995 proteins.
32996 (3) (a) In accordance with Section [~~63-2-304~~] 63G-2-305, all DNA specimens received
32997 shall be classified as protected.
32998 (b) The Department of Public Safety may not transfer or disclose any DNA specimen,
32999 physical evidence, or criminal identification information obtained, stored, or maintained under
33000 this section, except under its provisions.
33001 (4) Notwithstanding the provisions of Subsection [~~63-2-202~~] 63G-2-202(1), the
33002 department may deny inspection if it determines that there is a reasonable likelihood that the
33003 inspection would prejudice a pending criminal investigation.
33004 (5) The department shall adopt procedures governing the inspection of records, DNA
33005 specimens, and challenges to the accuracy of records. The procedures shall accommodate the
33006 need to preserve the materials from contamination and destruction.
33007 (6) (a) Whenever a court reverses the conviction, judgment, or order that created an
33008 obligation to provide a DNA specimen, the person who provided the specimen may request
33009 destruction of the specimen and any criminal identification record created in connection with
33010 that specimen.
33011 (b) Upon receipt of a written request for destruction pursuant to this section and a

33012 certified copy of the court order reversing the conviction, judgment, or order, the Department
33013 of Public Safety shall destroy any specimen received from the person, any physical evidence
33014 obtained from that specimen, and any criminal identification records pertaining to the person,
33015 unless the department determines that the person has otherwise become obligated to submit a
33016 DNA specimen as a result of a separate conviction or juvenile adjudication for an offense listed
33017 in Section 53-10-403.
33018 (7) The department is not required to destroy any item of physical evidence obtained
33019 from a DNA specimen if evidence relating to another person subject to the provisions of
33020 Sections 53-10-404 and 53-10-405 would as a result be destroyed.
33021 (8) A DNA specimen, physical evidence, or criminal identification record may not be
33022 affected by an order to set aside a conviction, except under the provisions of this section.
33023 (9) If funding is not available for analysis of any of the DNA specimens collected
33024 under this part, the bureau shall store the collected specimens until funding is made available
33025 for analysis through state or federal funds.
33026 Section 715. Section **53-10-602** is amended to read:
33027 **53-10-602. Committee's duties and powers.**
33028 (1) The committee shall:
33029 (a) review and make recommendations to the division, the Bureau of Communications,
33030 public safety answering points, and the Legislature on:
33031 (i) technical and operational issues for the implementation of a unified statewide
33032 wireless and land-based E-911 emergency system;
33033 (ii) specific technology and standards for the implementation of a unified statewide
33034 wireless and land-based E-911 emergency system;
33035 (iii) expenditures by local public service answering points to assure implementation of
33036 a unified statewide wireless and land-based E-911 emergency system and standards of
33037 operation; and
33038 (iv) mapping systems and technology necessary to implement the unified statewide
33039 wireless and land-based E-911 emergency system;
33040 (b) administer the fund as provided in this part;
33041 (c) assist as many local entities as possible, at their request, to implement the
33042 recommendations of the committee; and

33043 (d) fulfill all other duties imposed on the committee by the Legislature by this part.
33044 (2) The committee may sell, lease, or otherwise dispose of equipment or personal
33045 property belonging to the committee, the proceeds from which shall return to the fund.
33046 (3) The committee shall issue the reimbursement allowed under Subsection
33047 53-10-605(1)(b) provided that:
33048 (a) the reimbursement is based on aggregated cost studies submitted to the committee
33049 by the wireless carriers seeking reimbursement; and
33050 (b) the reimbursement to any one carrier does not exceed 125% of the wireless carrier's
33051 contribution to the fund.
33052 (4) The committee shall adopt rules in accordance with [~~Title 63, Chapter 46a~~] Title
33053 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the fund created in
33054 Section 53-10-603 including rules that establish the criteria, standards, technology, and
33055 equipment that a local entity or state agency must adopt in order to qualify for grants from the
33056 fund.
33057 Section 716. Section **53-11-103** is amended to read:
33058 **53-11-103. Commissioner of Public Safety administers -- Licensure --**
33059 **Rulemaking.**
33060 (1) The commissioner administers this chapter, including keeping records of:
33061 (a) all applications for licenses under this chapter; and
33062 (b) proof of workers' compensation required to be filed.
33063 (2) Records shall include statements as to whether a license or renewal license has been
33064 issued for each application and bond.
33065 (3) If a license is revoked, suspended, or canceled, or a license is denied or placed on
33066 probation, the commissioner shall ensure the date of filing the order for revocation, suspension,
33067 cancellation, denial, or probation is included in the records.
33068 (4) The commissioner shall maintain a list of all individuals, firms, partnerships,
33069 associations, or corporations that have had a license revoked, suspended, placed on probation,
33070 or canceled and a written record of complaints filed against licensees.
33071 (5) (a) The commissioner may make rules in accordance with [~~Title 63, Chapter 46a~~]
33072 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to administer this
33073 chapter.

33074 (b) These rules shall include a requirement that all providers offering instruction or
33075 continuing instruction required for licensure under this chapter shall offer the courses to all
33076 applicants at the same course fees, in order to be qualified by the board.
33077 (6) All records referred to under this section are open to the public under [~~Title 63,~~
33078 ~~Chapter 2~~] Title 63G, Chapter 2, Government Records Access and Management Act, except
33079 licensees' residential addresses and telephone numbers.
33080 Section 717. Section **53-11-118** is amended to read:
33081 **53-11-118. Grounds for denial of license -- Appeal.**
33082 (1) The board may deny a license application or a license renewal if the applicant has:
33083 (a) committed an act that, if committed by a licensee, would be grounds for probation,
33084 suspension, or revocation of a license under this chapter;
33085 (b) employed as a bail recovery agent or bail recovery apprentice employee or contract
33086 employee a person who has been refused a license under this chapter or who has had a license
33087 revoked in any state;
33088 (c) committed, or aided and abetted the commission of, any act for which a license is
33089 required by this chapter, while not licensed under this chapter; or
33090 (d) knowingly made a material misstatement in connection with an application for a
33091 license or renewal of a license under this chapter.
33092 (2) The issuance of an identification card shall be denied to an applicant if the
33093 applicant fails to meet the required licensure qualifications.
33094 (3) (a) The denial of the issuance of a license under this chapter shall be in writing and
33095 describe the basis for the denial.
33096 (b) The board's denial shall inform the applicant in writing that if the applicant desires
33097 a hearing to contest the denial, [~~he~~] the applicant shall submit a request in writing to the
33098 commissioner within 30 days after the issuance of the denial.
33099 (c) The hearing shall be scheduled not later than 60 days after receipt of the request.
33100 (4) The commissioner shall hear the appeal, and may:
33101 (a) return the case to the board for reconsideration;
33102 (b) modify the board's decision; or
33103 (c) reverse the board's decision.
33104 (5) Decisions of the commissioner are subject to judicial review pursuant to Section

33105 [~~63-46b-15~~] 63G-4-402.
33106 Section 718. Section **53-11-119** is amended to read:
33107 **53-11-119. Grounds for disciplinary action.**
33108 (1) The board may take disciplinary action under Subsection (2), (4), or (5) regarding a
33109 license granted under this chapter if the board finds the licensee commits any of the following
33110 while engaged in activities regulated under this chapter:
33111 (a) fraud or willful misrepresentation in applying for an original license or renewal of
33112 an existing license;
33113 (b) using any letterhead, advertising, or other printed matter in any manner representing
33114 that [~~he~~] the licensee is an instrumentality of the federal government, a state, or any political
33115 subdivision of a state;
33116 (c) using a name different from that under which [~~he~~] the licensee is currently licensed
33117 for any advertising, solicitation, or contract to secure business unless the name is an authorized
33118 fictitious name;
33119 (d) impersonating, permitting, or aiding and abetting an employee to impersonate a law
33120 enforcement officer or employee of the United States, any state, or a political subdivision of a
33121 state;
33122 (e) knowingly violating, advising, encouraging, or assisting in the violation of any
33123 statute, court order, or injunction in the course of conducting an agency regulated under this
33124 chapter;
33125 (f) falsifying fingerprints or photographs while operating under this chapter;
33126 (g) has a conviction for:
33127 (i) a felony;
33128 (ii) any act involving illegally using, carrying, or possessing a dangerous weapon;
33129 (iii) any act involving moral turpitude;
33130 (iv) any act of personal violence or force against any person or conviction of
33131 threatening to commit any act of personal violence or force against any person;
33132 (v) any act constituting dishonesty or fraud;
33133 (vi) impersonating a peace officer; or
33134 (vii) any act of illegally obtaining or disseminating private, controlled, or protected
33135 records under Section [~~63-2-801~~] 63G-2-801;

33136 (h) soliciting business for an attorney in return for compensation;
33137 (i) being placed on probation, parole, compensatory service, or named in an
33138 outstanding arrest warrant;
33139 (j) committing, or permitting any employee or contract employee to commit any act
33140 during the period between the expiration of a license for failure to renew within the time fixed
33141 by this chapter, and the reinstatement of the license, that would be cause for the suspension or
33142 revocation of the license or grounds for denial of the application for the license;
33143 (k) willfully neglecting to render to a client services or a report as agreed between the
33144 parties and for which compensation has been paid or tendered in accordance with the
33145 agreement of the parties, but if the investigator chooses to withdraw from the case and returns
33146 the funds for work not yet done, no violation of this section exists;
33147 (l) failing or refusing to cooperate with, failing to provide truthful information to, or
33148 refusing access to an authorized representative of the department engaged in an official
33149 investigation;
33150 (m) employing or contracting with any unlicensed or improperly licensed person or
33151 agency to conduct activities regulated under this chapter if the licensure status was known or
33152 could have been ascertained by reasonable inquiry;
33153 (n) permitting, authorizing, aiding, or in any way assisting a licensed employee to
33154 conduct services as described in this chapter on an independent contractor basis and not under
33155 the authority of the licensed agency;
33156 (o) failure to maintain in full force and effect workers' compensation insurance, if
33157 applicable;
33158 (p) advertising in a false, deceptive, or misleading manner;
33159 (q) refusing to display the identification card issued by the department to any person
33160 having reasonable cause to verify the validity of the license;
33161 (r) committing any act of unprofessional conduct; or
33162 (s) engaging in any other conduct prohibited by this chapter.
33163 (2) On completion of an investigation, the board may:
33164 (a) dismiss the case;
33165 (b) take emergency action;
33166 (c) issue a letter of concern, if applicable;

33167 (d) impose a civil penalty not to exceed $500;
33168 (e) place all records, evidence, findings, and conclusions and any other information
33169 pertinent to the investigation in the confidential and protected records section of the file
33170 maintained at the department; or
33171 (f) if the board finds, based on the investigation, that a violation of Subsection (1) has
33172 occurred, notice shall be sent to the licensee of the results of the hearing by mailing a true copy
33173 to the licensee's last-known address in the department's files by certified mail, return receipt
33174 requested.
33175 (3) A letter of concern shall be retained by the commissioner and may be used in future
33176 disciplinary actions against a licensee.
33177 (4) (a) If the board finds, based on its investigation under Subsection (1), that the
33178 public health, safety, or welfare requires emergency action, the board may order a summary
33179 suspension of a license pending proceedings for revocation or other action.
33180 (b) If the board issues an order of summary suspension, the board shall issue to the
33181 licensee a written notice of complaint and formal hearing, setting forth the charges made
33182 against the licensee and [~~his~~] the licensee's right to a formal hearing before the board within 60
33183 days.
33184 (5) Based on information the board receives during a hearing it may:
33185 (a) (i) dismiss the complaint if the board believes it is without merit;
33186 (ii) fix a period and terms of probation best adapted to educate the licensee;
33187 (iii) place the license on suspension for a period of not more than 12 months; or
33188 (iv) revoke the license; and
33189 (b) impose a civil penalty not to exceed $500.
33190 (6) (a) On a finding by the board that a bail recovery agency licensee committed a
33191 violation of Subsection (1), the probation, suspension, or revocation terminates the
33192 employment of all licensees employed or employed by contract by the bail bond agency.
33193 (b) If a licensee who is an employee or contract employee of a bail bond agency
33194 committed a violation of Subsection (1), the probation, suspension, or revocation applies only
33195 to the license held by that individual under this chapter.
33196 (7) (a) Appeal of the board's decision shall be made in writing to the commissioner
33197 within 30 days after the date of issuance of the board's decision.

33198 (b) The hearing shall be scheduled not later than 60 days after receipt of the request.
33199 (c) The commissioner shall review the finding by the board and may affirm, return to
33200 the board for reconsideration, reverse, adopt, modify, supplement, amend, or reject the
33201 recommendation of the board.
33202 (8) A person may appeal the commissioner's decision to the district court pursuant to
33203 Section [~~63-46b-15~~] 63G-4-402.
33204 (9) All penalties collected under this section shall be deposited in the General Fund.
33205 Section 719. Section **53-13-106** is amended to read:
33206 **53-13-106. Federal officers -- State law enforcement authority.**
33207 (1) (a) "Federal officer" includes:
33208 (i) a special agent of the Federal Bureau of Investigation;
33209 (ii) a special agent of the United States Secret Service;
33210 (iii) a special agent of the United States Department of Homeland Security, excluding a
33211 customs inspector or detention removal officer;
33212 (iv) a special agent of the Bureau of Alcohol, Tobacco and Firearms;
33213 (v) a special agent of the Federal Drug Enforcement Agency;
33214 (vi) a United States marshal, deputy marshal, and special deputy United States marshal;
33215 and
33216 (vii) a U.S. Postal Inspector of the United States Postal Inspection Service.
33217 (b) Notwithstanding Subsection (2), federal officers listed in Subsection (1)(a) have
33218 statewide law enforcement authority relating to felony offenses under the laws of this state.
33219 (c) The council may designate other federal peace officers, as necessary, if the officers:
33220 (i) are persons employed full-time by the United States government as federally
33221 recognized law enforcement officers primarily responsible for the investigation and
33222 enforcement of the federal laws;
33223 (ii) have successfully completed formal law enforcement training offered by an agency
33224 of the federal government consisting of not less than 400 hours; and
33225 (iii) maintain in-service training in accordance with the standards set forth in Section
33226 53-13-103.
33227 (2) Except as otherwise provided under [~~Title 63, Chapter 8~~] Title 63L, Chapter 8,
33228 Federal Jurisdiction, and Title 77, Chapter 9, Uniform Act on Fresh Pursuit, a federal officer

33229 may exercise state law enforcement authority only if:
33230 (a) the state law enforcement agencies and county sheriffs with jurisdiction enter into
33231 an agreement with the federal agency to be given authority; and
33232 (b) except as provided in Subsection (3), each federal officer employed by the federal
33233 agency meets the waiver requirements set forth in Section 53-6-206.
33234 (3) A federal officer working as such in the state on or before July 1, 1995, may
33235 exercise state law enforcement authority without meeting the waiver requirement.
33236 (4) At any time, consistent with any contract with a federal agency, a state or local law
33237 enforcement authority may withdraw state law enforcement authority from any individual
33238 federal officer by sending written notice to the federal agency and to the division.
33239 (5) The authority of a federal officer under this section is limited to the jurisdiction of
33240 the authorizing state or local agency, and may be further limited by the state or local agency to
33241 enforcing specific statutes, codes, or ordinances.
33242 Section 720. Section **53-15-101**, which is renumbered from Section 63-94-101 is
33243 renumbered and amended to read:
33244 **CHAPTER 15. MCGRUFF SAFE HOUSE ACT**
33245 **Part 1. General Provisions**
33246 **[~~63-94-101~~]. 53-15-101. Title.**
33247 This chapter is known as the "McGruff Safe House Act."
33248 Section 721. Section **53-15-102**, which is renumbered from Section 63-94-102 is
33249 renumbered and amended to read:
33250 **[~~63-94-102~~]. 53-15-102. Purpose.**
33251 (1) The Legislature recognizes that children are often in dangerous situations that may
33252 be threatening or frightening to them and that there is a need for "safe homes" in our
33253 neighborhoods where a child may go for help.
33254 (2) The Legislature also recognizes that along with the need for "safe homes" that
33255 children can recognize easily, there is needed a method by which these homes can be identified.
33256 (3) The purpose of this chapter is to:
33257 (a) provide and designate a recognizable symbol for those "safe homes" that children
33258 can readily identify; and
33259 (b) establish a method by which local law enforcement agencies can identify and train

33260 volunteers who are willing to make their homes "safe homes".
33261 Section 722. Section **53-15-201**, which is renumbered from Section 63-94-103 is
33262 renumbered and amended to read:
33263 **Part 2. McGruff House Network Program**
33264 **[~~63-94-103~~]. 53-15-201. Designation -- Administration.**
33265 (1) The National McGruff House Network Program is hereby designated as the
33266 officially recognized statewide "safe house" program for Utah.
33267 (2) The program shall be administered through the Department of Public Safety by the
33268 Utah Council for Crime Prevention.
33269 Section 723. Section **53-15-202**, which is renumbered from Section 63-94-104 is
33270 renumbered and amended to read:
33271 **[~~63-94-104~~]. 53-15-202. Program requirements.**
33272 (1) The statewide program administrator shall:
33273 (a) provide support and training upon request to local law enforcement agencies
33274 interested in implementing the program in their area;
33275 (b) provide local programs with signs for display in approved "safe homes"; and
33276 (c) maintain a register of all "safe homes" that includes, at a minimum, the address of
33277 the home and the names of all persons living in the home.
33278 (2) The local program shall:
33279 (a) recruit volunteer "safe homes" in neighborhoods with the help of local community
33280 groups;
33281 (b) provide training and education to volunteers regarding the program and its use;
33282 (c) provide for an application process for volunteers;
33283 (d) conduct criminal history background checks on volunteers and members of their
33284 households;
33285 (e) approve or disapprove applications for "safe homes";
33286 (f) provide education through community programs for parents and children on the
33287 program and the proper use of "safe homes";
33288 (g) provide approved "safe homes" with signs for display;
33289 (h) provide procedures by which a "safe home" may be removed from the register; and
33290 (i) provide for a method of renewal of the "safe home" designation in order to keep the

33291 registry current and provide for the periodic review of the "safe home", the volunteer, and all
33292 members of the household.
33293 Section 724. Section **53A-1-402.5** is amended to read:
33294 **53A-1-402.5. State board rules establishing basic ethical conduct standards --**
33295 **Local school board policies.**
33296 (1) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
33297 Administrative Rulemaking Act, the State Board of Education shall make rules that establish
33298 basic ethical conduct standards for public education employees who provide education-related
33299 services outside of their regular employment to their current or prospective public school
33300 students.
33301 (2) The rules shall provide that a local school board may adopt policies implementing
33302 the standards and addressing circumstances present in the district.
33303 Section 725. Section **53A-1-408** is amended to read:
33304 **53A-1-408. Appropriations reallocation.**
33305 (1) Notwithstanding the requirements of [~~Title 63, Chapter 38~~] Title 63J, Chapter 1,
33306 Budgetary Procedures Act, the State Board of Education may reallocate between line items
33307 appropriations for the support of public education for the fiscal year beginning July 1, 2001 and
33308 ending June 30, 2002:
33309 (a) as described in Items 231 through 239 in Chapter 334, Laws of Utah 2001; and
33310 (b) as modified by:
33311 (i) Chapter 5, Laws of Utah First Special Session 2001;
33312 (ii) H.B. 1, 2002 General Session; and
33313 (iii) H.B. 3, 2002 General Session.
33314 (2) The total amount of money reallocated under Subsection (1) may not exceed the
33315 sum of the reductions made by H.B. 1, 2002 General Session, and H.B. 3, 2002 General
33316 Session.
33317 Section 726. Section **53A-1-611** is amended to read:
33318 **53A-1-611. Standards and assessment processes to measure student performance**
33319 **-- Basic skills competency test.**
33320 (1) The Legislature recognizes the need for the State Board of Education to develop
33321 and implement standards and assessment processes to ensure that student progress is measured

33322 and that school boards and school personnel are accountable.
33323 (2) (a) In addition to its responsibilities under Sections 53A-1-603 through 53A-1-605,
33324 the State Board of Education, through the state superintendent of public instruction, shall
33325 design a basic skills competency test to be administered in the tenth grade.
33326 (b) A student must pass the basic skills competency test, in addition to the established
33327 requirements of the state and local board of education of the district in which the student
33328 attends school, in order to receive a basic high school diploma of graduation.
33329 (c) The state board shall include in the test, at a minimum, components on English
33330 language arts and reading and mathematics.
33331 (d) A student who fails to pass all components of the test may not receive a basic high
33332 school diploma but may receive a certificate of completion or alternative completion diploma
33333 under rules made by the State Board of Education in accordance with [~~Title 63, Chapter 46a~~]
33334 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
33335 (e) The state board shall make rules:
33336 (i) to allow students who initially fail the test to retake all or part of the test; and
33337 (ii) that take into account and are consistent with federal law relating to students with
33338 disabilities in the administration of the test.
33339 (3) The state board shall implement the tenth grade basic skills competency test, no
33340 later than the beginning of the 2003-04 school year.
33341 (4) The requirements of this section are to be complementary to the other achievement
33342 testing provisions of this part.
33343 Section 727. Section **53A-1-612** is amended to read:
33344 **53A-1-612. Basic Skills Education Stipend Program.**
33345 (1) As used in this section:
33346 (a) "Basic skills education" means individual or group instruction, including
33347 assessments, designed to develop the skills and knowledge necessary to pass the Utah Basic
33348 Skills Competency Test.
33349 (b) "Basic skills provider" means:
33350 (i) a school district;
33351 (ii) a charter school;
33352 (iii) an accredited public or private educational institution; or

33353 (iv) other entity that meets board requirements pursuant to Subsection (12).
33354 (c) "Program" means the Basic Skills Education Stipend Program.
33355 (d) "Stipend recipient" means a student who receives a stipend under this section.
33356 (e) "Utah Basic Skills Competency Test" or "UBSCT" means the basic skills
33357 competency test administered to students pursuant to Section 53A-1-611.
33358 (2) The Basic Skills Education Stipend Program is created to provide students who
33359 have not passed the UBSCT supplemental instruction in the skills and knowledge necessary to
33360 pass the test.
33361 (3) The State Board of Education shall administer the Basic Skills Education Stipend
33362 Program.
33363 (4) (a) A student may receive a stipend for basic skills education if:
33364 (i) the student's score on one more subtests is below the midpoint of the partial mastery
33365 range;
33366 (ii) the student's parent or guardian is a Utah resident;
33367 (iii) the student is enrolled full-time in a public school in the state; and
33368 (iv) the student does not qualify for the Utah Alternative Assessment.
33369 (b) A student who meets the criteria of Subsection (4)(a) may receive a stipend for
33370 basic skills education in the subject of each subtest failed. Depending upon the number of
33371 subtests failed, a student may receive one, two, or three stipends. A student may receive a
33372 stipend only once for each subtest failed.
33373 (5) Stipend amounts shall be based on a student's subtest score as follows:
33374 (a) $500, if the student's subtest score was below the midpoint of the partial mastery
33375 range but above the minimal mastery range;
33376 (b) $1,000, if the student's subtest score was below the partial mastery range, but above
33377 or at the midpoint of the minimal mastery range; or
33378 (c) $1,500, if the student's subtest score was below the midpoint of the minimal
33379 mastery range.
33380 (6) A stipend recipient may apply for basic skills education from any basic skills
33381 provider.
33382 (7) Each basic skill provider shall accept stipend recipients on a first come/first served
33383 basis.

33384 (8) A stipend recipient shall give the following to the basic skills provider selected to
33385 provide basic skills education:
33386 (a) a voucher in the amount of the stipend which the basic skills educator may present
33387 for payment by the board if the stipend recipient passes the subtest corresponding to the basic
33388 skills education provided by the basic skills provider; and
33389 (b) an authorization signed by the stipend recipient's parent or guardian for the stipend
33390 recipient's school to release records of the stipend recipient to the basic skills provider, if the
33391 basic skills provider is not the school district or charter school in which the stipend recipient is
33392 enrolled.
33393 (9) A basic skills provider who possesses a voucher shall receive payment from the
33394 board in the amount of the stipend, if, on a subsequent administration of the UBSCT, the
33395 stipend recipient passes the subtest corresponding to the basic skills education provided by the
33396 basic skills provider.
33397 (10) (a) A basic skills provider may charge a stipend recipient an amount in addition to
33398 that paid by the board.
33399 (b) The additional amount charged by a basic skills provider shall be:
33400 (i) consistent with the restriction in Utah Constitution Article X, Section 2;
33401 (ii) disclosed to the stipend recipient's parent or guardian when the stipend recipient
33402 applies for basic skills education; and
33403 (iii) reported to the board before receiving payment from the board.
33404 (c) A basic skills provider may not make any additional charge or refund of a charge
33405 contingent upon a stipend recipient's passing or failing a UBSCT subtest.
33406 (11) (a) Stipends shall be awarded by the board subject to the availability of money
33407 appropriated by the Legislature for that purpose.
33408 (b) The Legislature shall annually appropriate money to the board from the General
33409 Fund to make stipend payments.
33410 (c) If monies are not available to pay for all stipends requested, the stipends shall be
33411 allocated according to rules adopted by the State Board of Education.
33412 (12) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
33413 Administrative Rulemaking Act, the State Board of Education shall make rules:
33414 (a) establishing qualifications for basic skills providers who are not school districts,

33415 high schools, or accredited public or private educational institutions;
33416 (b) establishing procedures for the administration of the Basic Skills Education Stipend
33417 Program; and
33418 (c) requiring the parent or guardian of a stipend recipient who selects a basic skills
33419 provider other than the school district or charter school in which the stipend recipient is
33420 enrolled to sign:
33421 (i) an acknowledgment that the school district or charter school is released from further
33422 remediation responsibility for the stipend recipient; and
33423 (ii) if the student has an IEP, an acknowledgment that offering a voucher to the basic
33424 skill provider has the same effect as a parental refusal to consent to services pursuant to Section
33425 614(a)(1) of the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.
33426 (13) School districts and charter schools shall provide each student who qualifies for a
33427 basic skills education stipend information about the Basic Skills Education Stipend Program,
33428 including:
33429 (a) voucher applications; and
33430 (b) how to access a list of approved public and private providers.
33431 Section 728. Section **53A-1-706** is amended to read:
33432 **53A-1-706. Purchases of educational technology.**
33433 (1) (a) A school district or college of education shall comply with [~~Title 63, Chapter~~
33434 ~~56~~] Title 63G, Chapter 6, Utah Procurement Code, in purchasing technology, except as
33435 otherwise provided in Subsection (1)(b).
33436 (b) A school district may purchase computers from, and contract for the repair or
33437 refurbishing of computers with, the Utah Correctional Industries without going through the
33438 bidding or competition procedures outlined in [~~Title 63, Chapter 56~~] Title 63G, Chapter 6, Part
33439 4, Source Selections and Contract Formation.
33440 (2) A school district or college of education may purchase technology through
33441 cooperative purchasing contracts administered by the state Division of Purchasing or through
33442 its own established purchasing program.
33443 Section 729. Section **53A-1a-508** is amended to read:
33444 **53A-1a-508. Content of a charter -- Modification of charter.**
33445 (1) The major issues involving the operation of a charter school shall be considered in

33446 advance by the applicant for a charter school and written into the school's charter.
33447 (2) The governing body of the charter school and the chartering entity shall sign the
33448 charter.
33449 (3) The charter shall include:
33450 (a) the age or grade levels to be served by the school;
33451 (b) the projected maximum number of students to be enrolled in the school and the
33452 projected enrollment in each of the first three years of operations;
33453 (c) the governance structure of the school;
33454 (d) the financial plan for the school and the provisions which will be made for auditing
33455 the school under Subsection 53A-1a-507(4);
33456 (e) the mission and education goals of the school, the curriculum offered, and the
33457 methods of assessing whether students are meeting educational goals, to include at a minimum
33458 participation in the Utah Performance Assessment System for Students under Chapter 1, Part 6,
33459 Achievement Tests;
33460 (f) admission and dismissal procedures, including suspension procedures;
33461 (g) procedures to review complaints of parents regarding the operation of the school;
33462 (h) the opportunity for parental involvement at the school;
33463 (i) how the school will provide adequate liability and other appropriate insurance for
33464 the school, its governing body, and its employees;
33465 (j) the proposed school calendar, including the length of the school day and school
33466 year;
33467 (k) whether any agreements have been entered into or plans developed with school
33468 districts regarding participation of charter school students in extracurricular activities within
33469 the school districts;
33470 (l) the district within which the school will be located and the address of the school's
33471 physical facility, if known at the time the charter is signed;
33472 (m) the qualifications to be required of the teachers, including the requirement of a
33473 criminal background check;
33474 (n) in the case of an existing public school converting to charter status, alternative
33475 arrangements for current students who choose not to attend the charter school and for current
33476 teachers who choose not to teach at the school after its conversion to charter status;

33477 (o) the school's intention to create a library;
33478 (p) a description of school administrative and supervisory services;
33479 (q) fiscal procedures to be used by the school; and
33480 (r) the school's policies and procedures regarding:
33481 (i) employee evaluation; and
33482 (ii) employment of relatives.
33483 (4) A charter may be modified by mutual agreement of the board and the governing
33484 body of the school.
33485 (5) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
33486 Administrative Rulemaking Act, the State Board of Education shall make rules that establish
33487 the procedures and deadlines for approved charter schools to apply and qualify for expansion,
33488 including the establishment of satellite campuses.
33489 Section 730. Section **53A-1a-509** is amended to read:
33490 **53A-1a-509. Noncompliance -- Rulemaking.**
33491 (1) (a) If a charter school is found to be out of compliance with the requirements of
33492 Section 53A-1a-507 or the school's charter, the chartering entity shall notify the school's
33493 governing board in writing that the school has a reasonable time to remedy the deficiency,
33494 except as otherwise provided in Subsection 53A-1a-510(3)(a).
33495 (b) If the school does not remedy the deficiency within the established timeline, the
33496 chartering entity may:
33497 (i) remove a school director or finance officer;
33498 (ii) remove governing board members;
33499 (iii) appoint an interim director or mentor to work with the charter school; or
33500 (iv) terminate the school's charter.
33501 (c) The costs of an interim director or mentor appointed pursuant to Subsection (1)(b)
33502 shall be paid from the funds of the charter school for which the interim director or mentor is
33503 working.
33504 (2) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
33505 Administrative Rulemaking Act, the State Board of Education shall make rules:
33506 (a) specifying the timeline for remedying deficiencies under Subsection (1)(a); and
33507 (b) ensuring the compliance of a charter school with its approved charter.

33508 Section 731. Section **53A-1a-510** is amended to read:
33509 **53A-1a-510. Termination of a charter.**
33510 (1) A chartering entity may terminate a school's charter for any of the following
33511 reasons:
33512 (a) failure of the school to meet the requirements stated in the charter;
33513 (b) failure to meet generally accepted standards of fiscal management;
33514 (c) subject to Subsection (6), failure to make adequate yearly progress under the No
33515 Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301 et seq.;
33516 (d) violation of requirements under this part or another law; or
33517 (e) other good cause shown.
33518 (2) (a) The chartering entity shall notify the governing body of the school of the
33519 proposed termination in writing, state the grounds for the termination, and stipulate that the
33520 governing body may request an informal hearing before the chartering entity.
33521 (b) The chartering entity shall conduct the hearing in accordance with [~~Title 63,~~
33522 ~~Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, within 30 days after
33523 receiving a written request under Subsection (2)(a).
33524 (c) If the chartering entity, by majority vote, approves a motion to terminate a charter
33525 school, the governing body of the charter school may appeal the decision to the State Board of
33526 Education.
33527 (d) (i) The State Board of Education shall hear an appeal of a termination made
33528 pursuant to Subsection (2)(c).
33529 (ii) The State Board of Education's action is final action subject to judicial review.
33530 (3) (a) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
33531 Administrative Rulemaking Act, the State Board of Education shall make rules that require a
33532 charter school to report any threats to the health, safety, or welfare of its students to the State
33533 Charter School Board in a timely manner.
33534 (b) The rules under Subsection (3)(a) shall also require the charter school report to
33535 include what steps the charter school has taken to remedy the threat.
33536 (4) The chartering entity may terminate a charter immediately if good cause has been
33537 shown or if the health, safety, or welfare of the students at the school is threatened.
33538 (5) If a charter is terminated during a school year:

33539 (a) the school district in which the school is located may assume operation of the
33540 school; or
33541 (b) a private management company may be hired to operate the school.
33542 (6) (a) If a charter is terminated, a student who attended the school may apply to and
33543 shall be enrolled in another public school under the enrollment provisions of Title 53A,
33544 Chapter 2, Part 2, District of Residency, subject to space availability.
33545 (b) Normal application deadlines shall be disregarded under Subsection (6)(a).
33546 (7) A chartering entity may terminate a charter pursuant to Subsection (1)(c) under the
33547 same circumstances that local educational agencies are required to implement alternative
33548 governance arrangements under 20 U.S.C. Sec. 6316.
33549 Section 732. Section **53A-1a-511** is amended to read:
33550 **53A-1a-511. Waivers from state board rules -- Application of statutes and rules**
33551 **to charter schools.**
33552 (1) A charter school shall operate in accordance with its charter and is subject to Title
33553 53A, State System of Public Education, and other state laws applicable to public schools,
33554 except as otherwise provided in this part.
33555 (2) (a) A charter school or any other public school or school district may apply to the
33556 State Board of Education for a waiver of any state board rule that inhibits or hinders the school
33557 or the school district from accomplishing its mission or educational goals set out in its strategic
33558 plan or charter.
33559 (b) The state board may grant the waiver, unless:
33560 (i) the waiver would cause the school district or the school to be in violation of state or
33561 federal law; or
33562 (ii) the waiver would threaten the health, safety, or welfare of students in the district or
33563 at the school.
33564 (c) If the State Board of Education denies the waiver, the reason for the denial shall be
33565 provided in writing to the waiver applicant.
33566 (3) (a) Except as provided in Subsection (3)(b), State Board of Education rules
33567 governing the following do not apply to a charter school:
33568 (i) school libraries;
33569 (ii) required school administrative and supervisory services; and

33570 (iii) required expenditures for instructional supplies.
33571 (b) A charter school shall comply with rules implementing statutes that prescribe how
33572 state appropriations may be spent.
33573 (4) The following provisions of Title 53A, State System of Public Education, and rules
33574 adopted under those provisions, do not apply to a charter school:
33575 (a) Sections 53A-1a-108 and 53A-1a-108.5, requiring the establishment of a school
33576 community council and school improvement plan;
33577 (b) Sections 53A-3-413 and 53A-3-414, pertaining to the use of school buildings as
33578 civic centers;
33579 (c) Section 53A-3-420, requiring the use of activity disclosure statements;
33580 (d) Section 53A-12-207, requiring notification of intent to dispose of textbooks;
33581 (e) Section 53A-13-107, requiring annual presentations on adoption;
33582 (f) Chapter 19, Part 1, Fiscal Procedures, pertaining to fiscal procedures of school
33583 districts and local school boards; and
33584 (g) Section 53A-14-107, requiring an independent evaluation of instructional materials.
33585 (5) For the purposes of [~~Title 63, Chapter 56~~] Title 63G, Chapter 6, Utah Procurement
33586 Code, a charter school shall be considered a local public procurement unit.
33587 (6) Each charter school shall be subject to:
33588 (a) Title 52, Chapter 4, Open and Public Meetings Act; and
33589 (b) [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records Access and
33590 Management Act.
33591 (7) (a) The State Charter School Board shall, in concert with the charter schools, study
33592 existing state law and administrative rules for the purpose of determining from which laws and
33593 rules charter schools should be exempt.
33594 (b) (i) The State Charter School Board shall present recommendations for exemption to
33595 the State Board of Education for consideration.
33596 (ii) The State Board of Education shall consider the recommendations of the State
33597 Charter School Board and respond within 60 days.
33598 Section 733. Section **53A-1a-513** is amended to read:
33599 **53A-1a-513. Funding for charter schools.**
33600 (1) (a) Charter schools shall receive funding as described in this section, except

33601 Subsections (2) through (7) do not apply to charter schools described in Subsection (1)(b).
33602 (b) Charter schools authorized by local school boards that are converted from district
33603 schools or operate in district facilities without paying reasonable rent shall receive funding as
33604 prescribed in Section 53A-1a-515.
33605 (2) (a) Except as provided in Subsection (2)(b), a charter school shall receive state
33606 funds, as applicable, on the same basis as a school district receives funds.
33607 (b) In distributing funds under Title 53A, Chapter 17a, Minimum School Program Act,
33608 to charter schools, charter school pupils shall be weighted, where applicable, as follows:
33609 (i) .55 for kindergarten pupils;
33610 (ii) .9 for pupils in grades 1-6;
33611 (iii) .99 for pupils in grades 7-8; and
33612 (iv) 1.2 for pupils in grades 9-12.
33613 (c) The State Board of Education shall make rules in accordance with [~~Title 63,~~
33614 ~~Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer
33615 Subsection (2)(b), including hold harmless provisions to maintain a charter elementary school's
33616 funding level for a period of two years after the effective date of the distribution formula.
33617 (d) Subsection (2)(b) does not apply to funds appropriated to charter schools to replace
33618 local property tax revenues.
33619 (3) The State Board of Education shall adopt rules to provide for the distribution of
33620 monies to charter schools under this section.
33621 (4) (a) The Legislature shall provide an appropriation for charter schools for each of
33622 their students to replace some of the local property tax revenues that are not available to charter
33623 schools. The amount of money provided for each charter school student shall be determined
33624 by:
33625 (i) calculating the sum of:
33626 (A) school districts' operations and maintenance revenues derived from local property
33627 taxes, except revenues from imposing a minimum basic tax rate pursuant to Section
33628 53A-17a-135;
33629 (B) school districts' capital projects revenues derived from local property taxes; and
33630 (C) school districts' expenditures for interest on debt; and
33631 (ii) dividing the sum by the total average daily membership of the districts' schools.

33632 (b) Of the monies provided to a charter school under Subsection (4)(a), 10% shall be
33633 expended for funding school facilities only.
33634 (c) To qualify for money under Subsection (4)(a), a new charter school shall, by
33635 September 30 of the school year prior to the school year it intends to begin operations:
33636 (i) obtain approval of its application for a charter from:
33637 (A) the State Board of Education, pursuant to Section 53A-1a-505; or
33638 (B) a local school board, pursuant to Section 53A-1a-515; and
33639 (ii) submit to the chartering entity an estimate of the charter school's first year
33640 enrollment.
33641 (d) Subsection (4)(c) does not apply to charter schools beginning operations in the
33642 2005-06 school year.
33643 (e) By December 1, the State Charter School Board shall submit to the Governor's
33644 Office of Planning and Budget and the Office of the Legislative Fiscal Analyst an estimate of
33645 total charter school enrollment in the state for the following school year.
33646 (5) Charter schools are eligible to receive federal funds if they meet all applicable
33647 federal requirements and comply with relevant federal regulations.
33648 (6) The State Board of Education shall distribute funds for charter school students
33649 directly to the charter school.
33650 (7) (a) Notwithstanding Subsection (2), a charter school is not eligible to receive state
33651 transportation funding.
33652 (b) The board shall also adopt rules relating to the transportation of students to and
33653 from charter schools, taking into account Sections 53A-2-210 and 53A-17a-127.
33654 (c) The governing body of the charter school may provide transportation through an
33655 agreement or contract with the local school board, a private provider, or with parents.
33656 (8) (a) (i) The state superintendent of public instruction may allocate grants for both
33657 start-up and ongoing costs to eligible charter school applicants from monies appropriated for
33658 the implementation of this part.
33659 (ii) Applications for the grants shall be filed on a form determined by the state
33660 superintendent and in conjunction with the application for a charter.
33661 (iii) The amount of a grant may vary based upon the size, scope, and special
33662 circumstances of the charter school.

33663 (iv) The governing board of the charter school shall use the grant to meet the expenses
33664 of the school as established in the school's charter.
33665 (b) The State Board of Education shall coordinate the distribution of federal monies
33666 appropriated to help fund costs for establishing and maintaining charter schools within the
33667 state.
33668 (9) (a) A charter school may receive, hold, manage and use any devise, bequest, grant,
33669 endowment, gift, or donation of any property made to the school for any of the purposes of this
33670 part.
33671 (b) It is unlawful for any person affiliated with a charter school to demand or request
33672 any gift, donation, or contribution from a parent, teacher, employee, or other person affiliated
33673 with the charter school as a condition for employment or enrollment at the school or continued
33674 attendance at the school.
33675 (10) The State Office of Education shall use up to $1,044,000 of funding provided for
33676 new growth to fund additional growth needs in charter schools in fiscal year 2005.
33677 Section 734. Section **53A-1a-601** is amended to read:
33678 **53A-1a-601. Job enhancements for mathematics, science, technology, and special**
33679 **education training.**
33680 (1) As used in this part, "special education teacher" includes occupational therapist.
33681 (2) The Public Education Job Enhancement Program is established to attract, train, and
33682 retain highly qualified:
33683 (a) secondary teachers with expertise in mathematics, physics, chemistry, physical
33684 science, learning technology, or information technology;
33685 (b) special education teachers; and
33686 (c) teachers in grades four through six with mathematics endorsements.
33687 (3) The program shall provide for the following:
33688 (a) application by a school district superintendent or the principal of a school on behalf
33689 of a qualified teacher;
33690 (b) an award of up to $20,000 or a scholarship to cover the tuition costs for a master's
33691 degree, an endorsement, or graduate education in the areas identified in Subsection (2) to be
33692 given to selected public school teachers on a competitive basis:
33693 (i) whose applications are approved under Subsection 53A-1a-602(4); and

33694 (ii) who teach in the state's public education system for four years in the areas
33695 identified in Subsection (2);
33696 (c) (i) as to the cash awards under Subsection (3)(b), payment of the award in two
33697 installments, with an initial payment of up to $10,000 at the beginning of the term and up to
33698 $10,000 at the conclusion of the term;
33699 (ii) repayment of a portion of the initial payment by the teacher if the teacher fails to
33700 complete two years of the four-year teaching term in the areas identified in Subsection (2) as
33701 provided by rule of the State Board of Education in accordance with [~~Title 63, Chapter 46a~~]
33702 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, unless waived for good cause by
33703 the Job Enhancement Committee created in Section 53A-1a-602; and
33704 (iii) nonpayment of the second installment if the teacher fails to complete the four-year
33705 teaching term; and
33706 (d) (i) as to the scholarships awarded under Subsection (3)(b), provision for the
33707 providing institution to certify adequate performance in obtaining the master's degree,
33708 endorsement, or graduate education in order for the teacher to maintain the scholarship; and
33709 (ii) repayment by the teacher of a prorated portion of the scholarship, if the teacher fails
33710 to complete the authorized classes or program or to teach in the state system of public
33711 education in the areas identified in Subsection (2) for four years after obtaining the master's
33712 degree, the endorsement, or graduate education.
33713 (4) An individual teaching in the public schools under a letter of authorization may
33714 participate in the cash award program if:
33715 (a) the individual has taught under the letter of authorization for at least one year in the
33716 areas referred to in Subsection (2); and
33717 (b) the application made under Subsection (3)(a) is based in large part upon the
33718 individual receiving a superior evaluation as a classroom teacher.
33719 (5) (a) The program may provide for the expenditure of up to $1,000,000 of available
33720 monies, if at least an equal amount of matching monies become available, to provide
33721 professional development training to superintendents, administrators, and principals in the
33722 effective use of technology in public schools.
33723 (b) An award granted under this Subsection (5) shall be made in accordance with
33724 criteria developed and adopted by the Job Enhancement Committee created in Section

33725 53A-1a-602.
33726 (c) An amount up to $120,000 of the $1,000,000 authorized in Subsection (5)(a) may
33727 be expended, regardless of the matching monies being available.
33728 Section 735. Section **53A-1a-602** is amended to read:
33729 **53A-1a-602. Job Enhancement Committee -- Composition -- Duties --**
33730 **Appropriation.**
33731 (1) There is created a Job Enhancement Committee to implement and administer the
33732 Public Education Job Enhancement Program established in Section 53A-1a-601.
33733 (2) (a) The committee shall consist of:
33734 (i) two members of the State Board of Education selected by the board;
33735 (ii) two members of the State Board of Regents selected by the board;
33736 (iii) six members of the general public who have business experience in mathematics,
33737 physics, chemistry, physical science, learning technology, or information technology selected
33738 by the governor;
33739 (iv) a master high school teacher, who has teaching experience in mathematics,
33740 physics, chemistry, physical science, learning technology, or information technology, selected
33741 by the superintendent of public instruction;
33742 (v) a master special education teacher, selected by the superintendent of public
33743 instruction; and
33744 (vi) a master teacher in grades four through six with a mathematics endorsement,
33745 selected by the superintendent of public instruction.
33746 (b) Committee members shall receive no compensation or benefits for their service on
33747 the committee, but may receive per diem and expenses incurred in the performance of their
33748 duties at rates established by the Division of Finance under Sections 63A-3-106 and
33749 63A-3-107.
33750 (3) (a) The committee shall receive and review applications submitted for participation
33751 in the Public Education Job Enhancement Program established under Section 53A-1a-601.
33752 (b) In reviewing applications, the committee shall focus on:
33753 (i) the prioritized critical areas of need identified under Subsection (5)(a); and
33754 (ii) the awards being made on a competitive basis.
33755 (c) If the committee approves an application received under Subsection (3)(a), it shall

33756 contract directly with the teacher applicant to receive the award or the scholarship for a
33757 master's degree, an endorsement, or graduate education, subject to Section 53A-1a-601.
33758 (d) The State Board of Education, through the superintendent of public instruction,
33759 shall provide staff support for the committee and adequate and reliable data on the state's
33760 supply of and demand for qualified:
33761 (i) secondary teachers with expertise in mathematics, physics, chemistry, physical
33762 science, learning technologies, or information technology;
33763 (ii) special education teachers; and
33764 (iii) teachers in grades four through six with mathematics endorsements.
33765 (4) The committee may apply for grants and matching monies to enhance funding
33766 available for the program established in Section 53A-1a-601.
33767 (5) The committee shall make a rule in accordance with [~~Title 63, Chapter 46a~~] Title
33768 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing policies and procedures
33769 for:
33770 (a) making the awards and offering the scholarships in accordance with prioritized
33771 critical areas of need as determined by the committee;
33772 (b) timelines for the submission and approval of applications under Subsection (3); and
33773 (c) the distribution of the awards and scholarships to successful applicants based on
33774 available monies provided by legislative appropriation.
33775 (6) Subject to future budget constraints, the Legislature shall make an annual
33776 appropriation to the State Board of Education to fund the Public Education Job Enhancement
33777 Program established under Section 53A-1a-601.
33778 Section 736. Section **53A-1a-707** is amended to read:
33779 **53A-1a-707. Board to make rules.**
33780 In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
33781 Rulemaking Act, the board shall make rules consistent with this part establishing:
33782 (1) the eligibility of students to participate in the scholarship program; and
33783 (2) the application process for the scholarship program.
33784 Section 737. Section **53A-1a-808** is amended to read:
33785 **53A-1a-808. Board to make rules.**
33786 (1) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah

33787 Administrative Rulemaking Act, the board shall make rules consistent with this part:
33788 (a) establishing the application process for the scholarship program, including
33789 procedures to allow a parent to apply for a scholarship online;
33790 (b) establishing how the income of a scholarship student's parents shall be determined
33791 and verified; and
33792 (c) implementing Section 53A-1a-807.
33793 (2) By May 15, 2007, the board shall adopt rules establishing:
33794 (a) the application process for private schools and scholarship students; and
33795 (b) how the income of a scholarship student's parents shall be determined.
33796 Section 738. Section **53A-1a-902** is amended to read:
33797 **53A-1a-902. Voluntary extended-day kindergarten program.**
33798 (1) If funds are appropriated for this purpose, the State Board of Education shall
33799 allocate available funds, consistent with Section 53A-1a-903, to charter schools and school
33800 districts that apply to offer extended-day kindergarten.
33801 (2) A school district shall coordinate program application, funding, administration, and
33802 reporting for its schools that participate in the program.
33803 (3) A charter school or school district:
33804 (a) may not require a student to participate in extended-day kindergarten;
33805 (b) shall continue to offer part-day kindergarten for students not participating in the
33806 program; and
33807 (c) shall continue to honor the provisions of any preexisting contractual agreement
33808 related to other early intervention programs offered at the school site, through the remaining
33809 term of the contract.
33810 (4) A charter school or school district that receives funds under this part shall:
33811 (a) annually conduct a kindergarten readiness assessment for incoming kindergarten
33812 students prior to the beginning of the school year;
33813 (b) ensure that:
33814 (i) a majority of students enrolled in an extended-day kindergarten class under this part
33815 are students who have the greatest need for additional instruction, as determined by the
33816 kindergarten readiness assessment; and
33817 (ii) an extended-day kindergarten class does not have more enrolled students than other

33818 kindergarten classes in the school;
33819 (c) utilize allocated funds to establish extended-day kindergarten in the schools with
33820 greatest need as measured by the percentage of students eligible for free lunch; and
33821 (d) annually report to the State Board of Education regarding:
33822 (i) the number of students served;
33823 (ii) the specific results achieved by the program, including any standardized testing or
33824 district-directed assessment;
33825 (iii) challenges encountered in administering the program and suggestions for
33826 improvement; and
33827 (iv) specific accountability for and tracking of the voluntary extended-day kindergarten
33828 program dollars each year.
33829 (5) Until 2012, the superintendent of public instruction shall annually report to the
33830 Education Interim Committee on the program, including a summary of information reported
33831 under Subsection (4)(d).
33832 (6) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
33833 Administrative Rulemaking Act, and consistent with this part, the State Board of Education
33834 shall make rules establishing application and reporting procedures necessary to administer this
33835 part.
33836 Section 739. Section **53A-2-123** is amended to read:
33837 **53A-2-123. Notice before preparing or amending a long-range plan or acquiring**
33838 **certain property.**
33839 (1) As used in this section:
33840 (a) "Affected entity" means each county, municipality, local district under Title 17B,
33841 Limited Purpose Local Government Entities - Local Districts, special service district under
33842 Title 17A, Chapter 2, Part 13, Utah Special Service District Act, interlocal cooperation entity
33843 established under Title 11, Chapter 13, Interlocal Cooperation Act, and specified public utility:
33844 (i) whose services or facilities are likely to require expansion or significant
33845 modification because of an intended use of land; or
33846 (ii) that has filed with the school district a copy of the general or long-range plan of the
33847 county, municipality, local district, special service district, school district, interlocal
33848 cooperation entity, or specified public utility.

33849 (b) "Specified public utility" means an electrical corporation, gas corporation, or
33850 telephone corporation, as those terms are defined in Section 54-2-1.
33851 (2) (a) If a school district located in a county of the first or second class prepares a
33852 long-range plan regarding its facilities proposed for the future or amends an already existing
33853 long-range plan, the school district shall, before preparing a long-range plan or amendments to
33854 an existing long-range plan, provide written notice, as provided in this section, of its intent to
33855 prepare a long-range plan or to amend an existing long-range plan.
33856 (b) Each notice under Subsection (2)(a) shall:
33857 (i) indicate that the school district intends to prepare a long-range plan or to amend a
33858 long-range plan, as the case may be;
33859 (ii) describe or provide a map of the geographic area that will be affected by the
33860 long-range plan or amendments to a long-range plan;
33861 (iii) be sent to:
33862 (A) each county in whose unincorporated area and each municipality in whose
33863 boundaries is located the land on which the proposed long-range plan or amendments to a
33864 long-range plan are expected to indicate that the proposed facilities will be located;
33865 (B) each affected entity;
33866 (C) the Automated Geographic Reference Center created in Section 63F-1-506;
33867 (D) each association of governments, established pursuant to an interlocal agreement
33868 under Title 11, Chapter 13, Interlocal Cooperation Act, of which a county or municipality
33869 described in Subsection (2)(b)(iii)(A) is a member; and
33870 (E) the state planning coordinator appointed under Section [~~63-38d-202~~] 63J-4-202;
33871 (iv) with respect to the notice to counties and municipalities described in Subsection
33872 (2)(b)(iii)(A) and affected entities, invite them to provide information for the school district to
33873 consider in the process of preparing, adopting, and implementing the long-range plan or
33874 amendments to a long-range plan concerning:
33875 (A) impacts that the use of land proposed in the proposed long-range plan or
33876 amendments to a long-range plan may have on the county, municipality, or affected entity; and
33877 (B) uses of land that the county, municipality, or affected entity is planning or
33878 considering that may conflict with the proposed long-range plan or amendments to a long-range
33879 plan; and

33880 (v) include the address of an Internet website, if the school district has one, and the
33881 name and telephone number of a person where more information can be obtained concerning
33882 the school district's proposed long-range plan or amendments to a long-range plan.
33883 (3) (a) Except as provided in Subsection (3)(d), each school district intending to
33884 acquire real property in a county of the first or second class for the purpose of expanding the
33885 district's infrastructure or other facilities shall provide written notice, as provided in this
33886 Subsection (3), of its intent to acquire the property if the intended use of the property is
33887 contrary to:
33888 (i) the anticipated use of the property under the county or municipality's general plan;
33889 or
33890 (ii) the property's current zoning designation.
33891 (b) Each notice under Subsection (3)(a) shall:
33892 (i) indicate that the school district intends to acquire real property;
33893 (ii) identify the real property; and
33894 (iii) be sent to:
33895 (A) each county in whose unincorporated area and each municipality in whose
33896 boundaries the property is located; and
33897 (B) each affected entity.
33898 (c) A notice under this Subsection (3) is a protected record as provided in Subsection
33899 [~~63-2-304~~] 63G-2-305(7).
33900 (d) (i) The notice requirement of Subsection (3)(a) does not apply if the school district
33901 previously provided notice under Subsection (2) identifying the general location within the
33902 municipality or unincorporated part of the county where the property to be acquired is located.
33903 (ii) If a school district is not required to comply with the notice requirement of
33904 Subsection (3)(a) because of application of Subsection (3)(d)(i), the school district shall
33905 provide the notice specified in Subsection (3)(a) as soon as practicable after its acquisition of
33906 the real property.
33907 Section 740. Section **53A-2-206** is amended to read:
33908 **53A-2-206. Interstate compact students -- Inclusion in attendance count --**
33909 **Funding for foreign exchange students -- Annual report -- Requirements for exchange**
33910 **student agencies.**

33911 (1) A school district or charter school may include the following students in the
33912 district's or school's membership and attendance count for the purpose of apportionment of
33913 state monies:
33914 (a) a student enrolled under an interstate compact, established between the State Board
33915 of Education and the state education authority of another state, under which a student from one
33916 compact state would be permitted to enroll in a public school in the other compact state on the
33917 same basis as a resident student of the receiving state; or
33918 (b) a student receiving services under the Compact on Placement of Children.
33919 (2) (a) A school district or charter school may include foreign exchange students in the
33920 district's or school's membership and attendance count for the purpose of apportionment of
33921 state monies, except as provided in Subsections (2)(b) through (e).
33922 (b) (i) Notwithstanding Section 53A-17a-106, foreign exchange students may not be
33923 included in average daily membership for the purpose of determining the number of weighted
33924 pupil units in the grades 1-12 basic program.
33925 (ii) Subject to the limitation in Subsection (2)(c), the number of weighted pupil units in
33926 the grades 1-12 basic program attributed to foreign exchange students shall be equal to the
33927 number of foreign exchange students who were:
33928 (A) enrolled in a school district or charter school on October 1 of the previous fiscal
33929 year; and
33930 (B) sponsored by an agency approved by the district's local school board or charter
33931 school's governing board.
33932 (c) (i) The total number of foreign exchange students in the state that may be counted
33933 for the purpose of apportioning state monies under Subsection (2)(b) shall be the lesser of:
33934 (A) the number of foreign exchange students enrolled in public schools in the state on
33935 October 1 of the previous fiscal year; or
33936 (B) 328 foreign exchange students.
33937 (ii) The State Board of Education shall make rules in accordance with [~~Title 63,~~
33938 ~~Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the cap
33939 on the number of foreign exchange students that may be counted for the purpose of
33940 apportioning state monies under Subsection (2)(b).
33941 (d) Notwithstanding Sections 53A-17a-133 and 53A-17a-134, weighted pupil units in

33942 the grades 1-12 basic program for foreign exchange students, as determined by Subsections
33943 (2)(b) and (c), may not be included for the purposes of determining a school district's state
33944 guarantee money under the voted or board leeway programs.
33945 (e) Notwithstanding Section 53A-17a-125, foreign exchange students may not be
33946 included in enrollment when calculating student growth for the purpose of adjusting the annual
33947 appropriation for retirement and Social Security.
33948 (3) A school district or charter school may:
33949 (a) enroll foreign exchange students that do not qualify for state monies; and
33950 (b) pay for the costs of those students with other funds available to the school district
33951 or charter school.
33952 (4) Due to the benefits to all students of having the opportunity to become familiar
33953 with individuals from diverse backgrounds and cultures, school districts are encouraged to
33954 enroll foreign exchange students, as provided in Subsection (3), particularly in schools with
33955 declining or stable enrollments where the incremental cost of enrolling the foreign exchange
33956 student may be minimal.
33957 (5) The board shall make an annual report to the Legislature on the number of
33958 exchange students and the number of interstate compact students sent to or received from
33959 public schools outside the state.
33960 (6) (a) A local school board or charter school governing board shall require each
33961 approved exchange student agency to provide it with a sworn affidavit of compliance prior to
33962 the beginning of each school year.
33963 (b) The affidavit shall include the following assurances:
33964 (i) that the agency has complied with all applicable policies of the board;
33965 (ii) that a household study, including a background check of all adult residents, has
33966 been made of each household where an exchange student is to reside, and that the study was of
33967 sufficient scope to provide reasonable assurance that the exchange student will receive proper
33968 care and supervision in a safe environment;
33969 (iii) that host parents have received training appropriate to their positions, including
33970 information about enhanced criminal penalties under Subsection 76-5-406(10) for persons who
33971 are in a position of special trust;
33972 (iv) that a representative of the exchange student agency shall visit each student's place

33973 of residence at least once each month during the student's stay in Utah;
33974 (v) that the agency will cooperate with school and other public authorities to ensure
33975 that no exchange student becomes an unreasonable burden upon the public schools or other
33976 public agencies;
33977 (vi) that each exchange student will be given in the exchange student's native language
33978 names and telephone numbers of agency representatives and others who could be called at any
33979 time if a serious problem occurs; and
33980 (vii) that alternate placements are readily available so that no student is required to
33981 remain in a household if conditions appear to exist which unreasonably endanger the student's
33982 welfare.
33983 (7) (a) A local school board or charter school governing board shall provide each
33984 approved exchange student agency with a list of names and telephone numbers of individuals
33985 not associated with the agency who could be called by an exchange student in the event of a
33986 serious problem.
33987 (b) The agency shall make a copy of the list available to each of its exchange students
33988 in the exchange student's native language.
33989 Section 741. Section **53A-3-303** is amended to read:
33990 **53A-3-303. Duties of business administrator.**
33991 Subject to the direction of the district superintendent of schools, the district's business
33992 administrator shall:
33993 (1) attend all meetings of the board, keep an accurate record of its proceedings, and
33994 have custody of the seal and records;
33995 (2) be custodian of all district funds, be responsible and accountable for all money
33996 received and disbursed, and keep accurate records of all revenues received and their sources;
33997 (3) countersign with the president of the board all warrants and claims against the
33998 district as well as other legal documents approved by the board;
33999 (4) prepare and submit to the board each month a written report of the district's receipts
34000 and expenditures;
34001 (5) use uniform budgeting, accounting, and auditing procedures and forms approved by
34002 the State Board of Education, which shall be in accordance with generally accepted accounting
34003 principles or auditing standards and [~~Title 63, Chapter 38~~] Title 63J, Chapter 1, Utah

34004 Budgetary Procedures Act;
34005 (6) prepare and submit to the board a detailed annual statement for the period ending
34006 June 30, of the revenue and expenditures, including beginning and ending fund balances;
34007 (7) assist the superintendent in the preparation and submission of budget documents
34008 and statistical and fiscal reports required by law or the State Board of Education;
34009 (8) insure that adequate internal controls are in place to safeguard the district's funds;
34010 and
34011 (9) perform other duties as the superintendent may require.
34012 Section 742. Section **53A-3-402.11** is amended to read:
34013 **53A-3-402.11. Reading Performance Improvement Scholarship Program.**
34014 (1) There is established a Reading Performance Improvement Scholarship Program to
34015 assist selected elementary teachers in obtaining a reading endorsement so that they may help
34016 improve the reading performance of students in their classes.
34017 (2) The State Board of Education shall award scholarships of up to $500 to each
34018 recipient under the program.
34019 (3) The board shall give weighted consideration to scholarship applicants who:
34020 (a) teach in grades kindergarten through three;
34021 (b) are designated by their schools as, or are seeking the designation of, reading
34022 specialist; and
34023 (c) teach in a rural area of the state.
34024 (4) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
34025 Administrative Rulemaking Act, the board shall provide by rule for:
34026 (a) the application procedure for the scholarship; and
34027 (b) what constitutes a reading specialist at the elementary school level.
34028 Section 743. Section **53A-3-424** is amended to read:
34029 **53A-3-424. Rulemaking -- Reporting.**
34030 The State Office of Education may make rules in accordance with [~~Title 63, Chapter~~
34031 ~~46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding compliance
34032 standards and reporting requirements for local school boards with respect to the policy required
34033 by Section 53A-3-422.
34034 Section 744. Section **53A-3-702** is amended to read:

34035 **53A-3-702. Professional development pilot program.**
34036 (1) A pilot program is created to evaluate the effects on student academic achievement
34037 of reducing the minimum school term established by the State Board of Education by up to 22
34038 hours for the purpose of conducting professional development for instructional staff.
34039 (2) To participate in the pilot program, a local school board shall submit a plan to a
34040 community council for approval before submission to the State Board of Education that
34041 includes the following information:
34042 (a) the schools intending to participate in the pilot program;
34043 (b) the revised school schedule;
34044 (c) a description of the professional development activities;
34045 (d) the expected outcomes from the professional development, including measurable
34046 academic achievement goals; and
34047 (e) the method of evaluating the effectiveness of the professional development.
34048 (3) The State Board of Education shall determine the maximum number of school
34049 districts and schools that may participate in the pilot program.
34050 (4) The State Board of Education shall make rules, in accordance with [~~Title 63,~~
34051 ~~Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the
34052 implementation of the pilot program.
34053 (5) The State Board of Education shall submit to the Education Interim Committee:
34054 (a) preliminary findings from the pilot program by October 1, 2006; and
34055 (b) a final report and recommendations for expansion of the program by October 1,
34056 2007.
34057 Section 745. Section **53A-6-103** is amended to read:
34058 **53A-6-103. Definitions.**
34059 As used in this chapter:
34060 (1) "Accredited institution" means an institution meeting the requirements of Section
34061 53A-6-107.
34062 (2) (a) "Alternative preparation program" means preparation for licensure in
34063 accordance with applicable law and rule through other than an approved preparation program.
34064 (b) "Alternative preparation program" includes the competency-based licensing
34065 program described in Section 53A-6-104.5.

34066 (3) "Ancillary requirement" means a requirement established by law or rule in addition
34067 to completion of an approved preparation program or alternative education program or
34068 establishment of eligibility under the NASDTEC Interstate Contract, and may include any of
34069 the following:
34070 (a) minimum grade point average;
34071 (b) standardized testing or assessment;
34072 (c) mentoring;
34073 (d) recency of professional preparation or experience;
34074 (e) graduation from an accredited institution; or
34075 (f) evidence relating to moral, ethical, physical, or mental fitness.
34076 (4) "Approved preparation program" means a program for preparation of educational
34077 personnel offered through an accredited institution in Utah or in a state which is a party to a
34078 contract with Utah under the NASDTEC Interstate Contract and which, at the time the program
34079 was completed by the applicant:
34080 (a) was approved by the governmental agency responsible for licensure of educators in
34081 the state in which the program was provided;
34082 (b) satisfied requirements for licensure in the state in which the program was provided;
34083 (c) required completion of a baccalaureate; and
34084 (d) included a supervised field experience.
34085 (5) "Board" means the Utah State Board of Education.
34086 (6) "Certificate" means a license issued by a governmental jurisdiction outside the
34087 state.
34088 (7) "Core academic subjects" means English, reading or language arts, mathematics,
34089 science, foreign languages, civics and government, economics, arts, history, and geography.
34090 (8) "Educator" means:
34091 (a) a person who holds a license;
34092 (b) a teacher, counselor, administrator, librarian, or other person required, under rules
34093 of the board, to hold a license; or
34094 (c) a person who is the subject of an allegation which has been received by the board or
34095 UPPAC and was, at the time noted in the allegation, a license holder or a person employed in a
34096 position requiring licensure.

34097 (9) (a) "Endorsement" means a stipulation appended to a license setting forth the areas
34098 of practice to which the license applies.
34099 (b) An endorsement shall be issued upon completion of a competency-based teacher
34100 preparation program from a regionally accredited university that meets state content standards.
34101 (10) "License" means an authorization issued by the board which permits the holder to
34102 serve in a professional capacity in the public schools. The five levels of licensure are:
34103 (a) "letter of authorization," which is:
34104 (i) a temporary license issued to a person who has not completed requirements for a
34105 competency-based, or level 1, 2, or 3 license, such as:
34106 (A) a student teacher; or
34107 (B) a person participating in an alternative preparation program; or
34108 (ii) a license issued, pursuant to board rules, to a person who has achieved eminence,
34109 or has outstanding qualifications, in a field taught in public schools;
34110 (b) "competency-based license" which is issued to a teacher based on the teacher's
34111 demonstrated teaching skills and abilities;
34112 (c) "level 1 license," which is a license issued upon completion of:
34113 (i) a competency-based teacher preparation program from a regionally accredited
34114 university; or
34115 (ii) an approved preparation program or an alternative preparation program, or pursuant
34116 to an agreement under the NASDTEC Interstate Contract, to candidates who have also met all
34117 ancillary requirements established by law or rule;
34118 (d) "level 2 license," which is a license issued after satisfaction of all requirements for
34119 a level 1 license as well as any additional requirements established by law or rule relating to
34120 professional preparation or experience; and
34121 (e) "level 3 license," which is a license issued to an educator who holds a current Utah
34122 level 2 license and has also received, in the educator's field of practice, National Board
34123 certification or a doctorate from an accredited institution.
34124 (11) "NASDTEC" means the National Association of State Directors of Teacher
34125 Education and Certification.
34126 (12) "NASDTEC Interstate Contract" means the contract implementing Title 53A,
34127 Chapter 6, Part 2, Compact for Interstate Qualification of Educational Personnel, which is

34128 administered through NASDTEC.
34129 (13) "National Board certification" means a current certificate issued by the National
34130 Board for Professional Teaching Standards.
34131 (14) "Necessarily existent small school" means a school classified as a necessarily
34132 existent small school in accordance with Section 53A-17a-109.
34133 (15) "Office" means the Utah State Office of Education.
34134 (16) "Rule" means an administrative rule adopted by the board under [~~Title 63, Chapter~~
34135 ~~46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
34136 (17) "School" means a public or private entity which provides educational services to a
34137 minor child.
34138 (18) "Small school district" means a school district with an enrollment of less than
34139 5,000 students.
34140 (19) "UPPAC" means the Utah Professional Practices Advisory Commission.
34141 Section 746. Section **53A-6-105** is amended to read:
34142 **53A-6-105. Licensing fees -- Credit to subfund -- Payment of expenses.**
34143 (1) The board shall levy a fee for each new, renewed, or reinstated license or
34144 endorsement in accordance with Section [~~63-38-3.2~~] 63J-1-303.
34145 (2) Fee payments are credited to the Professional Practices Restricted Subfund in the
34146 Uniform School Fund.
34147 (3) The board shall pay the expenses of issuing licenses and of UPPAC operations, and
34148 the costs of collecting license fees from the restricted subfund.
34149 (4) The office shall submit an annual report to the Legislature's Public Education
34150 Appropriations Subcommittee informing the Legislature about the fund, fees assessed and
34151 collected, and expenditures from the fund.
34152 Section 747. Section **53A-6-112** is amended to read:
34153 **53A-6-112. Grants for licensed teachers.**
34154 (1) As used in this section:
34155 (a) "Licensed teacher" means a teacher who holds:
34156 (i) a level 1, level 2, or level 3 license; and
34157 (ii) the endorsements required by board rule for the teacher's assignments.
34158 (b) "National Board certification" means a current certificate issued by the National

34159 Board for Professional Teaching Standards.
34160 (2) A grant program is created to minimize out-of-pocket expenses of licensed teachers
34161 to:
34162 (a) obtain National Board certification; or
34163 (b) take tests to meet federal highly qualified teacher standards as defined in 20 U.S.C.
34164 Sec. 7801.
34165 (3) The State Board of Education shall give grants to school districts and charter
34166 schools for the purpose stated in Subsection (2) from monies appropriated by the Legislature
34167 for that purpose.
34168 (4) To receive a grant, a school district or charter school shall provide matching funds
34169 to minimize out-of-pocket expenses of licensed teachers to obtain National Board certification
34170 or to take tests to meet federal highly qualified teacher standards in an amount equal to the
34171 grant.
34172 (5) Grant monies and matching funds shall be used to pay for costs of licensed teachers
34173 that are directly related to:
34174 (a) obtaining National Board certification; or
34175 (b) taking tests that, if the licensed teacher passes, the teacher meets federal highly
34176 qualified teacher standards.
34177 (6) The State Board of Education shall distribute money appropriated by the
34178 Legislature to school districts and charter schools to pay for costs of licensed teachers directly
34179 related to obtaining National Board certification or taking tests to meet federal highly qualified
34180 teacher standards in accordance with:
34181 (a) Subsection (4); and
34182 (b) a formula adopted by the board, after consultation with school districts and charter
34183 schools, that allocates the funding in a fair and equitable manner.
34184 (7) The State Board of Education shall make rules in accordance with [~~Title 63,~~
34185 ~~Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer this
34186 section.
34187 Section 748. Section **53A-6-503** is amended to read:
34188 **53A-6-503. Reimbursement of legal fees and costs to educators.**
34189 (1) As used in this section:

34190 (a) "Action" means any action, except those referred to in Section [~~63-30a-2~~] 52-6-201,
34191 brought against an educator by an individual or entity other than:
34192 (i) the entity who licenses the educator; and
34193 (ii) the school district that employs the educator or employed the educator at the time
34194 of the alleged act or omission.
34195 (b) "Educator" means an individual who holds or is required to hold a license under
34196 this chapter and is employed by a school district located within the state.
34197 (c) "School district" includes the Schools for the Deaf and the Blind and the state's
34198 applied technology centers.
34199 (2) Except as otherwise provided in Section [~~63-30a-2~~] 52-6-201, an educator is
34200 entitled to recover reasonable attorneys' fees and costs incurred in [~~his~~] the educator's defense
34201 against an individual or entity who initiates an action against the educator if:
34202 (a) the action is brought for any act or omission of the educator during the performance
34203 of the educator's duties within the scope of the educator's employment; and
34204 (b) it is dismissed or results in findings favorable to the educator.
34205 (3) An educator who recovers under this section is also entitled to recover reasonable
34206 attorneys' fees and costs necessarily incurred by the educator in recovering the attorneys' fees
34207 and costs allowed under Subsection (2).
34208 Section 749. Section **53A-11-102.5** is amended to read:
34209 **53A-11-102.5. Dual enrollment.**
34210 (1) A person having control of a minor under this part who is enrolled in a regularly
34211 established private school or a home school may also enroll the minor in a public school for
34212 dual enrollment purposes.
34213 (2) The minor may participate in any academic activity in the public school available to
34214 students in the minor's grade or age group, subject to compliance with the same rules and
34215 requirements that apply to a full-time student's participation in the activity.
34216 (3) Except as otherwise provided in Sections 53A-11-101.5 and 53A-11-102, a student
34217 enrolled in a public school may also be enrolled in a private school or a home school for dual
34218 enrollment purposes.
34219 (4) A student enrolled in a dual enrollment program is considered a student of the
34220 district in which the public school of attendance is located for purposes of state funding to the

34221 extent of the student's participation in the public school programs.
34222 (5) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
34223 Administrative Rulemaking Act, the State Board of Education shall make rules for purposes of
34224 dual enrollment to govern and regulate the transferability of credits toward graduation that are
34225 earned in a private or home school.
34226 (6) The State Board of Education shall determine the policies and procedures necessary
34227 to permit students enrolled under Subsection (1) to participate in public school extracurricular
34228 activities.
34229 Section 750. Section **53A-12-103** is amended to read:
34230 **53A-12-103. Waiver of fees.**
34231 (1) (a) A local school board shall require, as part of an authorization granted under
34232 Section 53A-12-102, that adequate waivers or other provisions are available to ensure that no
34233 student is denied the opportunity to participate because of an inability to pay the required fee,
34234 deposit, or charge.
34235 (b) (i) If, however, a student must repeat a course or requires remediation to advance or
34236 graduate and a fee is associated with the course or the remediation program, it is presumed that
34237 the student will pay the fee.
34238 (ii) If the student or the student's parent or guardian is financially unable to pay the fee,
34239 the board shall provide for alternatives to waiving the fee, which may include installment
34240 payments and school or community service or work projects for the student.
34241 (iii) In cases of extreme financial hardship or where the student has suffered a
34242 long-term illness, or death in the family, or other major emergency and where installment
34243 payments and the imposition of a service or work requirement would not be reasonable, the
34244 student may receive a partial or full waiver of the fee required under Subsection (1)(b)(i).
34245 (iv) The waiver provisions in Subsections (2) and (3) apply to all other fees, deposits,
34246 and charges made in the secondary schools.
34247 (2) (a) The board shall require each school in the district that charges a fee under this
34248 chapter to provide a variety of alternatives for satisfying the fee requirement to those who
34249 qualify for fee waivers, in addition to the outright waiver of the fee.
34250 (b) The board shall develop and provide a list of alternatives for the schools, including
34251 such options as allowing the student to provide:

34252 (i) tutorial assistance to other students;
34253 (ii) assistance before or after school to teachers and other school personnel on school
34254 related matters; and
34255 (iii) general community or home service.
34256 (c) Each school may add to the list of alternatives provided by the board, subject to
34257 approval by the board.
34258 (3) A local school board may establish policies providing for partial fee waivers or
34259 other alternatives for those students who, because of extenuating circumstances, are not in a
34260 financial position to pay the entire fee.
34261 (4) With regard to children who are in the custody of the Division of Child and Family
34262 Services who are also eligible under Title IV-E of the federal Social Security Act, local school
34263 boards shall require fee waivers or alternatives in accordance with Subsections (1) through (3).
34264 (5) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
34265 Administrative Rulemaking Act, the State Board of Education shall make rules:
34266 (a) requiring a parent or guardian of a student applying for a fee waiver to provide
34267 documentation and certification to the school verifying:
34268 (i) the student's eligibility to receive the waiver; and
34269 (ii) that the alternatives for satisfying the fee requirements under Subsection (2) have
34270 been complied with to the fullest extent reasonably possible according to the individual
34271 circumstances of both the fee waiver applicant and the school; and
34272 (b) specifying the acceptable forms of documentation for the requirement under
34273 Subsection (5)(a), which shall include verification based on income tax returns or current pay
34274 stubs.
34275 (6) Notwithstanding the requirements under Subsection (5), a school is not required to
34276 keep documentation on file after the verification is completed.
34277 Section 751. Section **53A-13-101.6** is amended to read:
34278 **53A-13-101.6. Instruction on the flag of the United States of America.**
34279 (1) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
34280 Administrative Rulemaking Act, the State Board of Education shall provide by rule for a
34281 program of instruction within the public schools relating to the flag of the United States.
34282 (2) The instruction shall include the history of the flag, etiquette, customs pertaining to

34283 the display and use of the flag, and other patriotic exercises as provided by Sections 36 U.S.C.
34284 170 to 177.
34285 (3) (a) The pledge of allegiance to the flag shall be recited:
34286 (i) at the beginning of the day in each elementary public school in the state; and
34287 (ii) once a week at the beginning of a school day in each public secondary school in the
34288 state.
34289 (b) Each student shall be informed by posting a notice in a conspicuous place that the
34290 student has the right not to participate in reciting the pledge.
34291 (c) A student shall be excused from reciting the pledge upon written request from the
34292 student's parent or legal guardian.
34293 Section 752. Section **53A-13-106** is amended to read:
34294 **53A-13-106. Instruction in firearm safety -- Purpose -- School districts to**
34295 **implement volunteer education classes -- Parental consent exception.**
34296 (1) (a) School districts may permit the use of district approved volunteers or school
34297 district teachers for instruction of firearm safety education classes for students.
34298 (b) The volunteers or school district teachers instructing the firearm safety education
34299 class are encouraged to utilize donated materials prepared by firearms training and education
34300 organizations or to develop their own materials within existing budgets.
34301 (2) The purpose of firearm safety education is to:
34302 (a) develop the knowledge, habits, skills, and attitudes necessary for the safe handling
34303 of firearms; and
34304 (b) help students avoid firearm injuries.
34305 (3) School districts may offer firearm safety instruction to students in grades
34306 kindergarten through four to teach them that in order to avoid injury when they find a firearm
34307 they should:
34308 (a) not touch it;
34309 (b) tell an adult about finding the firearm and its location; and
34310 (c) be able to share the instruction provided in Subsections (a) and (b) with any other
34311 minors who are with them when they find a firearm.
34312 (4) As used in this chapter, "firearm" means any firearm as defined in Section
34313 76-10-501.

34314 (5) The State Board of Education shall make rules promulgated pursuant to [~~Title 63,~~
34315 ~~Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for:
34316 (a) use of certified volunteers for instruction of firearm safety education classes in the
34317 public schools;
34318 (b) use of public school classrooms or auditoriums for these classes;
34319 (c) school district review of donated materials before their use; and
34320 (d) proof of certification as a firearm safety instructor.
34321 (6) (a) A local school board may require every student in grades kindergarten through
34322 six to participate in a firearm safety education class offered within the public schools under this
34323 section.
34324 (b) A student may be exempted from participation upon notification to the local school
34325 by the student's parent or legal guardian that the parent or legal guardian wants the student
34326 exempted from the class in its entirety or any portion specified.
34327 (7) If a student is exempted under Subsection (6), the school may provide other
34328 activities during the period of time in which the student would otherwise be participating in the
34329 program.
34330 (8) The school districts may permit the Division of Wildlife Resources, local law
34331 enforcement agencies, peace officers as defined in Title 53, Chapter 13, Peace Officer
34332 Classifications, certified instructors, certified hunter education instructors, and other certified
34333 firearms safety instructors, as provided by rules adopted under Subsection (5)(a) to teach the
34334 firearm safety education class on a voluntary basis.
34335 (9) The school district is encouraged to maximize the use of existing firearm safety
34336 educational materials which are available at minimal or no cost and the use of certified
34337 volunteer instructors.
34338 (10) The school district may review the class on a regular basis for its effectiveness.
34339 Section 753. Section **53A-13-201** is amended to read:
34340 **53A-13-201. Driver education established by school districts.**
34341 (1) As used in this part:
34342 (a) "Driver education" includes classroom instruction and driving and observation in a
34343 dual-controlled motor vehicle.
34344 (b) "Driving" or "behind-the-wheel driving" means operating a dual-controlled motor

34345 vehicle under the supervision of a certified instructor.
34346 (2) (a) Local school districts may establish and maintain driver education for pupils.
34347 (b) A school or local school district that provides driver education shall provide an
34348 opportunity for each pupil enrolled in that school or local school district to take the written test
34349 when the pupil is 15 years and nine months of age.
34350 (c) Notwithstanding the provisions of Subsection (2)(b), a school or local school
34351 district that provides driver education may provide an opportunity for each pupil enrolled in
34352 that school or school district to take the written test when the pupil is 15 years of age.
34353 (3) The purpose of driver education is to help develop the knowledge, attitudes, habits,
34354 and skills necessary for the safe operation of motor vehicles.
34355 (4) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
34356 Administrative Rulemaking Act, the State Board of Education shall make rules for driver
34357 education offered in the public schools.
34358 (5) The rules under Subsection (4) shall:
34359 (a) require at least one hour of classroom training on the subject of railroad crossing
34360 safety for each driver education pupil; and
34361 (b) establish minimum standards for approved driving ranges under Section
34362 53-3-505.5.
34363 (6) The requirements of Section 53-3-505.5 apply to any behind-the-wheel driving
34364 training provided as part of driver education offered under this part and used to satisfy the
34365 driver training requirement under Section 53-3-204.
34366 Section 754. Section **53A-13-208** is amended to read:
34367 **53A-13-208. Driver education teachers certified as license examiners.**
34368 (1) The Driver License Division of the Department of Public Safety and the State
34369 Board of Education through the State Office of Education shall establish procedures and
34370 standards to certify teachers of driver education classes under this part to administer written
34371 and driving tests.
34372 (2) The division is the certifying authority.
34373 (3) (a) A teacher certified under this section shall give written and driving tests
34374 designed for driver education classes authorized under this part.
34375 (b) The Driver License Division shall, in conjunction with the State Office of

34376 Education, establish minimal standards for the driver education class tests that are at least as
34377 difficult as those required to receive a class D operator's license under Title 53, Chapter 3,
34378 Uniform Drivers License Act.
34379 (c) A student who passes the written test but fails the driving test given by a teacher
34380 certified under this section may apply for a learner permit or class D operator's license under
34381 Title 53, Chapter 3, Part 2, Driver Licensing Act, and complete the driving test at a Driver
34382 License Division office.
34383 (4) A student shall have a learner permit issued by the Driver License Division under
34384 Section 53-3-210.5 in the student's immediate possession at all times when operating a motor
34385 vehicle under this section.
34386 (5) A student who successfully passes the tests given by a certified driver education
34387 teacher under this section satisfies the written and driving parts of the test required for a learner
34388 permit or class D operator's license.
34389 (6) The Driver License Division and the State Board of Education shall establish
34390 procedures to enable school districts to administer or process any tests for students to receive a
34391 learner permit or class D operator's license.
34392 (7) The division and board shall establish the standards and procedures required under
34393 this section by rules made in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
34394 Utah Administrative Rulemaking Act.
34395 Section 755. Section **53A-13-209** is amended to read:
34396 **53A-13-209. Programs authorized -- Minimum standards.**
34397 (1) Local school districts may:
34398 (a) allow students to complete the classroom training portion of driver education
34399 through the following programs:
34400 (i) home study; or
34401 (ii) the electronic high school;
34402 (b) provide each parent with driver education instructional materials to assist in parent
34403 involvement with driver education including behind-the-wheel driving materials;
34404 (c) offer driver education outside of school hours in order to reduce the cost of
34405 providing driver education;
34406 (d) offer driver education through community education programs;

34407 (e) offer the classroom portion of driver education in the public schools and allow the
34408 student to complete the behind-the-wheel portion with a private provider:
34409 (i) licensed under Section 53-3-504; and
34410 (ii) not associated with the school or under contract with the school under Subsection
34411 53A-13-202(3); or
34412 (f) any combination of Subsections (1)(a) through (e).
34413 (2) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
34414 Administrative Rulemaking Act, the State Board of Education shall establish minimum
34415 standards for the school-related programs under Subsection (1).
34416 Section 756. Section **53A-15-101.5** is amended to read:
34417 **53A-15-101.5. Concurrent enrollment instruction in Mandarin Chinese.**
34418 (1) (a) As used in this section, "category IV languages" means those languages
34419 designated the most difficult to learn by the Defense Language Institute as provided in training
34420 to members of the United States Military.
34421 (b) The Legislature recognizes:
34422 (i) the importance of students acquiring skills in foreign languages in order for them to
34423 successfully compete in a global society; and
34424 (ii) that the acquisition of category IV languages, such as Mandarin Chinese, Arabic,
34425 Korean, and Japanese, by students in the state's public schools requires extended sequences of
34426 study to acquire useful proficiency in listening, speaking, reading, and writing.
34427 (2) (a) As a component of the concurrent enrollment program authorized under Section
34428 53A-15-101, the State Board of Education and the State Board of Regents, in consultation with
34429 the Utah Education Network, may develop and implement a concurrent enrollment course of
34430 study in the category IV language of Mandarin Chinese.
34431 (b) The course shall be taught over EDNET, the state's two-way interactive system for
34432 video and audio, to high school juniors and seniors in the state's public education system.
34433 (3) (a) The concurrent enrollment course in Mandarin Chinese authorized in
34434 Subsection (2) may use paraprofessionals in the classroom who:
34435 (i) are fluent in Mandarin Chinese; and
34436 (ii) can provide reinforcement and tutoring to students on days and at times when they
34437 are not receiving instruction over EDNET under Subsection (2)(b).

34438 (b) The State Board of Education, through the State Superintendent of Public
34439 Instruction, and professors who teach Chinese in the state system of higher education shall
34440 jointly ensure that the paraprofessionals are fluent in Mandarin Chinese.
34441 (4) The State Board of Education and the State Board of Regents shall make joint rules
34442 on the concurrent enrollment course authorized under this section in accordance with [~~Title 63,~~
34443 ~~Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to include:
34444 (a) notification to school districts on the times and places of the course offerings; and
34445 (b) instructional materials for the course.
34446 (5) Students who successfully complete the concurrent enrollment course offered under
34447 this section shall receive tuition reimbursement for a sequential Mandarin Chinese course they
34448 successfully complete at an institution within the state system of higher education under rules
34449 made by the State Board of Regents in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
34450 Chapter 3, Utah Administrative Rulemaking Act.
34451 (6) The State Board of Education and the State Board of Regents shall jointly track and
34452 monitor the Mandarin Chinese language program and may expand the program to include other
34453 category IV languages, subject to student demand for the courses and available resources.
34454 Section 757. Section **53A-15-104** is amended to read:
34455 **53A-15-104. Critical Languages Program -- Pilot.**
34456 (1) (a) As used in this section, "critical languages" means those languages described in
34457 the federal National Security Language Initiative, including Chinese, Arabic, Russian, Farsi,
34458 Hindi, and Korean.
34459 (b) The Legislature recognizes:
34460 (i) the importance of students acquiring skills in foreign languages in order for them to
34461 successfully compete in a global society; and
34462 (ii) the academic, societal, and economic development benefits of the acquisition of
34463 critical languages.
34464 (2) (a) The State Board of Education, in consultation with the Utah Education
34465 Network, shall develop and implement courses of study in the critical languages.
34466 (b) A course may be taught:
34467 (i) over EDNET, the state's two-way interactive system for video and audio, to students
34468 in the state's public education system; or

34469 (ii) through the Electronic High School.
34470 (3) (a) The courses authorized in Subsection (2) may use paraprofessionals in the
34471 classroom who:
34472 (i) are fluent in the critical language being taught; and
34473 (ii) can provide reinforcement and tutoring to students on days and at times when they
34474 are not receiving instruction over EDNET under Subsection (2)(b).
34475 (b) The State Board of Education, through the state superintendent of public
34476 instruction, shall ensure that the paraprofessionals are fluent in the critical languages.
34477 (4) The State Board of Education shall make rules on the critical languages courses
34478 authorized under this section in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
34479 Utah Administrative Rulemaking Act, to include:
34480 (a) notification to school districts on the times and places of the course offerings; and
34481 (b) instructional materials for the courses.
34482 (5) The State Board of Education shall track and monitor the Critical Languages
34483 Program and may expand the program to include more course offerings and other critical
34484 languages, subject to student demand for the courses and available resources.
34485 (6) Subject to funding for the program, the State Board of Education shall establish a
34486 pilot program for school districts and schools to initially participate in the Critical Languages
34487 Program that provides:
34488 (a) $6,000 per language per school, for up to 20 schools, for courses offered in critical
34489 languages;
34490 (b) $100 per student who completes a critical languages course; and
34491 (c) an additional $400 per foreign exchange student who completes a critical languages
34492 course.
34493 Section 758. Section **53A-16-101.5** is amended to read:
34494 **53A-16-101.5. School LAND Trust Program -- Purpose -- Distribution of funds --**
34495 **School plans for use of funds.**
34496 (1) There is established the School LAND (Learning And Nurturing Development)
34497 Trust Program for the state's public schools to provide financial resources to enhance or
34498 improve student academic achievement and implement a component of the school
34499 improvement plan.

34500 (2) (a) The program shall be funded each fiscal year:
34501 (i) from the Interest and Dividends Account created in Section 53A-16-101; and
34502 (ii) in the amount of the sum of the following:
34503 (A) the interest and dividends from the investment of monies in the permanent State
34504 School Fund deposited to the Interest and Dividends Account in the immediately preceding
34505 year; and
34506 (B) interest accrued on monies in the Interest and Dividends Account in the
34507 immediately preceding fiscal year.
34508 (b) On and after July 1, 2003, the program shall be funded as provided in Subsection
34509 (2)(a) up to a maximum of an amount equal to 2% of the funds provided for the Minimum
34510 School Program, pursuant to Title 53A, Chapter 17a, Minimum School Program Act, each
34511 fiscal year.
34512 (c) The Legislature shall annually allocate, through an appropriation to the State Board
34513 of Education, a portion of School LAND Trust Program monies for the administration of the
34514 program.
34515 (3) (a) The State Board of Education shall allocate the monies referred to in Subsection
34516 (2) annually for the fiscal year beginning July 1, 2000, and for each fiscal year thereafter as
34517 follows:
34518 (i) school districts shall receive 10% of the funds on an equal basis; and
34519 (ii) the remaining 90% of the funds shall be distributed on a per student basis, with
34520 each district receiving its allocation based on the number of students in the district as compared
34521 to the state total.
34522 (b) Each school district shall distribute its allocation under Subsection (3)(a) to each
34523 school within the district on an equal per student basis.
34524 (c) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
34525 Administrative Rulemaking Act, the board may make rules regarding the time and manner in
34526 which the student count shall be made for allocation of the monies.
34527 (4) Except as provided in Subsection (7), in order to receive its allocation under
34528 Subsection (3), a school shall have established a school community council under Section
34529 53A-1a-108.
34530 (5) (a) The school community council or its subcommittee shall develop a program to

34531 use its allocation under Subsection (3) to implement a component of the school's improvement
34532 plan, including:
34533 (i) the school's identified most critical academic needs;
34534 (ii) a recommended course of action to meet the identified academic needs;
34535 (iii) a specific listing of any programs, practices, materials, or equipment which the
34536 school will need to implement a component of its school improvement plan to have a direct
34537 impact on the instruction of students and result in measurable increased student performance;
34538 and
34539 (iv) how the school intends to spend its allocation of funds under this section to
34540 enhance or improve academic excellence at the school.
34541 (b) The school may develop a multiyear program, but the program shall be presented
34542 and approved by the school community council and the local school board of the district in
34543 which the school is located annually and as a prerequisite to receiving program funds allocated
34544 under this section.
34545 (6) (a) Each school shall:
34546 (i) implement the program as approved by the school community council and approved
34547 by the local school board;
34548 (ii) provide ongoing support for the council's or its subcommittee's program;
34549 (iii) meet school board reporting requirements regarding financial and performance
34550 accountability of the program; and
34551 (iv) publicize to its patrons and the general public on how the funds it received under
34552 this section were used to enhance or improve academic excellence at the school and implement
34553 a component of the school's improvement plan, including the results of those efforts.
34554 (b) (i) Each school through its council or its subcommittee shall prepare and present an
34555 annual report of the program to its local school board at the end of the school year.
34556 (ii) The report shall detail the use of program funds received by the school under this
34557 section and an assessment of the results obtained from the use of the funds.
34558 (7) (a) The governing board of a charter school shall prepare a plan for the use of
34559 school trust monies that includes the elements listed in Subsection (5).
34560 (b) The plan shall be subject to approval by the entity that authorized the establishment
34561 of the charter school.

34562 (8) (a) A school community council and a governing board of a charter school may not
34563 be required to:
34564 (i) send a letter to legislators or other elected officials on the school's use of School
34565 LAND Trust Program monies as a condition of receiving the monies; or
34566 (ii) report to the State Board of Education or any local school board on whether any
34567 letters were sent to legislators or other elected officials on the school's use of School LAND
34568 Trust Program monies.
34569 (b) Subsection (8)(a)(i) does not apply to the annual report to the local school board
34570 required by Subsection (6)(b).
34571 Section 759. Section **53A-17a-105** is amended to read:
34572 **53A-17a-105. Action required for underestimated or overestimated weighted**
34573 **pupil units -- Action required for underestimating or overestimating local contributions.**
34574 (1) If the number of weighted pupil units in a program is underestimated in Section
34575 53A-17a-104, the amount per pupil in that program paid under this chapter must be reduced so
34576 that the amount paid does not exceed the estimated amount by program.
34577 (2) If the number of weighted pupil units in a program is overestimated in Section
34578 53A-17a-104, the state superintendent of public instruction shall either increase the amount
34579 paid in that program per weighted pupil unit or transfer the unused amount in that program to
34580 another program included in the minimum school program.
34581 (3) (a) If surplus funds are transferred to another program, the state superintendent, if
34582 [~~he~~] the state superintendent determines certain districts have greater need for additional funds,
34583 may designate the districts as well as the programs to which the transferred funds will be
34584 allocated.
34585 (b) Any amounts transferred under Subsection (a) may be spent in addition to the
34586 amounts listed in Section 53A-17a-104.
34587 (4) The limitation on the proceeds from local tax rates for operation and maintenance
34588 programs under this chapter is subject to modification by local school boards under Sections
34589 53A-17a-133 and 53A-17a-134 and to special tax rates authorized by this chapter, and shall be
34590 adjusted accordingly.
34591 (5) If local contributions are overestimated, the guarantee per weighted pupil unit is
34592 reduced for all programs so the total state contribution for operation and maintenance programs

34593 does not exceed the amount authorized in Subsection 53A-17a-104(1).
34594 (6) (a) If local contributions from the basic tax rate for operation and maintenance
34595 programs are underestimated, the excess is applied first to support the value of the weighted
34596 pupil unit as set by the Legislature for total weighted pupil units generated by the districts and
34597 those costs of Social Security and retirement, transportation, and board and voted leeway that
34598 occur as a result of the additional generated weighted pupil units, following internal
34599 adjustments by the state superintendent as provided in this section.
34600 (b) The state contribution is decreased so the total school program cost for operation
34601 and maintenance programs does not exceed the total estimated contributions to school districts
34602 for all programs under Subsection 53A-17a-104(2) plus the amount of local revenue necessary
34603 to support the value of the weighted pupil unit for weighted pupil units generated and those
34604 costs of Social Security and retirement, transportation, and board and voted leeway that occur
34605 as a result of the additional generated weighted pupil units.
34606 (7) As an exception to Section [~~63-38-8~~] 63J-1-401, the state fiscal officer may not
34607 close out appropriations from the Uniform School Fund at the end of a fiscal year.
34608 Section 760. Section **53A-17a-107** is amended to read:
34609 **53A-17a-107. Professional staff weighted pupil units.**
34610 (1) Professional staff weighted pupil units are computed and distributed in accordance
34611 with the following schedule:
34612 (a) Professional Staff Cost Formula

34613				Master's	
34614 Years of	Bachelor's	Bachelor's	Master's	Degree	
34615 Experience	Degree	+30 Qt. Hr.	Degree	+45 Qt. Hr.	Doctorate
34616 1	1.00	1.05	1.10	1.15	1.20
34617 2	1.05	1.10	1.15	1.20	1.25
34618 3	1.10	1.15	1.20	1.25	1.30
34619 4	1.15	1.20	1.25	1.30	1.35
34620 5	1.20	1.25	1.30	1.35	1.40
34621 6	1.25	1.30	1.35	1.40	1.45
34622 7	1.30	1.35	1.40	1.45	1.50
34623 8	1.35	1.40	1.45	1.50	1.55

9	1.50	1.55	1.60
10		1.60	1.65
11			1.70

(b) Multiply the number of full-time or equivalent professional personnel in each applicable experience category in Subsection (1)(a) by the applicable weighting factor.

(c) Divide the total of Subsection (1)(b) by the number of professional personnel included in Subsection (1)(b) and reduce the quotient by 1.00.

(d) Multiply the result of Subsection (1)(c) by 1/4 of the weighted pupil units computed in accordance with Sections 53A-17a-106 and 53A-17a-109.

(2) The State Board of Education shall enact rules in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which require a certain percentage of a district's professional staff to be certified in the area in which they teach in order for the district to receive full funding under the schedule.

(3) If an individual's teaching experience is a factor in negotiating a contract of employment to teach in the state's public schools, then the local school board is encouraged to accept as credited experience all of the years the individual has taught in the state's public schools.

Section 761. Section **53A-17a-111** is amended to read:

53A-17a-111. Weighted pupil units for programs for students with disabilities -- District allocation.

(1) The number of weighted pupil units for students with disabilities shall reflect the direct cost of programs for those students conducted in accordance with rules established by the State Board of Education in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) Disability program monies allocated to districts are restricted and shall be spent for the education of students with disabilities but may include expenditures for approved programs of services conducted for certified instructional personnel who have students with disabilities in their classes.

(3) The State Board of Education shall establish and strictly interpret definitions and provide standards for determining which students have disabilities and shall assist districts in determining the services that should be provided to students with disabilities.

34655 (4) Each year the board shall evaluate the standards and guidelines that establish the
34656 identifying criteria for disability classifications to assure strict compliance with those standards
34657 by the districts.
34658 (5) (a) Monies appropriated to the State Board of Education in Section 53A-17a-104
34659 for add-on WPUs for students with disabilities enrolled in regular programs shall be allocated
34660 to school districts as provided in this Subsection (5).
34661 (b) Beginning on July 1, 2003, the State Board of Education shall:
34662 (i) use a district's average number of special education add-on weighted pupil units
34663 determined by the previous five year's average daily membership data as a foundation for the
34664 special education add-on appropriation; and
34665 (ii) implement a hold harmless provision for up to three years as needed to accomplish
34666 a phase-in period for school districts to accommodate the change in the special education
34667 add-on WPUs foundation formula.
34668 (c) A district's special education add-on WPUs for the current year may not be less than
34669 the foundation special education add-on WPUs.
34670 (d) Growth WPUs shall be added to the prior year special education add-on WPUs, and
34671 growth WPUs shall be determined as follows:
34672 (i) The special education student growth factor is calculated by comparing S-3 total
34673 special education ADM of two years previous to the current year to the S-3 total special
34674 education ADM three years previous to the current year, not to exceed the official October total
34675 district growth factor from the prior year.
34676 (ii) When calculating and applying the growth factor, a district's S-3 total special
34677 education ADM for a given year is limited to 12.18% of the district's S-3 total student ADM
34678 for the same year.
34679 (iii) Growth ADMs are calculated by applying the growth factor to the S-3 total special
34680 education ADM of two years previous to the current year.
34681 (iv) Growth ADMs for each district are multiplied by 1.53 weighted pupil units and
34682 added to the prior year special education add-on WPU to determine each district's total
34683 allocation.
34684 (6) If monies appropriated under this chapter for programs for students with disabilities
34685 do not meet the costs of districts for those programs, each district shall first receive the amount

34686 generated for each student with a disability under the basic program.
34687 Section 762. Section **53A-17a-120** is amended to read:
34688 **53A-17a-120. Appropriation for accelerated learning programs.**
34689 (1) Money appropriated to the State Board of Education in Section 53A-17a-104 for
34690 accelerated learning programs shall be allocated to local school boards and charter schools for
34691 the following programs:
34692 (a) programs in grades 1-12 for the gifted and talented; and
34693 (b) advanced placement.
34694 (2) (a) Districts shall spend monies for these programs according to rules established
34695 by the State Board of Education in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter
34696 3, Utah Administrative Rulemaking Act.
34697 (b) The State Board of Education shall develop uniform and consistent policies for
34698 school districts to follow in utilizing advanced placement monies.
34699 Section 763. Section **53A-17a-121** is amended to read:
34700 **53A-17a-121. Appropriation for at-risk programs.**
34701 (1) Money appropriated to the State Board of Education in Section 53A-17a-104 for
34702 at-risk programs shall be allocated to local school boards for the following programs:
34703 (a) youth in custody;
34704 (b) homeless and disadvantaged minority students;
34705 (c) mathematics, engineering, and science achievement programs;
34706 (d) gang prevention and intervention; and
34707 (e) at-risk flow through.
34708 (2) Districts shall spend monies for these programs according to rules established by
34709 the State Board of Education in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
34710 Utah Administrative Rulemaking Act.
34711 (3) (a) From the amount appropriated for youth at risk programs, the board shall
34712 allocate moneys to school districts for homeless and disadvantaged minority students.
34713 (b) Each district shall receive its allocation on the basis of:
34714 (i) the total number of homeless students in the district;
34715 (ii) added to 50% of the number of disadvantaged minority students in the district;
34716 (iii) multiplying the total of Subsections (3)(b)(i) and (ii) by the value of the weighted

34717 pupil unit; and
34718 (iv) prorating the amount under Subsection (3)(b)(iii) to the amount in Subsection
34719 (3)(a).
34720 (4) (a) From the amount appropriated for at-risk programs, the board shall allocate
34721 monies for mathematics, engineering, and science achievement programs, MESA programs, in
34722 the districts.
34723 (b) The board shall make the distribution to school districts on a competitive basis by
34724 application under guidelines established by the board.
34725 (5) (a) From the amount appropriated for at-risk programs, the board shall distribute
34726 moneys for gang prevention and intervention programs at the district or school level.
34727 (b) The board shall make the distribution to school districts under guidelines
34728 established by the board consistent with Section 53A-15-601.
34729 (6) (a) From the amount appropriated for at-risk programs, the board shall distribute
34730 moneys for programs for youth in custody.
34731 (b) The board shall allocate these moneys to school districts which operate programs
34732 for youth in custody in accordance with standards established by the board.
34733 (7) From the amount appropriated for at-risk programs, the board shall allocate monies
34734 based on:
34735 (a) a formula which takes into account prior year WPU's per district and a district's low
34736 income population; and
34737 (b) a minimum base of no less than $18,600 for small school districts.
34738 Section 764. Section **53A-17a-131.9** is amended to read:
34739 **53A-17a-131.9. Agencies coming together for children and youth at risk.**
34740 (1) Monies appropriated to or received by the State Board of Education to maintain
34741 [~~Title 63, Chapter 75~~] Title 63M, Chapter 9, Families, Agencies, and Communities Together
34742 for Children and Youth At Risk Act, shall be subject to the provisions of this section.
34743 (2) Participation in the at risk programs funded under this section shall require consent
34744 from a parent or legal guardian for the participant to receive initial or continuing services under
34745 the program.
34746 (3) A participant's parent or legal guardian shall be actively involved in the program
34747 and all applicable state and federal laws and regulations shall be observed by the entities and

34748 individuals providing the services.
34749 (4) The board shall use the appropriation to experiment on a community full-service
34750 delivery system level to provide data on the merits of moving the concept to a fully
34751 implemented statewide system.
34752 Section 765. Section **53A-17a-131.15** is amended to read:
34753 **53A-17a-131.15. State contribution for the Electronic High School.**
34754 Money appropriated to the State Board of Education in Section 53A-17a-104 for the
34755 Electronic High School shall be distributed to the school according to rules established by the
34756 board in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
34757 Rulemaking Act.
34758 Section 766. Section **53A-17a-131.17** is amended to read:
34759 **53A-17a-131.17. State contribution for School LAND Trust Program.**
34760 (1) If the amount of money prescribed for funding the School LAND Trust Program in
34761 Section 53A-16-101.5 is less than or greater than the money appropriated in Section
34762 53A-17a-104 for the School LAND Trust Program, the appropriation shall be equal to the
34763 amount of money prescribed for funding the School LAND Trust Program in Section
34764 53A-16-101.5, up to a maximum of an amount equal to 2% of the funds provided for the
34765 Minimum School Program, pursuant to Title 53A, Chapter 17a, Minimum School Program
34766 Act.
34767 (2) The State Board of Education shall distribute the money appropriated in Subsection
34768 (1) in accordance with Section 53A-16-101.5 and rules established by the board in accordance
34769 with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
34770 Section 767. Section **53A-17a-153** is amended to read:
34771 **53A-17a-153. Educator salary adjustments.**
34772 (1) As used in this section, "educator" means a person employed by a school district,
34773 charter school, or the Utah Schools for the Deaf and the Blind who holds:
34774 (a) a license issued under Title 53A, Chapter 6, Educator Licensing and Professional
34775 Practices Act; and
34776 (b) a position as a:
34777 (i) classroom teacher;
34778 (ii) speech pathologist;

34779 (iii) librarian or media specialist;
34780 (iv) preschool teacher;
34781 (v) school administrator;
34782 (vi) mentor teacher;
34783 (vii) teacher specialist or teacher leader;
34784 (viii) guidance counselor;
34785 (ix) audiologist;
34786 (x) psychologist; or
34787 (xi) social worker.
34788 (2) In recognition of the need to attract and retain highly skilled and dedicated
34789 educators, the Legislature shall annually appropriate money for educator salary adjustments,
34790 subject to future budget constraints.
34791 (3) Money appropriated to the State Board of Education for educator salary
34792 adjustments shall be distributed to school districts, charter schools, and the Utah Schools for
34793 the Deaf and the Blind in proportion to the number of full-time-equivalent educator positions
34794 in a school district, a charter school, or the Utah Schools for the Deaf and the Blind as
34795 compared to the total number of full-time-equivalent educator positions in school districts,
34796 charter schools, and the Utah Schools for the Deaf and the Blind.
34797 (4) School districts, charter schools, and the Utah Schools for the Deaf and the Blind
34798 shall award bonuses to educators as follows:
34799 (a) the amount of the salary adjustment shall be the same for each full-time-equivalent
34800 educator position in the school district, charter school, or the Utah Schools for the Deaf and the
34801 Blind;
34802 (b) a person who is not a full-time educator shall receive a partial salary adjustment
34803 based on the number of hours the person works as an educator; and
34804 (c) salary adjustments may be awarded only to educators who have received a
34805 satisfactory rating or above on their most recent evaluation.
34806 (5) (a) Each school district and charter school and the Utah Schools for the Deaf and
34807 the Blind shall submit a report to the State Board of Education on how the money for salary
34808 adjustments was spent, including the amount of the salary adjustment and the number of full
34809 and partial salary adjustments awarded.

34810 (b) The State Board of Education shall compile the information reported under
34811 Subsection (5) and submit it to the Public Education Appropriations Subcommittee by
34812 November 30 each year.
34813 (6) The State Board of Education may make rules as necessary to administer this
34814 section, in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
34815 Rulemaking Act.
34816 (7) Subject to future budget constraints, the Legislature shall appropriate sufficient
34817 monies each year to:
34818 (a) maintain educator salary adjustments provided in prior years; and
34819 (b) provide educator salary adjustments to new employees.
34820 Section 768. Section **53A-19-105** is amended to read:
34821 **53A-19-105. School district interfund transfers.**
34822 (1) A school district shall spend revenues only within the fund for which they were
34823 originally authorized, levied, collected, or appropriated.
34824 (2) Except as otherwise provided in this section, school district interfund transfers of
34825 residual equity are prohibited.
34826 (3) The State Board of Education may authorize school district interfund transfers of
34827 residual equity when a district states its intent to create a new fund or expand, contract, or
34828 liquidate an existing fund.
34829 (4) The State Board of Education may also authorize school district interfund transfers
34830 of residual equity for a financially distressed district if the board determines the following:
34831 (a) the district has a significant deficit in its maintenance and operations fund caused
34832 by circumstances not subject to the administrative decisions of the district;
34833 (b) the deficit cannot be reasonably reduced under Section 53A-19-104; and
34834 (c) without the transfer, the school district will not be capable of meeting statewide
34835 educational standards adopted by the State Board of Education.
34836 (5) The board shall develop standards for defining and aiding financially distressed
34837 school districts under this section in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
34838 Chapter 3, Utah Administrative Rulemaking Act.
34839 (6) (a) All debt service levies not subject to certified tax rate hearings shall be recorded
34840 and reported in the debt service fund.

34841 (b) Debt service levies under Subsection 59-2-924(2)(a)(v)(C) that are not subject to
34842 the certified tax rate hearing requirements of Sections 59-2-918 and 59-2-919 may not be used
34843 for any purpose other than retiring general obligation debt.
34844 (c) Amounts from these levies remaining in the debt service fund at the end of a fiscal
34845 year shall be used in subsequent years for general obligation debt retirement.
34846 (d) Any amounts left in the debt service fund after all general obligation debt has been
34847 retired may be transferred to the capital projects fund upon completion of the budgetary hearing
34848 process required under Section 53A-19-102.
34849 Section 769. Section **53A-20-101** is amended to read:
34850 **53A-20-101. Construction and alteration of schools and plants -- Advertising for**
34851 **bids -- Payment and performance bonds -- Contracts -- Bidding limitations on local**
34852 **school boards -- Interest of local school board members.**
34853 (1) As used in this section, the word "sealed" does not preclude acceptance of
34854 electronically sealed and submitted bids or proposals in addition to bids or proposals manually
34855 sealed and submitted.
34856 (2) (a) Prior to the construction of any school or the alteration of any existing school
34857 plant, if the total estimated accumulative building project cost exceeds $80,000, a local school
34858 board shall advertise for bids on the project at least ten days before the bid due date.
34859 (b) The board shall have the advertisement published in a newspaper having general
34860 circulation throughout the state and in appropriate construction trade publications that offer
34861 free listings.
34862 (c) A similar advertisement is required in a newspaper published or having general
34863 circulation in any city or county that would be affected by the proposed project.
34864 (d) The advertisement shall:
34865 (i) require sealed proposals for the building project in accordance with plans and
34866 specifications furnished by the local school board;
34867 (ii) state where and when the proposals will be opened and shall reserve the right of the
34868 board to reject any and all proposals; and
34869 (iii) require a certified check or bid bond of not less than 5% of the bid to accompany
34870 the bid.
34871 (3) (a) The board shall meet at the time and place specified in the advertisement and

34872 publicly open and read all received proposals.
34873 (b) If satisfactory bids are received, the board shall award the contract to the lowest
34874 responsible bidder.
34875 (c) If none of the proposals are satisfactory, all shall be rejected.
34876 (d) The board shall again advertise in the manner provided in this section.
34877 (e) If, after advertising a second time no satisfactory bid is received, the board may
34878 proceed under its own direction with the required project.
34879 (4) (a) The check or bond required under Subsection (2)(d) shall be drawn in favor of
34880 the local school board.
34881 (b) If the successful bidder fails or refuses to enter into the contract and furnish the
34882 additional bonds required under this section, then the bidder's check or bond is forfeited to the
34883 district.
34884 (5) A local school board shall require payment and performance bonds of the
34885 successful bidder as required in Section [~~63-56-504~~] 63G-6-505.
34886 (6) (a) A local school board may require in the proposed contract that at least 10% of
34887 the contract price be withheld until the project is completed and accepted by the board.
34888 (b) If money is withheld, the board shall place it in an interest bearing account, and the
34889 interest accrues for the benefit of the contractor and subcontractors.
34890 (c) This money shall be paid upon completion of the project and acceptance by the
34891 board.
34892 (7) (a) A local school board may not bid on projects within the district if the total
34893 accumulative estimated cost exceeds $80,000.
34894 (b) The board may use its resources if no satisfactory bids are received under this
34895 section.
34896 (8) If the local school board determines in accordance with Section [~~63-56-501~~]
34897 63G-6-501 to use a construction manager/general contractor as its method of construction
34898 contracting management on projects where the total estimated accumulative cost exceeds
34899 $80,000, it shall select the construction manager/general contractor using one of the source
34900 selection methods provided for in Sections [~~63-56-401~~] 63G-6-401 through [~~63-56-501~~]
34901 63G-6-501.
34902 (9) A local school board member may not have a direct or indirect financial interest in

34903 the construction project contract.
34904 Section 770. Section **53A-20c-102** is amended to read:
34905 **53A-20c-102. Energy Efficiency Fund -- Contents -- Use of fund monies.**
34906 (1) As used in this section:
34907 (a) "Board" means the Board of the Utah Geological Survey.
34908 (b) "Energy code" means the energy efficiency code adopted by the Division of
34909 Occupational and Professional Licensing under Section 58-56-4.
34910 (c) "Energy efficiency project" means:
34911 (i) for existing buildings, a retrofit to improve energy efficiency; or
34912 (ii) for new buildings, an enhancement to improve energy efficiency beyond the
34913 minimum required by the energy code.
34914 (d) "Fund" means the Energy Efficiency Fund created by this part.
34915 (2) There is created a revolving loan fund known as the Energy Efficiency Fund.
34916 (3) The fund shall consist of:
34917 (a) monies appropriated to it by the Legislature;
34918 (b) monies received for the repayment of loans made from the fund;
34919 (c) monies made available to the state for energy efficiency from any source; and
34920 (d) interest earned on the fund.
34921 (4) (a) The board shall make loans from the fund only to school districts to finance
34922 energy efficiency projects in school district buildings, including paying the costs of
34923 construction, engineering, investigation, inspection, and other related expenses.
34924 (b) The board may not:
34925 (i) make loans from the fund to finance a school district's compliance with the energy
34926 code in the construction of a new building;
34927 (ii) make a loan from the fund with a term of less than two years or more than 12 years;
34928 or
34929 (iii) make loans from the fund to any entity other than a school district.
34930 (5) (a) (i) Each school district seeking a loan shall submit an application to the board in
34931 the form and containing the information that the board requires, which shall include the plans
34932 and specifications for the proposed energy efficiency project.
34933 (ii) In the application, the school district may request a loan to cover all or part of the

34934 cost of an energy efficiency project.
34935 (b) If an application is rejected, the board shall notify the applicant stating the reasons
34936 for the rejection.
34937 (6) (a) By following the procedures and requirements of [~~Title 63, Chapter 46a~~] Title
34938 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules establishing
34939 criteria for:
34940 (i) determining eligibility for loans; and
34941 (ii) determining appropriate priorities among projects.
34942 (b) In making rules governing determining priorities for eligible projects, the board
34943 may consider:
34944 (i) possible additional sources of revenue;
34945 (ii) the feasibility and practicality of the project;
34946 (iii) the energy savings attributable to an eligible energy efficiency project;
34947 (iv) the annual energy cost savings attributable to an eligible energy efficiency project;
34948 (v) the projected energy cost payback of an eligible energy efficiency project;
34949 (vi) the financial need of the public facility owner;
34950 (vii) the environmental and other benefits to the state and local community attributable
34951 to an eligible energy efficiency project; and
34952 (viii) the availability of federal funds for the project.
34953 (7) (a) In approving a project, the board shall:
34954 (i) review the loan application and the plans and specifications for the project;
34955 (ii) determine whether or not to grant the loan by applying its eligibility criteria; and
34956 (iii) if the loan is granted, prioritize the project by applying its priority criteria.
34957 (b) The board may condition approval of a loan request and the availability of funds on
34958 assurances from the school district that the board considers necessary to ensure that:
34959 (i) the proceeds of the loan will be used to pay the cost of the project; and
34960 (ii) the project will be completed.
34961 (8) Employees of the state energy program shall serve as staff to the board when it
34962 performs the duties established in this section.
34963 Section 771. Section **53A-21-103** is amended to read:
34964 **53A-21-103. Qualifications for participation in the foundation program --**

34965 **Distribution of monies -- Distribution formulas.**
34966 (1) In order for a school district to qualify for monies under the Capital Outlay
34967 Foundation Program established in Subsection 53A-21-102(1), a local school board must levy a
34968 tax rate of up to .0024 per dollar of taxable value for capital outlay and debt service.
34969 (2) The State Board of Education shall adopt rules in accordance with [~~Title 63,~~
34970 ~~Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
34971 (a) allow a school district levying less than the full .0024 tax rate to receive
34972 proportional funding under the foundation program based upon the percentage of the .0024 tax
34973 rate levied by the district; and
34974 (b) maintain a school district's funding under the Capital Outlay Foundation Program
34975 for up to two years if the school district's funding would otherwise be reduced as a consequence
34976 of changes in the certified tax rate under Section 59-2-924 due to changes in property
34977 valuation.
34978 (3) The State Board of Education shall distribute monies in the Capital Outlay
34979 Foundation Program in accordance with a formula developed by the state superintendent of
34980 public instruction which guarantees that a tax rate of up to .0024 per dollar of taxable value for
34981 capital outlay and debt service yields a minimum amount per pupil in average daily
34982 membership.
34983 Section 772. Section **53A-21-103.5** is amended to read:
34984 **53A-21-103.5. Qualifications for participation in the Enrollment Growth**
34985 **Program -- State Board of Education rules -- Distribution formula.**
34986 (1) As used in this section:
34987 (a) "ADM" means average daily membership.
34988 (b) "Derived valuation" means total school district property tax current collections
34989 from April 1 through the following March 31, divided by the tax rates for the same year.
34990 (c) "Yield per ADM" means the product of the derived valuation multiplied by .0024,
34991 divided by average daily membership.
34992 (2) (a) The State Board of Education shall distribute monies in the Enrollment Growth
34993 Program to qualifying school districts whose:
34994 (i) average net enrollment for the prior three years is a net increase in enrollment; and
34995 (ii) yield per ADM is less than two times the prior year's average yield per ADM for

34996 Utah school districts.
34997 (b) A school district that meets the criteria of Subsection (2)(a) shall receive
34998 Enrollment Growth Program monies in the same proportion that the district's three-year
34999 average net enrollment bears to the total three-year net enrollment of all the districts that meet
35000 the criteria of Subsection (2)(a).
35001 (c) The State Board of Education shall make rules in accordance with [~~Title 63,~~
35002 ~~Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer this
35003 section.
35004 Section 773. Section **53A-24-114** is amended to read:
35005 **53A-24-114. Governor's Committee on Employment of People with Disabilities.**
35006 (1) There is created the Governor's Committee on Employment of People with
35007 Disabilities.
35008 (2) (a) The State Board of Education shall appoint at least twelve members to the
35009 committee.
35010 (b) The State Board of Education shall ensure that the committee includes members
35011 from the public and private sectors who represent:
35012 (i) business and industry;
35013 (ii) individuals with disabilities and their advocates;
35014 (iii) job training and placement;
35015 (iv) administrative subunits of the state, such as the Department of Human Resource
35016 Management, the Department of Workforce Services, Public Education, Higher Education, and
35017 the Department of Human Services;
35018 (v) labor;
35019 (vi) veterans;
35020 (vii) medical;
35021 (viii) health;
35022 (ix) insurance;
35023 (x) media; and
35024 (xi) the general public.
35025 (c) (i) Except as provided in Subsection (2)(c)(ii), the State Board of Education shall
35026 appoint committee members to serve four-year terms.

35027 (ii) In making the initial appointments to the committee, the State Board of Education
35028 shall appoint approximately 1/2 of the members to two-year terms and 1/2 of the members to
35029 four-year terms.
35030 (d) Committee members shall serve until their successors are appointed and qualified.
35031 (e) The State Board of Education shall fill any vacancy that occurs on the committee
35032 for any reason by appointing a person according to the procedures of this section for the
35033 unexpired term of the vacated member.
35034 (f) The State Board of Education shall select a chair from the membership.
35035 (g) Seven members of the committee are a quorum for the transaction of business.
35036 (3) (a) The committee shall:
35037 (i) promote employment opportunities for individuals with disabilities;
35038 (ii) serve as the designated state liaison to the President's Committee on Employment
35039 of People with Disabilities;
35040 (iii) provide training and technical assistance to employers in implementing the
35041 Americans with Disabilities Act;
35042 (iv) develop and disseminate appropriate information through workshops, meetings,
35043 and other requests in response to needs to employers and others regarding employment of
35044 individuals with disabilities;
35045 (v) establish contacts with various community representatives to identify and resolve
35046 barriers to full participation in employment and community life;
35047 (vi) formally recognize exemplary contributions in the areas of employment, job
35048 placement, training, rehabilitation, support services, medicine, media or public relations, and
35049 personal achievements made by individuals with disabilities;
35050 (vii) advise, encourage, and motivate individuals with disabilities who are preparing
35051 for or seeking employment to reach their full potential as qualified employees;
35052 (viii) advocate for policies and practices that promote full and equal rights for
35053 individuals with disabilities;
35054 (ix) advise the State Board of Education and the governor on issues that affect
35055 employment and other requests for information on disability issues;
35056 (x) prepare an annual report on the progress, accomplishments, and future goals of the
35057 committee and present the report to the State Board of Education and the governor; and

35058 (xi) establish and maintain a cooperative liaison between the governor's office, the
35059 executive director of the committee, and the executive director of the Utah State Office of
35060 Rehabilitation to fulfill the committee's purpose.
35061 (b) The committee may, by following the procedures and requirements of [~~Title 63,~~
35062 ~~Chapter 38e~~] Title 63J, Chapter 5, Federal Funds Procedures, receive and accept federal funds,
35063 and may receive and accept state funds, private gifts, donations, and funds from any source to
35064 carry out its purposes.
35065 (4) The director of the State Office of Rehabilitation shall appoint a person to staff the
35066 committee.
35067 Section 774. Section **53A-26a-302** is amended to read:
35068 **53A-26a-302. Qualifications for certification.**
35069 Each applicant for certification under this chapter shall:
35070 (1) submit an application in a form prescribed by the State Board of Education;
35071 (2) pay a fee determined by the State Board of Education under Section [~~63-38-3.2~~]
35072 63J-1-303 to help offset the costs of implementing this chapter for the administration of
35073 examinations for certification and for the issuance of certificates;
35074 (3) be of good moral character; and
35075 (4) comply with any other qualifications for certification established by the State Board
35076 of Education pursuant to Subsection 53A-26a-202(2).
35077 Section 775. Section **53B-2-107** is amended to read:
35078 **53B-2-107. Appropriations reallocation.**
35079 (1) Notwithstanding the requirements of [~~Title 63, Chapter 38~~] Title 63J, Chapter 1,
35080 Budgetary Procedures Act, appropriations for the support of higher education for the fiscal year
35081 beginning July 1, 2001 and ending June 30, 2002, may be reallocated between line items as
35082 provided in this section.
35083 (2) (a) The president of the University of Utah may reallocate between line items the
35084 appropriations:
35085 (i) described in Items 143-150 and Item 152 in Chapter 334, Laws of Utah 2001; and
35086 (ii) as modified by:
35087 (A) H.B. 1, 2002 General Session; and
35088 (B) H.B. 3, 2002 General Session.

35089 (b) The total amount of money reallocated may not exceed the sum of the reductions
35090 made in H.B. 1, 2002 General Session and H.B. 3, 2002 General Session.
35091 (3) (a) The president of Utah State University may reallocate between line items the
35092 appropriations:
35093 (i) described in Items 154-166 in Chapter 334, Laws of Utah 2001; and
35094 (ii) as modified by:
35095 (A) H.B. 1, 2002 General Session; and
35096 (B) H.B. 3, 2002 General Session.
35097 (b) The total amount of money reallocated may not exceed the sum of the reductions
35098 made in H.B. 1, 2002 General Session and H.B. 3, 2002 General Session.
35099 (4) (a) The president of Weber State University may reallocate between line items the
35100 appropriations:
35101 (i) described in Items 168 and 169 in Chapter 334, Laws of Utah 2001; and
35102 (ii) as modified by:
35103 (A) H.B. 1, 2002 General Session; and
35104 (B) H.B. 3, 2002 General Session.
35105 (b) The total amount of money reallocated may not exceed the sum of the reductions
35106 made in H.B. 1, 2002 General Session and H.B. 3, 2002 General Session.
35107 (5) (a) The president of Southern Utah University may reallocate between line items
35108 the appropriations:
35109 (i) described in Items 170-172 in Chapter 334, Laws of Utah 2001; and
35110 (ii) as modified by:
35111 (A) H.B. 1, 2002 General Session; and
35112 (B) H.B. 3, 2002 General Session.
35113 (b) The total amount of money reallocated may not exceed the sum of the reductions
35114 made in H.B. 1, 2002 General Session and H.B. 3, 2002 General Session.
35115 (6) (a) The president of Snow College may reallocate between line items the
35116 appropriations:
35117 (i) described in Items 173-175 in Chapter 334, Laws of Utah 2001; and
35118 (ii) as modified by:
35119 (A) H.B. 1, 2002 General Session; and

35120 (B) H.B. 3, 2002 General Session.
35121 (b) The total amount of money reallocated may not exceed the sum of the reductions
35122 made in H.B. 1, 2002 General Session and H.B. 3, 2002 General Session.
35123 (7) (a) The president of Dixie State College may reallocate between line items the
35124 appropriations:
35125 (i) described in Items 177-179 in Chapter 334, Laws of Utah 2001; and
35126 (ii) as modified by:
35127 (A) H.B. 1, 2002 General Session; and
35128 (B) H.B. 3, 2002 General Session.
35129 (b) The total amount of money reallocated may not exceed the sum of the reductions
35130 made in H.B. 1, 2002 General Session and H.B. 3, 2002 General Session.
35131 (8) (a) The president of the College of Eastern Utah may reallocate between line items
35132 the appropriations:
35133 (i) described in Items 180-183 in Chapter 334, Laws of Utah 2001; and
35134 (ii) as modified by:
35135 (A) H.B. 1, 2002 General Session; and
35136 (B) H.B. 3, 2002 General Session.
35137 (b) The total amount of money reallocated may not exceed the sum of the reductions
35138 made in H.B. 1, 2002 General Session and H.B. 3, 2002 General Session.
35139 (9) (a) The president of Utah Valley State College may reallocate between line items
35140 the appropriations:
35141 (i) described in Items 184 and 185 in Chapter 334, Laws of Utah 2001; and
35142 (ii) as modified by:
35143 (A) H.B. 1, 2002 General Session; and
35144 (B) H.B. 3, 2002 General Session.
35145 (b) The total amount of money reallocated may not exceed the sum of the reductions
35146 made in H.B. 1, 2002 General Session and H.B. 3, 2002 General Session.
35147 (10) (a) The president of Salt Lake Community College may reallocate between line
35148 items the appropriations:
35149 (i) described in Items 186-188 in Chapter 334, Laws of Utah 2001; and
35150 (ii) as modified by:

35151 (A) H.B. 1, 2002 General Session; and
35152 (B) H.B. 3, 2002 General Session.
35153 (b) The total amount of money reallocated may not exceed the sum of the reductions
35154 made in H.B. 1, 2002 General Session and H.B. 3, 2002 General Session.
35155 (11) (a) The State Board of Regents may reallocate between line items the
35156 appropriations:
35157 (i) described in Items 189, 190, and 192-199 in Chapter 334, Laws of Utah 2001; and
35158 (ii) as modified by:
35159 (A) H.B. 1, 2002 General Session; and
35160 (B) H.B. 3, 2002 General Session.
35161 (b) The total amount of money reallocated may not exceed the sum of the reductions
35162 made in H.B. 1, 2002 General Session and H.B. 3, 2002 General Session.
35163 Section 776. Section **53B-2-108** is amended to read:
35164 **53B-2-108. Appropriations reallocation.**
35165 (1) Notwithstanding the requirements of [~~Title 63, Chapter 38~~] Title 63J, Chapter 1,
35166 Budgetary Procedures Act, appropriations for the support of higher education for the fiscal year
35167 beginning July 1, 2002 and ending June 30, 2003, may be reallocated between line items as
35168 provided in this section.
35169 (2) (a) The president of the University of Utah may reallocate between line items the
35170 appropriations:
35171 (i) described in Items 141-149 in S.B. 1, 2002 General Session; and
35172 (ii) as modified by supplemental appropriations, including H.B. 4001, 2002 Fourth
35173 Special Session and H.B. 5009, 2002 Fifth Special Session.
35174 (b) The total amount of money reallocated may not exceed the sum of the reductions
35175 made in the supplemental appropriations.
35176 (3) (a) The president of Utah State University may reallocate between line items the
35177 appropriations:
35178 (i) described in Items 150-159 in S.B. 1, 2002 General Session; and
35179 (ii) as modified by supplemental appropriations, including H.B. 4001, 2002 Fourth
35180 Special Session and H.B. 5009, 2002 Fifth Special Session.
35181 (b) The total amount of money reallocated may not exceed the sum of the reductions

35182 made in the supplemental appropriations.
35183 (4) (a) The president of Weber State University may reallocate between line items the
35184 appropriations:
35185 (i) described in Items 160 and 161 in S.B. 1, 2002 General Session; and
35186 (ii) as modified by supplemental appropriations, including H.B. 4001, 2002 Fourth
35187 Special Session and H.B. 5009, 2002 Fifth Special Session.
35188 (b) The total amount of money reallocated may not exceed the sum of the reductions
35189 made in the supplemental appropriations.
35190 (5) (a) The president of Southern Utah University may reallocate between line items
35191 the appropriations:
35192 (i) described in Items 162-164 in S.B. 1, 2002 General Session; and
35193 (ii) as modified by supplemental appropriations, including H.B. 5009, 2002 Fifth
35194 Special Session.
35195 (b) The total amount of money reallocated may not exceed the sum of the reductions
35196 made in the supplemental appropriations.
35197 (6) (a) The president of Snow College may reallocate between line items the
35198 appropriations:
35199 (i) described in Items 165-167 in S.B. 1, 2002 General Session; and
35200 (ii) as modified by supplemental appropriations, including H.B. 5009, 2002 Fifth
35201 Special Session.
35202 (b) The total amount of money reallocated may not exceed the sum of the reductions
35203 made in the supplemental appropriations.
35204 (7) (a) The president of Dixie State College may reallocate between line items the
35205 appropriations:
35206 (i) described in Items 168-170 in S.B. 1, 2002 General Session; and
35207 (ii) as modified by supplemental appropriations, including H.B. 5009, 2002 Fifth
35208 Special Session.
35209 (b) The total amount of money reallocated may not exceed the sum of the reductions
35210 made in the supplemental appropriations.
35211 (8) (a) The president of the College of Eastern Utah may reallocate between line items
35212 the appropriations:

35213 (i) described in Items 171-174 in S.B. 1, 2002 General Session; and
35214 (ii) as modified by supplemental appropriations, including H.B. 5009, 2002 Fifth
35215 Special Session.
35216 (b) The total amount of money reallocated may not exceed the sum of the reductions
35217 made in the supplemental appropriations.
35218 (9) (a) The president of Utah Valley State College may reallocate between line items
35219 the appropriations:
35220 (i) described in Items 175 and 176 in S.B. 1, 2002 General Session; and
35221 (ii) as modified by supplemental appropriations, including H.B. 5009, 2002 Fifth
35222 Special Session.
35223 (b) The total amount of money reallocated may not exceed the sum of the reductions
35224 made in the supplemental appropriations.
35225 (10) (a) The president of Salt Lake Community College may reallocate between line
35226 items the appropriations:
35227 (i) described in Items 177-179 in S.B. 1, 2002 General Session; and
35228 (ii) as modified by supplemental appropriations, including H.B. 5009, 2002 Fifth
35229 Special Session.
35230 (b) The total amount of money reallocated may not exceed the sum of the reductions
35231 made in the supplemental appropriations.
35232 (11) (a) The State Board of Regents may reallocate between line items the
35233 appropriations:
35234 (i) described in Items 180-189 in S.B. 1, 2002 General Session; and
35235 (ii) as modified by supplemental appropriations, including H.B. 5009, 2002 Fifth
35236 Special Session.
35237 (b) The total amount of money reallocated may not exceed the sum of the reductions
35238 made in the supplemental appropriations.
35239 Section 777. Section **53B-6-105** is amended to read:
35240 **53B-6-105. Engineering and Computer Technology Initiative.**
35241 (1) The Legislature recognizes that a significant increase in the number of engineering,
35242 computer science, and related technology graduates from the state system of higher education is
35243 required over the next several years to advance the intellectual, cultural, social, and economic

35244 well-being of the state and its citizens.
35245 (2) (a) (i) The State Board of Regents shall therefore develop, establish, and maintain
35246 an Engineering and Computer Science Initiative within the state system of higher education to
35247 double the number of graduates in engineering, computer science, and related technology by
35248 2006 and triple the number of graduates by 2009.
35249 (ii) The board shall make a rule in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
35250 Chapter 3, Utah Administrative Rulemaking Act, providing the criteria for those fields of study
35251 that qualify as "related technology" under this section and Sections 53B-6-105.7 and
35252 53B-6-105.9.
35253 (b) The initiative shall include components that:
35254 (i) improve the quality of instructional programs in engineering, computer science, and
35255 related technology by providing supplemental monies for equipment purchases; and
35256 (ii) provide incentives to:
35257 (A) students through a loan and loan forgiveness program under Section 53B-6-105.7;
35258 and
35259 (B) institutions to hire and retain faculty under Section 53B-6-105.9.
35260 (3) The increase in program capacity under Subsection (2)(a) shall include funding for
35261 new and renovated capital facilities and funding for new engineering and computer science
35262 programs.
35263 (4) The Legislature shall provide an annual appropriation to fund the initiative as a
35264 budget line item for the State Board of Regents.
35265 Section 778. Section **53B-6-105.7** is amended to read:
35266 **53B-6-105.7. Initiative student loan and loan forgiveness program.**
35267 (1) (a) There is established an engineering, computer science, and related technology
35268 student loan program as a component of the initiative created in Section 53B-6-105.
35269 (b) The program is established to recruit and train engineering, computer science, and
35270 related technology students to assist in providing for and advancing the intellectual and
35271 economic welfare of the state.
35272 (2) (a) The board:
35273 (i) may make rules for the overall administration of the program in accordance with
35274 [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

35275 (ii) shall administer the program consistent with the general student loan provisions
35276 outlined in Title 53B.
35277 (b) The board shall also use the following policies and procedures in administering the
35278 student loan program:
35279 (i) students may use their loans at any institution within the state system of higher
35280 education that offers an engineering, computer science, or related technology baccalaureate
35281 degree;
35282 (ii) loans shall be given to students who declare an intent to complete a prescribed
35283 course of instruction in one of the areas referred to in Subsection (2)(b)(i) and to work in the
35284 state for a period of four years after graduation in one of those areas;
35285 (iii) a loan may be cancelled at any time by the institution of attendance, if the student
35286 fails to make reasonable progress towards obtaining the baccalaureate degree or there appears
35287 to be a reasonable certainty that the student does not intend to work in the state upon
35288 graduation, and the board shall require repayment together with interest; and
35289 (iv) (A) a loan recipient who does not work in the state in one of the areas listed in
35290 Subsection (1)(a) for a term equal to the number of years of the loan within a reasonable period
35291 of time after graduation shall repay a graduated portion of the loan based upon the uncompleted
35292 term together with appropriate interest, unless waived for good cause; and
35293 (B) one year of employment as an engineer or in the field of computer science or
35294 related technologies is credit for a one-year loan for tuition and fees.
35295 (3) The Legislature shall make an annual appropriation to the board to fund the student
35296 loan program created in this section.
35297 Section 779. Section **53B-6-105.9** is amended to read:
35298 **53B-6-105.9. Incentive program for engineering, computer science, and related**
35299 **technology faculty.**
35300 (1) The Legislature shall provide an annual appropriation to help fund the faculty
35301 incentive component of the Engineering and Computer Science Initiative established under
35302 Section 53B-6-105.
35303 (2) The appropriation shall be used to hire, recruit, and retain outstanding faculty in
35304 engineering, computer science, and related technology fields under guidelines established by
35305 the State Board of Regents.

35306 (3) (a) State institutions of higher education shall match the appropriation on a
35307 one-to-one basis in order to qualify for state monies appropriated under Subsection (1).
35308 (b) (i) Qualifying institutions shall annually report their matching dollars to the board.
35309 (ii) The board shall make a summary report of the institutional matches.
35310 (iii) The annual report of the Technology Initiative Advisory Board required by Section
35311 53B-6-105.5 shall include the summary report of the institutional matches.
35312 (4) The board shall make a rule in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
35313 Chapter 3, Utah Administrative Rulemaking Act, establishing policies and procedures to apply
35314 for and distribute the state appropriation to qualifying institutions.
35315 Section 780. Section **53B-6-106** is amended to read:
35316 **53B-6-106. Jobs Now Economic Development Initiative.**
35317 (1) The State Board of Regents shall develop, establish, and maintain a Jobs Now
35318 Economic Development Initiative within the state system of higher education, including the
35319 Utah College of Applied Technology, to promote workforce preparation programs that meet
35320 critical needs and shortages throughout the state.
35321 (2) The initiative shall provide support for technical training expansion that trains
35322 skilled potential employees within a period not to exceed 12 months for technical jobs in
35323 critical needs occupations.
35324 (3) (a) The Legislature shall provide an annual appropriation to fund the initiative in a
35325 line item to the State Board of Regents.
35326 (b) (i) The board shall allocate at least 2/3 of the appropriation to the Utah College of
35327 Applied Technology for distribution to college campuses within the college as recommended
35328 by the Utah College of Applied Technology Board of Trustees.
35329 (ii) A college campus shall use money received under Subsection (3)(b)(i) for technical
35330 training expansion referred to in Subsection (2).
35331 (c) The board may allocate and distribute up to 1/3 of the appropriation to institutions
35332 within the state system of higher education for short term training programs that prepare skilled
35333 potential employees within a period not to exceed 12 months for technical jobs in critical needs
35334 occupations.
35335 (d) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
35336 Administrative Rulemaking Act, the board shall make rules:

35337 (i) to implement the Jobs Now Economic Development Initiative; and
35338 (ii) by which institutions may apply for the moneys referred to in Subsection (3)(c).
35339 Section 781. Section **53B-7-502** is amended to read:
35340 **53B-7-502. Higher Education Tuition Assistance Program.**
35341 (1) There is created the Utah Higher Education Tuition Assistance Program, hereafter
35342 referred to in this part as the program.
35343 (2) The board shall administer the program.
35344 (3) The program shall be funded through appropriations by the Legislature.
35345 (4) Money appropriated for the program shall be available only for need-based grants
35346 to higher education students, as provided in this part.
35347 (5) (a) The board shall adopt rules for administration of the program, in accordance
35348 with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
35349 (b) The rules shall include the requirements that money appropriated to the program for
35350 a specific fiscal year, plus any remaining balance at the end of the preceding fiscal year, shall
35351 be allocated to eligible institutions on the following basis:
35352 (i) the board shall distribute 50% of the amount available for allocation each fiscal year
35353 in equal proportions to:
35354 (A) Snow College, main campus and extensions;
35355 (B) Dixie State College, main campus and extensions;
35356 (C) College of Eastern Utah, main campus and extensions;
35357 (D) College of Eastern Utah, San Juan Campus and extensions;
35358 (E) Utah Valley University, main campus and extensions;
35359 (F) Salt Lake Community College, Taylorsville campus and extensions; and
35360 (G) Salt Lake Community College, South City Campus; and
35361 (ii) the board shall distribute 50% of the amount available for allocation each fiscal
35362 year to the Utah State University for its instructional centers at Roosevelt, Blanding, Randolph,
35363 Price, Moab, Brigham City, Tooele, Richfield, and Ephraim, and other centers as may be
35364 determined by the board.
35365 (6) Higher education institutions may submit applications to the board, for specific
35366 eligible entities, for grants to students with demonstrated financial need, determined by criteria
35367 established by the board.

35368 Section 782. Section **53B-12-101** is amended to read:
35369 **53B-12-101. Utah Higher Education Assistance Authority designated -- Powers**
35370 **and duties.**
35371 The board is the Utah Higher Education Assistance Authority and, in this capacity, may
35372 do the following:
35373 (1) guarantee 100% of the principal of and interest on a loan to or for the benefit of a
35374 person attending or accepted to attend an eligible postsecondary educational institution to assist
35375 that person in meeting any educational expenses incurred in an academic year;
35376 (2) take, hold, and administer real or personal property and moneys, including interest
35377 and income, either absolutely or in trust, for any purpose under this chapter;
35378 (3) acquire property for the purposes indicated in Subsection (2) by purchase or lease
35379 and by the acceptance of gifts, grants, bequests, devises, or loans;
35380 (4) enter into or contract with an eligible lending institution, or with a public or private
35381 postsecondary educational institution to provide for the administration by the institution of any
35382 loan or loan guarantee made by it, including application and repayment provisions;
35383 (5) participate in federal programs guaranteeing, reinsuring, or otherwise supporting
35384 loans to eligible borrowers for postsecondary educational purposes and agree to, and comply
35385 with, the conditions and regulations applicable to those programs;
35386 (6) adopt, amend, or repeal rules, in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
35387 Chapter 3, Utah Administrative Rulemaking Act, to govern the activities authorized by this
35388 chapter;
35389 (7) receive state appropriations for the fund established under Section 53B-12-104 to
35390 match deposits and to accept contributions received by it for this purpose;
35391 (8) receive funds from the federal government to assist in implementing federally
35392 supported programs administered under this chapter;
35393 (9) engage, appoint, or contract for the services of officers, agents, employees, and
35394 private consultants to render and perform professional and technical duties and provide
35395 assistance and advice in carrying out the purposes of this chapter, to describe their duties, and
35396 to fix the amount and source of their compensation; and
35397 (10) receive employment information from the Workforce Development and
35398 Information Division in accordance with Section 35A-4-312 for the purpose of collecting

35399 defaulted student loans made under this chapter. The information obtained under this
35400 Subsection (10) shall be limited to the employer's name, address, and telephone number for
35401 borrowers who have defaulted on a student loan held by the Utah Higher Education Assistance
35402 Authority.
35403 Section 783. Section **53B-16-302** is amended to read:
35404 **53B-16-302. Records that may be classified as restricted.**
35405 A public institution of higher education may classify only the following records as
35406 restricted:
35407 (1) that portion of a technology transfer record or sponsored research record to which
35408 access must be restricted for the purpose of securing and maintaining proprietary protection of
35409 intellectual property rights, including but not limited to patents, copyrights, trademarks, and
35410 trade secrets; or
35411 (2) that portion of a technology transfer record or sponsored research record to which
35412 access is restricted for competitive or proprietary purposes, as a condition of actual or potential
35413 participation in a sponsored research or technology transfer agreement; provided, however, that
35414 upon receipt of a written request for a reasonably identifiable record, the public institution of
35415 higher education shall disclose:
35416 (a) prior to a memorandum of intent to contract or an agreement in principle between
35417 the parties:
35418 (i) the names of the parties, or, if the disclosure of names would cause competitive
35419 harm, a general description of the type of parties negotiating the technology transfer or
35420 sponsored research agreement; and
35421 (ii) a general description of the nature of the technology transfer or sponsored research
35422 under consideration, excluding proprietary or competitive information; or
35423 (b) after a memorandum of intent to contract or an agreement in principle between the
35424 parties:
35425 (i) the names of the parties involved in the technology transfer or sponsored research;
35426 (ii) a general description of the nature of the technology transfer or sponsored research
35427 to be conducted, excluding proprietary or competitive information; and
35428 (iii) records of the technology transfer or sponsored research to be conducted,
35429 excluding those portions of records to which access is limited under this part or [~~Title 63,~~

35430 ~~Chapter 2~~] Title 63G, Chapter 2, Government Records Access and Management Act.
35431 Section 784. Section **53B-16-303** is amended to read:
35432 **53B-16-303. Access to restricted records.**
35433 Notwithstanding any other provision of [~~Title 63, Chapter 2~~] Title 63G, Chapter 2,
35434 Government Records Access and Management Act, access to records restricted by this part
35435 shall only be permitted upon:
35436 (1) written consent of the public institution of higher education originating, receiving,
35437 or maintaining such records; or
35438 (2) a finding by the State Records Committee or a court that the record has not been
35439 properly classified as restricted under Section [~~63-2-302~~] 63G-2-302, provided that the review
35440 of a restricted classification of a record shall not include considerations of weighing public and
35441 private interests regarding access to a properly classified record as contained in Subsection
35442 [~~63-2-403~~] 63G-2-403(11)(b) or [~~63-2-404~~] 63G-2-404(8) or Section [~~63-2-308~~] 63G-2-309.
35443 Nothing in this Subsection (2) shall be construed to limit the authority of the State Board of
35444 Regents to reclassify and disclose a record of a public institution of higher education.
35445 Section 785. Section **53B-16-304** is amended to read:
35446 **53B-16-304. Business confidentiality claims.**
35447 (1) (a) Any person who provides to a public institution of higher education a record
35448 that the person believes should be protected under a provision listed in Subsection [~~63-2-308~~]
35449 63G-2-309(1)(b)(i), restricted under Section 53B-16-302, or both protected under a provision
35450 listed in Subsection [~~63-2-308~~] 63G-2-309(1)(b)(i) and restricted under Section 53B-16-302,
35451 shall provide the public institution of higher education:
35452 (i) a written claim of business confidentiality; and
35453 (ii) a concise statement of reasons supporting the claim of business confidentiality.
35454 (b) The person described in Subsection (1)(a) shall make the filing at the
35455 commencement of:
35456 (i) the sponsored research project; or
35457 (ii) the technology transfer process.
35458 (c) A claim of business confidentiality submitted under this Subsection (1) shall cover
35459 all protected and restricted records exchanged during the:
35460 (i) sponsored research project; or

35461 (ii) technology transfer process.
35462 (2) The inadvertent failure to make a legally adequate claim of business confidentiality
35463 at the time required by Subsection (1) does not prejudice the claimant's right to make a legally
35464 adequate claim at a different time before disclosure of the record.
35465 Section 786. Section **53B-16-305** is amended to read:
35466 **53B-16-305. Applicability of the Government Records Access and Management**
35467 **Act.**
35468 Except as otherwise provided by this part, the provisions of [~~Title 63, Chapter 2~~] Title
35469 63G, Chapter 2, Government Records Access and Management Act, will apply to restricted
35470 technology transfer or sponsored research records as defined in this part, as if the records were
35471 protected records as defined by [~~Title 63, Chapter 2~~] Title 63G, Chapter 2.
35472 Section 787. Section **53B-17-603** is amended to read:
35473 **53B-17-603. Curation and deposit of specimens.**
35474 (1) For purposes of this section:
35475 (a) "Collections" is defined as provided in Section 9-8-302.
35476 (b) "Curation facility" means:
35477 (i) the museum;
35478 (ii) an accredited facility meeting federal curation standards; or
35479 (iii) an appropriate state park.
35480 (c) "Museum" means the Utah Museum of Natural History.
35481 (d) "Repository" means:
35482 (i) a facility designated by the museum through memoranda of agreement; or
35483 (ii) a place of reburial.
35484 (e) "School and institutional trust lands" are those properties defined in Section
35485 53C-1-103.
35486 (2) The museum shall make rules to ensure the adequate curation of all collections
35487 from lands owned or controlled by the state or its subdivisions. The rules shall:
35488 (a) conform to, but not be limited by, federal curation policy;
35489 (b) recognize that collections recovered from school and institutional trust lands are
35490 owned by the respective trust, and shall be made available for exhibition as the beneficiaries of
35491 the respective trust may request, subject to museum curation policy and the curation facility's

35492 budgetary priorities;
35493 (c) recognize that any collections obtained in exchange for collections found on school
35494 and institutional trust lands shall be owned by the respective trust; and
35495 (d) recognize that if, at its discretion, the curation facility makes and sells
35496 reproductions derived from collections found on school or institutional trust lands, any monies
35497 obtained from these sales shall be given to the respective trust, but the curation facility may
35498 retain monies sufficient to recover the direct costs of preparation for sale and a reasonable fee
35499 for handling the sale.
35500 (3) (a) The museum may enter into memoranda of agreement with other repositories
35501 located in and outside the state to act as its designee for the curation of collections.
35502 (b) In these memoranda, the museum may delegate some or all of its authority to
35503 curate.
35504 (4) (a) All collections recovered from lands owned or controlled by the state or its
35505 subdivisions shall be deposited at the museum, a curation facility, or at a repository within a
35506 reasonable time after the completion of field work.
35507 (b) The museum shall make rules establishing procedures for selection of the
35508 appropriate curation facility or repository.
35509 (c) The rules shall consider:
35510 (i) whether the permittee, authorized pursuant to Section 9-8-305, is a curation facility;
35511 (ii) the appropriateness of reburial;
35512 (iii) the proximity of the curation facility or repository to the point of origin of the
35513 collection;
35514 (iv) the preference of the owner of the land on which the collection was found;
35515 (v) the nature of the collection and the repository's or curation facility's ability and
35516 desire to curate the collection in question, and ability to maximize the scientific, educational,
35517 and cultural benefits for the people of the state and the school and institutional trusts;
35518 (vi) selection of a second curation facility or repository, if the original repository or
35519 curation facility becomes unable to curate the collections under its care; and
35520 (vii) establishment of an arbitration process for the resolution of disputes over the
35521 location of a curation facility or repository, which shall include an ultimate arbitration authority
35522 consisting of the landowner, the state archaeologist or paleontologist, and a representative from

35523 the governor's office.
35524 (d) The repository or curation facility may charge a curation fee commensurate with the
35525 costs of maintaining those collections, except that a fee may not be charged to the respective
35526 trust for collections found on school or institutional trust lands.
35527 (5) The repository or curation facility shall make specimens available through loans to
35528 museums and research institutions in and out of the state when, in the opinion of the repository
35529 or curation facility:
35530 (a) the use of the specimens is appropriate; and
35531 (b) arrangements are made for safe custodianship of the specimens.
35532 (6) The museum shall comply with the procedures of [~~Title 63, Chapter 46a~~] Title 63G,
35533 Chapter 3, Utah Administrative Rulemaking Act, regarding publication of its rules in the Utah
35534 State Bulletin and the Utah Administrative Code.
35535 Section 788. Section **53C-1-201** is amended to read:
35536 **53C-1-201. Creation of administration -- Purpose -- Director.**
35537 (1) (a) There is established within state government the School and Institutional Trust
35538 Lands Administration.
35539 (b) The administration shall manage all school and institutional trust lands and assets
35540 within the state, except as otherwise provided in Title 53C, Chapter 3, Deposit and Allocation
35541 of Revenue from Trust Lands, and Sections 51-7a-201 and 51-7a-202.
35542 (2) The administration is an independent state agency and not a division of any other
35543 department.
35544 (3) (a) It is subject to the usual legislative and executive department controls except as
35545 provided in this Subsection (3).
35546 (b) (i) The director may make rules as approved by the board that allow the
35547 administration to classify a business proposal submitted to the administration as protected
35548 under Section [~~63-2-304~~] 63G-2-305, for as long as is necessary to evaluate the proposal.
35549 (ii) The administration shall return the proposal to the party who submitted the
35550 proposal, and incur no further duties under [~~Title 63, Chapter 2~~] Title 63G, Chapter 2,
35551 Government Records Access and Management Act, if the administration determines not to
35552 proceed with the proposal.
35553 (iii) The administration shall classify the proposal pursuant to law if it decides to

35554 proceed with the proposal.
35555 (iv) Section [~~63-2-403~~] 63G-2-403 does not apply during the review period.
35556 (c) The director shall make rules in compliance with [~~Title 63, Chapter 46a~~] Title 63G,
35557 Chapter 3, Utah Administrative Rulemaking Act, except that the director, with the board's
35558 approval, may establish a procedure for the expedited approval of rules, based on written
35559 findings by the director showing:
35560 (i) the changes in business opportunities affecting the assets of the trust;
35561 (ii) the specific business opportunity arising out of those changes which may be lost
35562 without the rule or changes to the rule;
35563 (iii) the reasons the normal procedures under Section [~~63-46a-4~~] 63G-3-301 cannot be
35564 met without causing the loss of the specific opportunity;
35565 (iv) approval by at least five board members; and
35566 (v) that the director has filed a copy of the rule and a rule analysis, stating the specific
35567 reasons and justifications for its findings, with the Division of Administrative Rules and
35568 notified interested parties as provided in Subsection [~~63-46a-4~~] 63G-3-301(8).
35569 (d) (i) The administration shall comply with Title 67, Chapter 19, Utah State Personnel
35570 Management Act, except as provided in this Subsection (3)(d).
35571 (ii) The board may approve, upon recommendation of the director, that exemption for
35572 specific positions under Subsections 67-19-12(2) and 67-19-15(1) is required in order to enable
35573 the administration to efficiently fulfill its responsibilities under the law. The director shall
35574 consult with the executive director of the Department of Human Resource Management prior
35575 to making such a recommendation.
35576 (iii) The positions of director, deputy director, associate director, assistant director,
35577 legal counsel appointed under Section 53C-1-305, administrative assistant, and public affairs
35578 officer are exempt under Subsections 67-19-12(2) and 67-19-15(1).
35579 (iv) Salaries for exempted positions, except for the director, shall be set by the director,
35580 after consultation with the executive director of the Department of Human Resource
35581 Management, within ranges approved by the board. The board and director shall consider
35582 salaries for similar positions in private enterprise and other public employment when setting
35583 salary ranges.
35584 (v) The board may create an annual incentive and bonus plan for the director and other

35585 administration employees designated by the board, based upon the attainment of financial
35586 performance goals and other measurable criteria defined and budgeted in advance by the board.
35587 (e) The administration shall comply with [~~Title 63, Chapter 56~~] Title 63G, Chapter 6,
35588 Utah Procurement Code, except where the board approves, upon recommendation of the
35589 director, exemption from the Utah Procurement Code, and simultaneous adoption of rules
35590 under [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
35591 procurement, which enable the administration to efficiently fulfill its responsibilities under the
35592 law.
35593 (f) (i) The board and director shall review the exceptions under this Subsection (3) and
35594 make recommendations for any modification, if required, which the Legislature would be asked
35595 to consider during its annual general session.
35596 (ii) The board and director may include in their recommendations any other proposed
35597 exceptions from the usual executive and legislative controls the board and director consider
35598 necessary to accomplish the purpose of this title.
35599 (4) The administration is managed by a director of school and institutional trust lands
35600 appointed by a majority vote of the board of trustees with the consent of the governor.
35601 (5) (a) The board of trustees shall provide policies for the management of the
35602 administration and for the management of trust lands and assets.
35603 (b) The board shall provide policies for the ownership and control of Native American
35604 remains that are discovered or excavated on school and institutional trust lands in consultation
35605 with the Division of Indian Affairs and giving due consideration to Title 9, Chapter 9, Part 4,
35606 Native American Grave Protection and Repatriation Act. The director may make rules in
35607 accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
35608 Rulemaking Act, to implement policies provided by the board regarding Native American
35609 remains.
35610 (6) In connection with joint ventures for the development of trust lands and minerals
35611 approved by the board under Sections 53C-1-303 and 53C-2-401, the administration may
35612 become a member of a limited liability company under Title 48, Chapter 2c, Utah Revised
35613 Limited Liability Company Act, and is considered a person under Section 48-2c-102.
35614 Section 789. Section **53C-1-202** is amended to read:
35615 **53C-1-202. Board of trustees membership -- Nomination list -- Qualifications --**

35616 **Terms -- Replacement -- Chair -- Quorum.**
35617 (1) There is established the School and Institutional Trust Lands Board of Trustees.
35618 (2) The board shall consist of seven members appointed on a nonpartisan basis by the
35619 governor with the consent of the Senate for nonconsecutive six-year terms.
35620 (3) (a) Of the initial appointments to the board, the governor shall appoint one member
35621 to serve a six-year term, one member to serve a five-year term, one member to serve a four-year
35622 term, one member to serve a three-year term, one member to serve a two-year term, and one
35623 member to serve a one-year term.
35624 (b) All subsequent appointments shall be for a term of six years, except if a vacancy
35625 occurs, the governor shall appoint a replacement, following the procedures set forth in
35626 Subsections (2), (4), (5), and (6), to fill the unexpired term.
35627 (c) Any member of the board who has served less than six years upon the expiration of
35628 that member's term is eligible for a consecutive reappointment.
35629 (d) Neither the term provision in Subsection (2) nor Subsection (3) applies to an
35630 appointment made under Subsection (5).
35631 (4) (a) The governor shall select six of the seven appointees to the board from a
35632 nomination list of at least two candidates for each position or vacancy submitted pursuant to
35633 Section 53C-1-203.
35634 (b) The governor may request an additional nomination list of at least two candidates
35635 from the nominating committee if the initial list of candidates for a given position is
35636 unacceptable.
35637 (c) (i) If the governor fails to select an appointee within 60 days after receipt of the
35638 initial list or within 60 days after the receipt of an additional list, the nominating committee
35639 shall make an interim appointment by majority vote.
35640 (ii) The interim appointee shall serve until the matter is resolved by the committee and
35641 the governor or until replaced pursuant to this chapter.
35642 (5) (a) The governor may appoint one member without requiring a nomination list.
35643 (b) The member appointed under Subsection (5)(a) serves at the pleasure of the
35644 governor.
35645 (6) (a) Each board candidate shall possess outstanding professional qualifications
35646 pertinent to the purposes and activities of the trust.

35647 (b) The board shall represent the following areas of expertise:
35648 (i) nonrenewable resource management or development;
35649 (ii) renewable resource management or development; and
35650 (iii) real estate.
35651 (c) Other qualifications which are pertinent for membership to the board are expertise
35652 in any of the following areas:
35653 (i) business;
35654 (ii) investment banking;
35655 (iii) finance;
35656 (iv) trust administration;
35657 (v) asset management; and
35658 (vi) the practice of law in any of the areas referred to in Subsections (6)(b) and (6)(c)(i)
35659 through (v).
35660 (7) The board of trustees shall select a chair from its membership.
35661 (8) Before assuming a position on the board, each member shall take an oath of office.
35662 (9) Four members of the board constitute a quorum for the transaction of business.
35663 (10) The governor or five board members may, for cause, remove a member of the
35664 board.
35665 (11) An aggrieved party to a final action by the board may obtain judicial review of
35666 that action under Sections [~~63-46b-15~~] 63G-4-402 and [~~63-46b-16~~] 63G-4-403.
35667 Section 790. Section **53C-1-304** is amended to read:
35668 **53C-1-304. Rules to ensure procedural due process -- Board review of director**
35669 **action -- Judicial review.**
35670 (1) The board shall make rules to ensure procedural due process in the resolution of
35671 complaints concerning actions by the board, director, and the administration.
35672 (2) An aggrieved party to a final action by the director or the administration may
35673 petition the board for administrative review of the decision.
35674 (3) (a) The board may appoint a qualified hearing examiner for purposes of taking
35675 evidence and making recommendations for board action.
35676 (b) The board shall consider the recommendations of the examiner in making
35677 decisions.

35678 (4) (a) The board shall uphold the decision of the director or the administration unless
35679 it finds, by a preponderance of the evidence, that the decision violated applicable law, policy,
35680 or rules.
35681 (b) The board shall base its final actions on findings and conclusions and shall inform
35682 the aggrieved party of its right to judicial review.
35683 (5) An aggrieved party to a final action by the board may obtain judicial review of that
35684 action under Sections [~~63-46b-15~~] 63G-4-402 and [~~63-46b-16~~] 63G-4-403.
35685 Section 791. Section **53C-2-201** is amended to read:
35686 **53C-2-201. Planning procedures -- Assistance from other state agencies -- Plans**
35687 **consistent with trust responsibilities.**
35688 (1) The director:
35689 (a) shall develop rules describing the degree of planning necessary for each category of
35690 activity on trust lands; and
35691 (b) may request other state agencies to generate technical data or other support services
35692 for the development and implementation of trust lands plans.
35693 (2) The plans for school and institutional trust lands shall be:
35694 (a) developed in a manner consistent with the director's responsibility to insure that the
35695 interest of the trust beneficiaries is paramount; and
35696 (b) if required by rule, approved by the board.
35697 (3) The director shall make rules under [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
35698 Utah Administrative Rulemaking Act, for notifying and consulting with interested parties
35699 under this section.
35700 (4) Subject to Subsection (1), the development of a written plan is not a prerequisite to
35701 actions by the director.
35702 Section 792. Section **54-1-2.5** is amended to read:
35703 **54-1-2.5. Procedures -- Adjudicative proceedings.**
35704 Except as specifically provided to the contrary in Chapter 7, the commission shall
35705 comply with the procedures and requirements of [~~Title 63, Chapter 46b,~~] Title 63G, Chapter 4,
35706 Administrative Procedures Act, in its adjudicative proceedings.
35707 Section 793. Section **54-3-28** is amended to read:
35708 **54-3-28. Notice required of certain public utilities before preparing or amending**

35709 **a long-range plan or acquiring certain property.**
35710 (1) As used in this section:
35711 (a) (i) "Affected entity" means each county, municipality, local district under Title 17B,
35712 Limited Purpose Local Government Entities - Local Districts, special service district, school
35713 district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal
35714 Cooperation Act, and specified public utility:
35715 (A) whose services or facilities are likely to require expansion or significant
35716 modification because of expected uses of land under a proposed long-range plan or under
35717 proposed amendments to a long-range plan; or
35718 (B) that has filed with the specified public utility a copy of the general or long-range
35719 plan of the county, municipality, local district, special service district, school district, interlocal
35720 cooperation entity, or specified public utility.
35721 (ii) "Affected entity" does not include the specified public utility that is required under
35722 Subsection (2) to provide notice.
35723 (b) "Specified public utility" means an electrical corporation, gas corporation, or
35724 telephone corporation, as those terms are defined in Section 54-2-1.
35725 (2) (a) If a specified public utility prepares a long-range plan regarding its facilities
35726 proposed for the future in a county of the first or second class or amends an already existing
35727 long-range plan, the specified public utility shall, before preparing a long-range plan or
35728 amendments to an existing long-range plan, provide written notice, as provided in this section,
35729 of its intent to prepare a long-range plan or to amend an existing long-range plan.
35730 (b) Each notice under Subsection (2) shall:
35731 (i) indicate that the specified public utility intends to prepare a long-range plan or to
35732 amend a long-range plan, as the case may be;
35733 (ii) describe or provide a map of the geographic area that will be affected by the
35734 long-range plan or amendments to a long-range plan;
35735 (iii) be sent to:
35736 (A) each county in whose unincorporated area and each municipality in whose
35737 boundaries is located the land on which the proposed long-range plan or amendments to a
35738 long-range plan are expected to indicate that the proposed facilities will be located;
35739 (B) each affected entity;

35740 (C) the Automated Geographic Reference Center created in Section 63F-1-506;
35741 (D) each association of governments, established pursuant to an interlocal agreement
35742 under Title 11, Chapter 13, Interlocal Cooperation Act, of which a county or municipality
35743 described in Subsection (2)(b)(iii)(A) is a member; and
35744 (E) the state planning coordinator appointed under Section [~~63-38d-202~~] 63J-4-202;
35745 (iv) with respect to the notice to counties and municipalities described in Subsection
35746 (2)(b)(iii)(A) and affected entities, invite them to provide information for the specified public
35747 utility to consider in the process of preparing, adopting, and implementing the long-range plan
35748 or amendments to a long-range plan concerning:
35749 (A) impacts that the use of land proposed in the proposed long-range plan or
35750 amendments to a long-range plan may have on the county, municipality, or affected entity; and
35751 (B) uses of land that the county, municipality, or affected entity is planning or
35752 considering that may conflict with the proposed long-range plan or amendments to a long-range
35753 plan; and
35754 (v) include the address of an Internet website, if the specified public utility has one, and
35755 the name and telephone number of a person where more information can be obtained
35756 concerning the specified public utility's proposed long-range plan or amendments to a
35757 long-range plan.
35758 (3) (a) Except as provided in Subsection (3)(d), each specified public utility intending
35759 to acquire real property in a county of the first or second class for the purpose of expanding its
35760 infrastructure or other facilities used for providing the services that the specified public utility
35761 is authorized to provide shall provide written notice, as provided in this Subsection (3), of its
35762 intent to acquire the property if the intended use of the property is contrary to:
35763 (i) the anticipated use of the property under the county or municipality's general plan;
35764 or
35765 (ii) the property's current zoning designation.
35766 (b) Each notice under Subsection (3)(a) shall:
35767 (i) indicate that the specified public utility intends to acquire real property;
35768 (ii) identify the real property; and
35769 (iii) be sent to:
35770 (A) each county in whose unincorporated area and each municipality in whose

35771 boundaries the property is located; and
35772 (B) each affected entity.
35773 (c) A notice under this Subsection (3) is a protected record as provided in Subsection
35774 [~~63-2-304~~] 63G-2-305(7).
35775 (d) (i) The notice requirement of Subsection (3)(a) does not apply if the specified
35776 public utility previously provided notice under Subsection (2) identifying the general location
35777 within the municipality or unincorporated part of the county where the property to be acquired
35778 is located.
35779 (ii) If a specified public utility is not required to comply with the notice requirement of
35780 Subsection (3)(a) because of application of Subsection (3)(d)(i), the specified public utility
35781 shall provide the notice specified in Subsection (3)(a) as soon as practicable after its acquisition
35782 of the real property.
35783 Section 794. Section **54-5-1.5** is amended to read:
35784 **54-5-1.5. Special regulation fee -- Supplemental Levy Committee -- Supplemental**
35785 **fee -- Fee for electrical cooperatives.**
35786 (1) (a) A special fee to defray the cost of regulation is imposed upon all public utilities
35787 subject to the jurisdiction of the Public Service Commission.
35788 (b) The special fee is in addition to any charge now assessed, levied, or required by
35789 law.
35790 (2) (a) The executive director of the Department of Commerce shall determine the
35791 special fee for the Department of Commerce.
35792 (b) The chair of the Public Service Commission shall determine the special fee for the
35793 Public Service Commission.
35794 (c) The fee shall be assessed as a uniform percentage of the gross operating revenue for
35795 the preceding calendar year derived from each public utility's business and operations during
35796 that period within this state, excluding income derived from interstate business. Gross
35797 operating revenue shall not include income to a wholesale electric cooperative derived from the
35798 sale of power to a rural electric cooperative which resells that power within the state.
35799 (3) (a) The executive director of the Department of Commerce shall notify each public
35800 utility subject to the provisions of this chapter of the amount of the fee.
35801 (b) The fee is due and payable on or before July 1 of each year.

35802 (4) (a) It is the intent of the Legislature that the public utilities provide all of the funds
35803 for the administration, support, and maintenance of:
35804 (i) the Public Service Commission;
35805 (ii) state agencies within the Department of Commerce involved in the regulation of
35806 public utilities; and
35807 (iii) expenditures by the attorney general for utility regulation.
35808 (b) Notwithstanding Subsection (4)(a), the fee imposed by Subsection (1) shall not
35809 exceed the greater of:
35810 (i) (A) for a public utility other than an electrical cooperative, .3% of the public utility's
35811 gross operating revenues for the preceding calendar year; or
35812 (B) for an electrical cooperative, .15% of the electrical cooperative's gross operating
35813 revenues for the preceding calendar year; or
35814 (ii) $50.
35815 (5) (a) There is created a Supplemental Levy Committee to levy additional assessments
35816 on public utilities when unanticipated costs of regulation occur in any fiscal year.
35817 (b) The Supplemental Levy Committee shall consist of:
35818 (i) one member selected by the executive director of the Department of Commerce;
35819 (ii) one member selected by the chairman of the Public Service Commission;
35820 (iii) two members selected by the three public utilities that paid the largest percent of
35821 the current regulatory fee; and
35822 (iv) one member selected by the four appointed members.
35823 (c) (i) The members of the Supplemental Levy Committee shall be selected within ten
35824 working days after the executive director of the Department of Commerce gives written notice
35825 to the Public Service Commission and the public utilities that a supplemental levy committee is
35826 needed.
35827 (ii) If the members of the Supplemental Levy Committee have not been appointed
35828 within the time prescribed, the governor shall appoint the members of the Supplemental Levy
35829 Committee.
35830 (d) (i) During any state fiscal year, the Supplemental Levy Committee, by a majority
35831 vote and subject to audit by the state auditor, may impose a supplemental fee on the regulated
35832 utilities for the purpose of defraying any increased cost of regulation.

35833 (ii) The supplemental fee imposed upon the utilities shall equal a percentage of their
35834 gross operating revenue for the preceding calendar year.
35835 (iii) The aggregate of all fees, including any supplemental fees assessed, shall not
35836 exceed .3% of the gross operating revenue of the utilities assessed for the preceding calendar
35837 year.
35838 (iv) Payment of the supplemental fee is due within 30 days after receipt of the
35839 assessment.
35840 (v) The utility may, within ten days after receipt of assessment, request a hearing
35841 before the Public Service Commission if it questions the need for, or the reasonableness of, the
35842 supplemental fee.
35843 (e) (i) Any supplemental fee collected to defray the cost of regulation shall be
35844 transferred to the state treasurer as a departmental collection according to the provisions of
35845 Section [~~63-38-9~~] 63J-1-404.
35846 (ii) Supplemental fees are excess collections, credited according to the procedures of
35847 Section [~~63-38-9~~] 63J-1-404.
35848 (iii) Charges billed to the Department of Commerce by any other state department,
35849 institution, or agency for services rendered in connection with regulation of a utility shall be
35850 credited by the state treasurer from the special or supplemental fees collected to the
35851 appropriations account of the entity providing that service according to the procedures provided
35852 in [~~Title 63, Chapter 38~~] Title 63J, Chapter 1, Budgetary Procedures Act.
35853 (6) (a) For purposes of this section, "electrical cooperative" means:
35854 (i) a distribution electrical cooperative; or
35855 (ii) a wholesale electrical cooperative.
35856 (b) Subject to Subsection (6)(c), if the regulation of one or more electrical cooperatives
35857 causes unanticipated costs of regulation in a fiscal year, the commission may impose a
35858 supplemental fee on the one or more electrical cooperatives in this state responsible for the
35859 increased cost of regulation.
35860 (c) The aggregate of all fees imposed under this section on an electrical cooperative in
35861 a calendar year shall not exceed the greater of:
35862 (i) .3% of the electrical cooperative's gross operating revenues for the preceding
35863 calendar year; or

35864 (ii) $50.
35865 Section 795. Section **54-7-15** is amended to read:
35866 **54-7-15. Review or rehearing by commission -- Application -- Procedure --**
35867 **Prerequisite to court action -- Effect of commission decisions.**
35868 (1) Before seeking judicial review of the commission's action, any party, stockholder,
35869 bondholder, or other person pecuniarily interested in the public utility who is dissatisfied with
35870 an order of the commission shall meet the requirements of this section.
35871 (2) (a) After any order or decision has been made by the commission, any party to the
35872 action or proceeding, any stockholder, bondholder, or other party pecuniarily interested in the
35873 public utility affected may apply for rehearing of any matters determined in the action or
35874 proceeding.
35875 (b) An applicant may not urge or rely on any ground not set forth in the application in
35876 an appeal to any court.
35877 (c) Any application for rehearing not granted by the commission within 20 days is
35878 denied.
35879 (d) (i) If the commission grants any application for rehearing without suspending the
35880 order involved, the commission shall issue its decision on rehearing within 20 days after final
35881 submission.
35882 (ii) If the commission fails to render its decision on rehearing within 20 days, the order
35883 involved is affirmed.
35884 (e) Unless an order of the commission directs that an order is stayed or postponed, an
35885 application for review or rehearing does not excuse any corporation or person from complying
35886 with and obeying any order or decision of the commission.
35887 (3) Any order or decision on rehearing that abrogates, changes, or modifies an original
35888 order or decision has the same force and effect as an original order or decision, but does not
35889 affect any right, or the enforcement of any right, arising from the original order or decision
35890 unless so ordered by the commission.
35891 (4) An order of the commission, including a decision on rehearing:
35892 (a) shall have binding force and effect only with respect to a public utility that is an
35893 actual party to the proceeding in which the order is rendered; and
35894 (b) does not determine any right, privilege, obligation, duty, constraint, burden, or

35895 responsibility with respect to a public utility that is not a party to the proceeding in which the
35896 order is rendered unless, in accordance with Subsection [~~63-46a-3~~] 63G-3-201(6), the
35897 commission makes a rule that incorporates the one or more principles of law that:
35898 (i) are established by the order;
35899 (ii) are not in commission rules at the time of the order; and
35900 (iii) affect the right, privilege, obligation, duty, constraint, burden, or responsibility
35901 with respect to the public utility.
35902 Section 796. Section **54-8b-2.1** is amended to read:
35903 **54-8b-2.1. Competitive entry.**
35904 (1) Notwithstanding any provision of Section 54-4-25 to the contrary, the commission
35905 may issue a certificate to a telecommunications corporation authorizing it to compete in
35906 providing local exchange services or other public telecommunications services in all or part of
35907 the service territory of an incumbent telephone corporation, except until December 31, 1997, a
35908 telecommunications corporation may not receive a certificate to compete in providing local
35909 exchange service within any local exchange with fewer than 5,000 access lines that is owned or
35910 controlled by an incumbent telephone corporation with fewer than 30,000 access lines in the
35911 state. The procedure specified in Subsection (3)(c) for excluding competition within a local
35912 exchange with fewer than 5,000 access lines shall apply on December 31, 1997 or thereafter.
35913 (2) The commission shall issue a certificate to the applying telecommunications
35914 corporation if the commission determines that:
35915 (a) the applicant has sufficient technical, financial, and managerial resources and
35916 abilities to provide the public telecommunications services applied for; and
35917 (b) the issuance of the certificate to the applicant is in the public interest.
35918 (3) (a) The commission shall process the application in accordance with [~~Title 63,~~
35919 ~~Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
35920 (b) Each telecommunications corporation holding a certificate to provide public
35921 telecommunications service within the geographic area where an applicant is seeking to
35922 provide telecommunications service shall be provided notice of the application and granted
35923 automatic status as an intervenor.
35924 (c) An intervening incumbent telephone corporation serving fewer than 30,000 access
35925 lines in the state may petition the commission to exclude from an application filed pursuant to

35926 Subsection (1) any local exchange with fewer than 5,000 access lines that is owned or
35927 controlled by the intervening incumbent telephone corporation. Upon finding that the action is
35928 consistent with the public interest, the commission shall order that the application exclude such
35929 local exchange.
35930 (d) The commission shall approve or deny the application under this section within 240
35931 days after it is filed. If the commission has not acted on an application within 240 days, the
35932 application is considered granted.
35933 (4) If the commission issues a certificate to a competitive telecommunications
35934 corporation to provide local exchange services in a local exchange that has fewer than 5,000
35935 lines and that is controlled by an incumbent telephone corporation with fewer than 30,000
35936 access lines in the state, the commission shall impose an obligation upon the competitive
35937 telecommunications corporation to provide public telecommunications services to any
35938 customer or class of customers who requests service within the local exchange. The competing
35939 telecommunications corporation's obligation to serve shall be no greater than that of the
35940 incumbent telephone corporation.
35941 (5) An incumbent telephone corporation with fewer than 30,000 access lines in the
35942 state may not be required to become a carrier of intrastate toll services.
35943 Section 797. Section **54-8b-10** is amended to read:
35944 **54-8b-10. Imposing a surcharge to provide hearing and speech impaired persons**
35945 **with telecommunication devices -- Definitions -- Procedures for establishing program --**
35946 **Surcharge -- Administration and disposition of surcharge moneys.**
35947 (1) As used in this section:
35948 (a) "Certified deaf or severely hearing or speech impaired person" means any state
35949 resident who:
35950 (i) is so certified by:
35951 (A) a licensed physician;
35952 (B) an otolaryngologist;
35953 (C) a speech language pathologist;
35954 (D) an audiologist; or
35955 (E) a qualified state agency; and
35956 (ii) qualifies for assistance under any low income public assistance program

35957 administered by a state agency.
35958 (b) "Certified interpreter" means a person who is a certified interpreter under Title
35959 53A, Chapter 26a, Interpreter Services for the Hearing Impaired Act.
35960 (c) (i) "Telecommunication device" means any mechanical adaptation device that
35961 enables a deaf or severely hearing or speech impaired person to use the telephone.
35962 (ii) "Telecommunication device" includes:
35963 (A) telecommunication devices for the deaf (TDD);
35964 (B) telephone amplifiers;
35965 (C) telephone signal devices;
35966 (D) artificial larynxes; and
35967 (E) adaptive equipment for TDD keyboard access.
35968 (2) The commission shall hold hearings to establish a program whereby any certified
35969 deaf or severely hearing or speech impaired customer of a telephone corporation that provides
35970 service through a local exchange or of a wireless telecommunications provider may obtain a
35971 telecommunication device capable of serving the customer at no charge to the customer beyond
35972 the rate for basic service.
35973 (3) (a) The program described in Subsection (2) shall provide a dual party relay system
35974 using third party intervention to connect a certified deaf or severely hearing or speech impaired
35975 person with a normal hearing person by way of telecommunication devices designed for that
35976 purpose.
35977 (b) The commission may, by rule, establish the type of telecommunications device to
35978 be provided to ensure functional equivalence.
35979 (4) (a) The commission shall impose a surcharge on each residence and business access
35980 line of each customer to the local exchange of any telephone corporation providing such lines
35981 in this state to cover the costs of:
35982 (i) the program described in Subsection (2); and
35983 (ii) payments made under Subsection (5).
35984 (b) The commission shall establish by rule the amount to be charged under this section,
35985 which may not exceed 25 cents per residence and business access line.
35986 (c) The telephone corporation shall collect the surcharge from its customers and
35987 transfer the money collected to the commission under rules adopted by the commission.

35988 (d) The surcharge shall be separately identified on customer bills.
35989 (5) (a) Any money collected from the surcharge imposed under Subsection (4) shall be
35990 deposited in the state treasury as dedicated credits to be administered as determined by the
35991 Public Service Commission.
35992 (b) These dedicated credits may be used only:
35993 (i) for the purchase, maintenance, repair, and distribution of telecommunication
35994 devices;
35995 (ii) for the acquisition, operation, maintenance, and repair of a dual party relay system;
35996 (iii) to reimburse telephone corporations for the expenses incurred in collecting and
35997 transferring to the commission the surcharge imposed by the commission;
35998 (iv) for the general administration of the program;
35999 (v) to train persons in the use of telecommunications devices; and
36000 (vi) by the commission to contract, in compliance with [~~Title 63, Chapter 56~~] Title
36001 63G, Chapter 6, Utah Procurement Code, with:
36002 (A) an institution within the state system of higher education listed in Section
36003 53B-1-102 for a program approved by the Board of Regents that trains persons to qualify as
36004 certified interpreters; or
36005 (B) the Division of Services to the Deaf and Hard of Hearing for a program that trains
36006 persons to qualify as certified interpreters.
36007 (c) (i) The commission shall make rules under [~~Title 63, Chapter 46a~~] Title 63G,
36008 Chapter 3, Utah Administrative Rulemaking Act, for the administration of monies under
36009 Subsection (5)(b)(vi).
36010 (ii) In the initial rulemaking to determine the administration of monies under
36011 Subsection (5)(b)(vi), the commission shall give notice and hold a public hearing.
36012 (d) Monies received by the commission under Subsection (4) are nonlapsing.
36013 (6) (a) The telephone surcharge need not be collected by a local exchange company if
36014 the amount collected would be less than the actual administrative costs of the collection.
36015 (b) If Subsection (6)(a) applies, the local exchange company shall submit to the
36016 commission, in lieu of the revenue from the surcharge collection, a breakdown of the
36017 anticipated costs and the expected revenue from the collection, showing that the costs exceed
36018 the revenue.

36019 (7) The commission shall solicit the advice, counsel, and physical assistance of
36020 severely hearing or speech impaired persons and the organizations serving them in the design
36021 and implementation of the program.
36022 Section 798. Section **54-14-104** is amended to read:
36023 **54-14-104. Rules and procedures.**
36024 The board may, pursuant to [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
36025 Administrative Rulemaking Act, adopt rules governing proceedings under this chapter
36026 consistent with this chapter and [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
36027 Procedures Act.
36028 Section 799. Section **54-14-307** is amended to read:
36029 **54-14-307. Stay of board's decision pending review or appeal.**
36030 (1) A petition for review, rehearing, or reconsideration or a petition for judicial review
36031 does not stay or suspend the effectiveness of a written decision of the board.
36032 (2) Any party seeking to stay the effectiveness of a decision of the board shall seek a
36033 stay under Section [~~63-46b-18~~] 63G-4-405.
36034 Section 800. Section **54-17-102** is amended to read:
36035 **54-17-102. Definitions.**
36036 As used in this chapter:
36037 (1) "Affected electrical utility" means an electrical corporation with at least 200,000
36038 retail customers in the state.
36039 (2) "Benchmark option" means an energy resource against which bids in an open bid
36040 process may be evaluated that:
36041 (a) could be constructed or owned by:
36042 (i) an affected electrical utility; or
36043 (ii) an affiliate of an affected electrical utility; or
36044 (b) may be a purchase of:
36045 (i) electricity;
36046 (ii) electric generating capacity; or
36047 (iii) electricity and electric generating capacity.
36048 (3) "Integrated resource plan" means a plan that contains:
36049 (a) the demand and energy forecast by the affected electrical utility for at least a

36050 ten-year period;
36051 (b) the affected electrical utility's options for meeting the requirements shown in its
36052 load and resource forecast in an economic and reliable manner, including:
36053 (i) demand-side and supply-side options; and
36054 (ii) a brief description and summary cost-benefit analysis, if available, of each option
36055 that was considered;
36056 (c) the affected electrical utility's assumptions and conclusions with respect to the
36057 effect of the plan on the cost and reliability of energy service;
36058 (d) a description of the external environmental and economic consequences of the plan
36059 to the extent practicable; and
36060 (e) any other data and analyses as the commission may require.
36061 (4) "Significant energy resource" for an affected electrical utility means a resource that
36062 consists of:
36063 (a) a total of 100 megawatts or more of new generating capacity that has a dependable
36064 life of ten or more years;
36065 (b) a purchase of the following if the contract is for a term of ten or more years and not
36066 less than 100 megawatts:
36067 (i) electricity;
36068 (ii) electric generating capacity; or
36069 (iii) electricity and electrical generating capacity;
36070 (c) the purchase or lease by an affected electrical utility from an affiliated company of:
36071 (i) a generating facility;
36072 (ii) electricity;
36073 (iii) electrical generating capacity; or
36074 (iv) electricity and electrical generating capacity;
36075 (d) a contract with an option for the affected electrical utility or an affiliate to purchase
36076 a resource that consists of not less than 100 megawatts or more of new generating capacity that
36077 has a remaining dependable life of ten or more years; or
36078 (e) a type of resource designated by the commission as a significant energy resource in
36079 rules made by the commission in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
36080 Utah Administrative Rulemaking Act, after considering the affected electrical utility's

36081 integrated resource plan and action plan.
36082 (5) "Solicitation" means a request for proposals or other invitation for persons to
36083 submit a bid or proposal through an open bid process for construction or acquisition of a
36084 significant energy resource.
36085 Section 801. Section **54-17-103** is amended to read:
36086 **54-17-103. Rulemaking.**
36087 (1) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
36088 Administrative Rulemaking Act, the commission:
36089 (a) shall make rules when required by this chapter; and
36090 (b) in addition to the rules required under Subsection (1)(a), may make rules necessary
36091 for the implementation of this chapter.
36092 (2) Notwithstanding a requirement that the commission make rules, the commission
36093 may take action under this chapter before the commission makes a required rule including:
36094 (a) approving a solicitation process under Part 2, Solicitation Process;
36095 (b) approving a significant energy resource under Section 54-17-302;
36096 (c) issuing an order under Section 54-17-304 regarding whether an affected electrical
36097 utility should proceed with implementing a significant energy resource decision;
36098 (d) approving an energy resource under Section 54-17-402; or
36099 (e) issuing an order under Section 54-17-404 regarding whether an energy utility
36100 should proceed with implementing a resource decision.
36101 Section 802. Section **54-17-201** is amended to read:
36102 **54-17-201. Solicitation process required -- Exception.**
36103 (1) (a) An affected electrical utility shall comply with this chapter to acquire or
36104 construct a significant energy resource after February 25, 2005.
36105 (b) Notwithstanding Subsection (1)(a), this chapter does not apply to a significant
36106 energy resource for which the affected electrical utility has issued a solicitation before February
36107 25, 2005.
36108 (2) (a) Except as provided in Subsection (3), to acquire or construct a significant
36109 energy resource, an affected electrical utility shall conduct a solicitation process that is
36110 approved by the commission.
36111 (b) To obtain the approval of the commission of a solicitation process, the affected

36112 electrical utility shall file with the commission a request for approval that includes:
36113 (i) a description of the solicitation process the affected electrical utility will use;
36114 (ii) a complete proposed solicitation; and
36115 (iii) any other information the commission requires by rule made in accordance with
36116 [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
36117 (c) In ruling on the request for approval of a solicitation process, the commission shall
36118 determine whether the solicitation process:
36119 (i) complies with this chapter and rules made in accordance with [~~Title 63, Chapter~~
36120 ~~46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
36121 (ii) is in the public interest taking into consideration:
36122 (A) whether it will most likely result in the acquisition, production, and delivery of
36123 electricity at the lowest reasonable cost to the retail customers of an affected electrical utility
36124 located in this state;
36125 (B) long-term and short-term impacts;
36126 (C) risk;
36127 (D) reliability;
36128 (E) financial impacts on the affected electrical utility; and
36129 (F) other factors determined by the commission to be relevant.
36130 (d) Before approving a solicitation process under this section the commission:
36131 (i) may hold a public hearing; and
36132 (ii) shall provide an opportunity for public comment.
36133 (e) As part of its review of a solicitation process, the commission may provide the
36134 affected electrical utility guidance on any additions or changes to its proposed solicitation
36135 process.
36136 (f) Unless the commission determines that additional time to analyze a solicitation
36137 process is warranted and is in the public interest, within 90 days of the day on which the
36138 affected electrical utility files a request for approval of the solicitation process, the commission
36139 shall:
36140 (i) approve a proposed solicitation process;
36141 (ii) suggest modifications to a proposed solicitation process; or
36142 (iii) reject a proposed solicitation process.

36143 (3) Notwithstanding Subsection (2), an affected electrical utility may acquire or
36144 construct a significant energy resource without conducting a solicitation process if it obtains a
36145 waiver of the solicitation requirement in accordance with Section 54-17-501.
36146 (4) In accordance with the commission's authority under Subsection 54-12-2(2), the
36147 commission shall determine:
36148 (a) whether this chapter or another competitive bidding procedure shall apply to a
36149 purchase of a significant energy resource by an affected electrical utility from a small power
36150 producer or cogenerator; and
36151 (b) if this chapter applies as provided in Subsection (4)(a), the manner in which this
36152 chapter applies to a purchase of a significant energy resource by an affected electrical utility
36153 from a small power producer or cogenerator.
36154 Section 803. Section **54-17-202** is amended to read:
36155 **54-17-202. Requirements for solicitation.**
36156 (1) The commission shall make rules, in accordance with [~~Title 63, Chapter 46a~~] Title
36157 63G, Chapter 3, Utah Administrative Rulemaking Act, outlining the requirements for a
36158 solicitation process. The rules required by this Subsection (1) shall include:
36159 (a) the type of screening criteria an affected electrical utility may use in a solicitation
36160 process including the risks an affected electrical utility may consider;
36161 (b) the required disclosures by an affected electrical utility if a solicitation includes a
36162 benchmark option;
36163 (c) the required disclosures by an affected electrical utility related to the methodology
36164 the affected electrical utility uses to evaluate bids; and
36165 (d) the participation of an independent evaluator in a manner consistent with Section
36166 54-17-203.
36167 (2) If an affected electrical utility is subject to regulation in more than one state
36168 regarding the acquisition, construction, or cost recovery of a significant energy resource, in
36169 making the rules required by Subsection (1), the commission may consider the impact of the
36170 multistate regulation including requirements imposed by other states as to:
36171 (a) the solicitation process;
36172 (b) cost recovery of resources; and
36173 (c) methods by which the affected electrical utility may be able to mitigate the potential

36174 for cost disallowances.
36175 Section 804. Section **54-17-203** is amended to read:
36176 **54-17-203. Independent evaluator.**
36177 (1) (a) The commission shall:
36178 (i) appoint an independent evaluator to monitor any solicitation conducted by an
36179 affected electrical utility under this chapter; and
36180 (ii) oversee or direct the division to oversee the independent evaluator in monitoring
36181 any solicitation conducted by an affected electrical utility under this chapter.
36182 (b) The commission, in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
36183 Utah Administrative Procedures Act, shall make rules setting the qualifications of an
36184 independent evaluator.
36185 (2) The commission shall determine the method used to pay the fees and expenses for
36186 the independent evaluator which may include:
36187 (a) the payment of a bid fee by bidders to a solicitation; or
36188 (b) (i) requiring the affected electrical utility to pay the fees and expenses; and
36189 (ii) permitting an affected electrical utility to recover the amounts paid under this
36190 Subsection (2)(b).
36191 (3) (a) The independent evaluator may not make the decision as to which bid should be
36192 awarded under the solicitation.
36193 (b) The independent evaluator shall:
36194 (i) actively monitor the solicitation process for fairness and compliance with
36195 commission rules;
36196 (ii) report regularly to:
36197 (A) the commission; and
36198 (B) others as directed by the commission;
36199 (iii) develop one or more reports addressing:
36200 (A) the solicitation process;
36201 (B) any concerns of the independent evaluator related to the solicitation process; and
36202 (C) the ultimate results of the solicitation process, including the opinions and
36203 conclusions of the independent evaluator;
36204 (iv) provide ongoing input regarding issues, concerns, and improvements in the

36205 solicitation process with the objective of correcting ongoing deficiencies in the solicitation
36206 process to the following:
36207 (A) the commission;
36208 (B) the affected electrical utility; and
36209 (C) others as directed by the commission;
36210 (v) render an opinion as to whether:
36211 (A) the solicitation process is:
36212 (I) fair; and
36213 (II) in compliance with this part; and
36214 (B) any modeling used by the affected electrical utility to evaluate bids is sufficient;
36215 (vi) testify in any proceeding under Section 54-17-302; and
36216 (vii) perform other functions and provide other input and reports as the commission
36217 may direct, including periodic presentations to interested parties regarding the solicitation
36218 process.
36219 Section 805. Section **54-17-301** is amended to read:
36220 **54-17-301. Review of integrated resource plan action plans.**
36221 (1) An affected electrical utility shall file with the commission any action plan
36222 developed as part of the affected electrical utility's integrated resource plan to enable the
36223 commission to review and provide guidance to the affected electrical utility.
36224 (2) (a) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
36225 Administrative Rulemaking Act, the commission shall make rules providing a process for its
36226 review of an action plan.
36227 (b) The rules required under Subsection (2)(a) shall provide sufficient flexibility to
36228 permit changes in an action plan between the periodic filings of the affected electrical utility's
36229 integrated resource plan.
36230 Section 806. Section **54-17-302** is amended to read:
36231 **54-17-302. Approval of a significant energy resource decision required.**
36232 (1) If pursuant to Part 2, Solicitation Process, an affected electrical utility is required to
36233 conduct a solicitation for a significant energy resource or obtains a waiver of the requirement to
36234 conduct a solicitation under Section 54-17-501, but does not obtain a waiver of the requirement
36235 to obtain approval of the significant energy resource decision under Section 54-17-501, the

36236 affected electrical utility shall obtain approval of its significant energy resource decision:
36237 (a) after the completion of the solicitation process, if the affected electrical utility is
36238 required to conduct a solicitation; and
36239 (b) before an affected electrical utility may construct or enter into a binding agreement
36240 to acquire the significant energy resource.
36241 (2) (a) To obtain the approval required by Subsection (1), the affected electrical utility
36242 shall file a request for approval with the commission.
36243 (b) The request for approval required by this section shall include any information
36244 required by the commission by rule made in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
36245 Chapter 3, Utah Administrative Rulemaking Act.
36246 (3) In ruling on a request for approval of a significant energy resource decision, the
36247 commission shall determine whether the significant energy resource decision:
36248 (a) is reached in compliance with this chapter and rules made in accordance with [~~Title~~
36249 ~~63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
36250 (b) (i) is reached in compliance with the solicitation process approved by the
36251 commission in accordance with Part 2, Solicitation Process; or
36252 (ii) is reached after the waiver of the solicitation process as provided in Subsection
36253 54-17-201(3); and
36254 (c) is in the public interest, taking into consideration:
36255 (i) whether it will most likely result in the acquisition, production, and delivery of
36256 electricity at the lowest reasonable cost to the retail customers of an affected electrical utility
36257 located in this state;
36258 (ii) long-term and short-term impacts;
36259 (iii) risk;
36260 (iv) reliability;
36261 (v) financial impacts on the affected electrical utility; and
36262 (vi) other factors determined by the commission to be relevant.
36263 (4) The commission may not approve a significant energy resource decision under this
36264 section before holding a public hearing.
36265 (5) Unless the commission determines that additional time to analyze a significant
36266 energy resource decision is warranted and is in the public interest, within 180 days of the day

36267 on which the affected electrical utility files a request for approval, the commission shall:
36268 (a) approve the significant energy resource decision;
36269 (b) approve the significant energy resource decision subject to conditions imposed by
36270 the commission; or
36271 (c) disapprove the significant energy resource decision.
36272 (6) The commission shall include in its order under this section:
36273 (a) findings as to the total projected costs for construction or acquisition of an
36274 approved significant energy resource; and
36275 (b) the basis upon which the findings described in Subsection (6)(a) are made.
36276 (7) Notwithstanding any other provision of this part, an affected electrical utility may
36277 acquire a significant energy resource without obtaining approval pursuant to this section if it
36278 obtains a waiver of the requirement for approval in accordance with Section 54-17-501.
36279 (8) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
36280 Administrative Rulemaking Act, the commission shall make rules regarding the process for
36281 approval of a significant energy resource decision under this section.
36282 Section 807. Section **54-17-304** is amended to read:
36283 **54-17-304. Order to proceed.**
36284 (1) (a) In the event of a change in circumstances or projected costs, an affected
36285 electrical utility may seek a commission review and determination of whether the affected
36286 electrical utility should proceed with the implementation of an approved significant energy
36287 resource decision.
36288 (b) In making a determination under this Subsection (1), the commission shall use the
36289 standards identified in Subsection 54-17-302(3)(c).
36290 (c) Before making a determination under this Subsection (1) the commission:
36291 (i) may hold a public hearing; and
36292 (ii) shall provide an opportunity for public comment.
36293 (2) Unless the commission determines that additional time is warranted and is in the
36294 public interest, within 60 days of the day on which the affected electrical utility files a request
36295 for commission review and determination under this section, the commission shall:
36296 (a) issue an order:
36297 (i) determining that the affected electrical utility should proceed with the

36298 implementation of the significant energy resource decision;
36299 (ii) making findings as to the total projected costs for construction or acquisition of the
36300 approved significant energy resource; and
36301 (iii) stating the basis upon which the findings described in Subsection (2)(a)(ii) are
36302 made; or
36303 (b) issue an order determining that the affected electrical utility should not proceed
36304 with the implementation of the significant energy resource decision.
36305 (3) If the commission determines that the affected electrical utility should proceed with
36306 the implementation of the approved significant energy resource decision, the commission shall,
36307 in a general rate case or other appropriate commission proceeding, include in the affected
36308 electrical utility's retail electric rates the state's share of costs:
36309 (a) relevant to that proceeding;
36310 (b) incurred by the affected electrical utility in constructing or acquiring the approved
36311 significant energy resource; and
36312 (c) up to the projected costs as specified in the commission's order issued under
36313 Subsection (2)(a).
36314 (4) If the commission determines that the affected electrical utility should not proceed
36315 with the implementation of the approved significant energy resource decision, the commission
36316 shall, in a general rate case or other appropriate commission proceeding, include in the affected
36317 electrical utility's retail electric rates the state's share of costs:
36318 (a) relevant to that proceeding; and
36319 (b) incurred by the affected electrical utility in constructing or acquiring the approved
36320 significant energy resource before issuance of a determination not to proceed, including any
36321 prudently incurred costs of terminating the approved significant energy resource decision.
36322 (5) A commission order under this section not to proceed with the implementation of a
36323 significant energy resource may not prejudice:
36324 (a) the right of an affected electrical utility to:
36325 (i) continue to implement the significant energy resource decision; and
36326 (ii) seek recovery of costs incurred after a determination not to proceed in a future rate
36327 proceeding; or
36328 (b) the right of any other party to support or oppose recovery of costs sought under

36329 Subsection (5)(a)(ii).
36330 (6) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
36331 Administrative Rulemaking Act, the commission shall make rules regarding the process for the
36332 commission's review and determination on a request for an order to proceed under this section.
36333 Section 808. Section **54-17-401** is amended to read:
36334 **54-17-401. Definitions.**
36335 As used in this part:
36336 (1) "Energy utility" means one of the following with 200,000 retail customers in the
36337 state:
36338 (a) an electrical corporation; or
36339 (b) a gas corporation.
36340 (2) (a) "Resource decision" means a decision, other than a decision to construct or
36341 acquire a significant energy resource, involving:
36342 (i) an energy utility's acquisition, management, or operation of energy production,
36343 processing, transmission, or distribution facilities or processes including:
36344 (A) a facility or process for the efficient, reliable, or safe provision of energy to retail
36345 customers; or
36346 (B) an energy efficiency and conservation program; or
36347 (ii) a decision determined by the commission to be appropriate for review under this
36348 part.
36349 (b) The commission may adopt rules in accordance with [~~Title 63, Chapter 46a~~] Title
36350 63G, Chapter 3, Utah Administrative Rulemaking Act, to specify the nature of resource
36351 decisions subject to approval under Section 54-17-402.
36352 Section 809. Section **54-17-402** is amended to read:
36353 **54-17-402. Request for review of resource decision.**
36354 (1) Beginning on February 25, 2005, before implementing a resource decision, an
36355 energy utility may request that the commission approve all or part of a resource decision in
36356 accordance with this part.
36357 (2) (a) To obtain the approval permitted by Subsection (1), the energy utility shall file a
36358 request for approval with the commission.
36359 (b) The request for approval required by this section shall include any information

36360 required by the commission by rule made in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
36361 Chapter 3, Utah Administrative Rulemaking Act.
36362 (3) In ruling on a request for approval of a resource decision, the commission shall
36363 determine whether the decision:
36364 (a) is reached in compliance with this chapter and rules made in accordance with [~~Title~~
36365 ~~63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
36366 (b) is in the public interest, taking into consideration:
36367 (i) whether it will most likely result in the acquisition, production, and delivery of
36368 utility services at the lowest reasonable cost to the retail customers of an energy utility located
36369 in this state;
36370 (ii) long-term and short-term impacts;
36371 (iii) risk;
36372 (iv) reliability;
36373 (v) financial impacts on the energy utility; and
36374 (vi) other factors determined by the commission to be relevant.
36375 (4) (a) If the commission approves a proposed resource decision only in part, the
36376 commission shall explain in the order issued under this section why the commission does not
36377 approve the resource decision in total.
36378 (b) Recovery of expenses incurred in connection with parts of a resource decision that
36379 are not approved is subject to the review of the commission as part of a rate hearing under
36380 Section 54-7-12.
36381 (5) The commission may not approve a resource decision in whole or in part under this
36382 section before holding a public hearing.
36383 (6) Unless the commission determines that additional time to analyze a resource
36384 decision is warranted and is in the public interest, within 180 days of the day on which the
36385 energy utility files a request for approval, the commission shall:
36386 (a) approve all or part of the resource decision;
36387 (b) approve all or part of the resource decision subject to conditions imposed by the
36388 commission; or
36389 (c) disapprove all or part of the resource decision.
36390 (7) The commission shall include in its order under this section:

36391 (a) findings as to the approved projected costs of a resource decision; and
36392 (b) the basis upon which the findings described in Subsection (7)(a) are made.
36393 (8) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
36394 Administrative Rulemaking Act, the commission shall make rules regarding the process for
36395 approval of a resource decision under this section.
36396 Section 810. Section **54-17-404** is amended to read:
36397 **54-17-404. Order to proceed.**
36398 (1) (a) In the event of a change in circumstances or projected costs, an energy utility
36399 may seek a commission review and determination of whether the energy utility should proceed
36400 with the implementation of an approved resource decision.
36401 (b) In making a determination under this Subsection (1), the commission shall use the
36402 standards identified in Subsection 54-17-402(3)(b).
36403 (c) Before making a determination under this Subsection (1) the commission:
36404 (i) may hold a public hearing; and
36405 (ii) shall provide an opportunity for public comment.
36406 (2) Unless the commission determines that additional time is warranted and is in the
36407 public interest, within 60 days of the day on which the energy utility files a request for
36408 commission review and determination under this section, the commission shall:
36409 (a) issue an order:
36410 (i) determining that the energy utility should proceed with the implementation of the
36411 resource decision;
36412 (ii) making findings as to the total projected costs of the approved resource decision;
36413 and
36414 (iii) stating the basis upon which the findings described in Subsection (2)(a)(ii) are
36415 made; or
36416 (b) issue an order determining that the energy utility should not proceed with the
36417 implementation of the resource decision.
36418 (3) If the commission determines that the energy utility should proceed with the
36419 implementation of the approved resource decision, the commission shall, in a general rate case
36420 or other appropriate commission proceeding, include in the energy utility's retail rates the
36421 state's share of costs:

36422 (a) relevant to that proceeding;
36423 (b) incurred by the energy utility in implementing the approved resource decision; and
36424 (c) up to the projected costs as specified in the commission's order issued under
36425 Subsection (2)(a).
36426 (4) If the commission determines that the energy utility should not proceed with the
36427 implementation of the approved resource decision, the commission shall, in a general rate case
36428 or other appropriate commission proceeding, include in the energy utility's retail rates the
36429 state's share of costs:
36430 (a) relevant to that proceeding; and
36431 (b) incurred by the energy utility in implementing the approved resource decision
36432 before issuance of a determination not to proceed, including any prudently incurred costs of
36433 terminating the approved resource decision.
36434 (5) A commission order under this section not to proceed with the implementation of a
36435 resource decision may not prejudice:
36436 (a) the right of an energy utility to:
36437 (i) continue to implement the resource decision; and
36438 (ii) seek recovery of costs incurred after a determination not to proceed in a future rate
36439 proceeding; or
36440 (b) the right of any other party to support or oppose the recovery sought under
36441 Subsection (5)(a)(ii).
36442 (6) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
36443 Administrative Rulemaking Act, the commission shall make rules regarding the process for the
36444 commission's review and determination on a request for an order to proceed under this section.
36445 Section 811. Section **54-17-501** is amended to read:
36446 **54-17-501. Waiver of requirement for solicitation or approval.**
36447 (1) An affected electrical utility may obtain a waiver of the requirement that it conduct
36448 a solicitation process under Part 2, Solicitation Process, or the requirement that it obtain
36449 approval of a significant energy resource decision under Part 3, Resource Plans and Significant
36450 Energy Resource Approval, if the commission determines that waiving the requirement is in
36451 the public interest because there exists:
36452 (a) a clear emergency;

36453 (b) a time-limited commercial or technical opportunity that provides value to the
36454 customers of the affected electrical utility; or
36455 (c) any other factor that makes waiving the requirement in the public interest.
36456 (2) To obtain a finding from the commission under Subsection (1), the affected
36457 electrical utility shall, as soon as practicable after learning of the existence of a circumstance
36458 specified in Subsection (1):
36459 (a) file a verified application with the commission; and
36460 (b) serve an electronic and paper copy of the verified application, including all
36461 associated exhibits and attachments, on each person reflected on a list to be maintained and
36462 published by the commission on its Internet website that has requested service of waiver
36463 requests and has signed a generic protective order issued by the commission limiting the use of
36464 information contained in or attached to a waiver request.
36465 (3) A verified application filed pursuant to Subsection (2) shall:
36466 (a) identify any waiver requested;
36467 (b) explain the basis for each waiver requested;
36468 (c) specify any time sensitivity associated with the verified application;
36469 (d) explain why the waiver requested is in the public interest; and
36470 (e) contain other information required by the commission by rule made in accordance
36471 with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
36472 (4) Upon receipt of a verified application filed under Subsection (2), the commission
36473 shall, before the end of the next business day, provide public notice of a technical conference to
36474 be held no sooner than three business days and no later than seven calendar days following the
36475 day on which the verified application is filed and served.
36476 (5) (a) At the technical conference held under Subsection (4), the affected electrical
36477 utility shall provide adequate support for its verified application and shall respond to questions
36478 of the commission, an independent evaluator if one is participating, and any other interested
36479 person.
36480 (b) The commission shall prepare and retain a transcript of the technical conference.
36481 (6) No less than three business days and no more than seven calendar days following
36482 the technical conference, the independent evaluator and any interested person may file and
36483 serve comments concerning the verified application.

36484 (7) The commission shall issue a written decision either granting, granting with
36485 conditions, or denying each waiver requested no later than seven calendar days following the
36486 deadline for the independent evaluator and any interested person to file comments under
36487 Subsection (6).
36488 (8) (a) If confidential or trade secret information is provided or used in the verified
36489 application, in the technical conference, in comments filed on the verified application or
36490 otherwise in the process, that information shall be clearly identified by the providing person as
36491 confidential and shall be provided on a confidential basis subject to the terms of a protective
36492 order issued by the commission.
36493 (b) (i) The commission shall issue a generic protective order to govern access to and
36494 use of confidential information in connection with a request for waiver under this part.
36495 (ii) Upon request by the affected electrical utility or any interested person, the
36496 commission may issue a supplemental protective order in connection with any verified
36497 application.
36498 (c) (i) The generic protective order and any supplemental protective order restrict use
36499 of confidential information to the proceeding on the verified application, however, use of the
36500 confidential information in the proceeding is not considered a competitive purpose under
36501 Subsection (8)(c)(ii).
36502 (ii) The generic protective order and any supplemental protective order shall forbid the
36503 use of confidential information for competitive purposes.
36504 (d) An interested person may gain access to and use confidential information in
36505 accordance with the terms of a protective order issued by the commission.
36506 (9) Notwithstanding the time frames in Subsections (4), (6), and (7), the commission:
36507 (a) shall take action or schedule proceedings as soon as reasonably practicable in light
36508 of the circumstances and urgency demonstrated by the verified application and any subsequent
36509 information provided during the process; and
36510 (b) may shorten or lengthen the time frames if the commission determines that
36511 changing them is warranted and in the public interest, except that a time frame may not be
36512 lengthened solely because an independent evaluator is not available to participate or to
36513 complete a recommendation.
36514 (10) If an affected electrical utility is granted a waiver to acquire or construct a

36515 significant energy resource in accordance with this section:
36516 (a) the provisions of Sections 54-17-303 and 54-17-304 do not apply to the significant
36517 energy resource decision;
36518 (b) any cost recovery that an affected electrical utility seeks in connection with that
36519 significant energy resource is subject to a future prudence review by the commission under
36520 Subsection 54-4-4(4); and
36521 (c) the waiver grant does not create any presumption that the affected electrical utility's
36522 action in acquiring or constructing a significant energy resource was prudent.
36523 (11) (a) Subject to Subsection (11)(b), the commission shall use reasonable efforts to
36524 have an independent evaluator available to participate in any application for a waiver under this
36525 part.
36526 (b) The commission may decline to use an independent evaluator in the consideration
36527 of a waiver application if the commission determines the use of an independent evaluator is:
36528 (i) not appropriate under the circumstances;
36529 (ii) not available under terms or conditions the commission considers reasonable; or
36530 (iii) not available to participate or complete a recommendation within any time frame
36531 established under Subsection (4), (6), (7), or (9).
36532 (c) The validity of an order entered under this part is not affected by:
36533 (i) the unavailability of an independent evaluator; or
36534 (ii) the failure of an independent evaluator to participate or complete a
36535 recommendation within any time frame established under Subsection (4), (6), (7), or (9).
36536 (12) The commission shall issue a generic protective order as provided in Subsections
36537 (2)(b) and (8)(b).
36538 (13) By September 1, 2007, the commission shall, in accordance with [~~Title 63,~~
36539 ~~Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules
36540 concerning the process for obtaining a waiver of the solicitation or approval process consistent
36541 with this section.
36542 Section 812. Section **56-1-22.5** is amended to read:
36543 **56-1-22.5. Procedures -- Adjudicative proceedings.**
36544 The Public Service Commission shall comply with the procedures and requirements of
36545 [~~Title 63, Chapter 46b,~~] Title 63G, Chapter 4, Administrative Procedures Act, in its

36546 adjudicative proceedings.
36547 Section 813. Section **56-2-8** is amended to read:
36548 **56-2-8. Contents of livestock owners' application for fencing.**
36549 In addition to the information required by [~~Title 63, Chapter 46b,~~] Title 63G, Chapter 4,
36550 Administrative Procedures Act, the request for agency action shall:
36551 (1) identify the lands;
36552 (2) identify the name and address of the owner of the lands;
36553 (3) if any of the lands are owned by the United States or the state of Utah, designate the
36554 agency or department of government that administers the lands;
36555 (4) identify the nature of the right of each petitioner to drive, range, or graze sheep,
36556 cattle, horses, or mules on the lands; and
36557 (5) specify the ownership of the railroad sought to be fenced.
36558 Section 814. Section **57-11-3.5** is amended to read:
36559 **57-11-3.5. Procedures -- Adjudicative proceedings.**
36560 The Division of Real Estate shall comply with the procedures and requirements of
36561 [~~Title 63, Chapter 46b,~~] Title 63G, Chapter 4, Administrative Procedures Act, in its
36562 adjudicative proceedings.
36563 Section 815. Section **57-11-10** is amended to read:
36564 **57-11-10. Renewal report -- Renewal fee -- Examination by division -- Annual**
36565 **reports.**
36566 (1) (a) Within 30 days after each annual anniversary date of the division's registration
36567 of subdivided lands, the subdivider shall file a renewal report in the form prescribed by the
36568 division together with a renewal fee of $200.
36569 (b) The report shall reflect any material changes in information contained in the
36570 original application for registration, including any change in ownership of the subdivider.
36571 (c) The report shall also indicate the number of units in the subdivision that have been
36572 disposed of since the division registered the subdivided lands.
36573 (2) (a) The division may, upon the filing of a renewal report, initiate a renewal
36574 examination of the kind described in Section 57-11-8.
36575 (b) If the division determines upon inquiry and examination that any of the
36576 requirements of Section 57-11-8 have not been met, it shall notify the subdivider that the

36577 report, the promotional plan, or the plan of disposition must be corrected within 20 days or any
36578 additional time allowed by the division.
36579 (c) If the requirements are not met within the time allowed, the division may,
36580 notwithstanding the provisions of Section 57-11-13 and without further notice, issue a cease
36581 and desist order according to the emergency procedures of [~~Title 63, Chapter 46b~~] Title 63G,
36582 Chapter 4, Administrative Procedures Act, barring further sale of the subdivided lands.
36583 (3) The division may permit the filing of annual reports within 30 days after the
36584 anniversary date of the consolidated registration in lieu of the anniversary date of the original
36585 registration.
36586 Section 816. Section **57-11-13** is amended to read:
36587 **57-11-13. Enforcement powers of division -- Cease and desist orders.**
36588 (1) (a) If the director has reason to believe that any person has been or is engaging in
36589 conduct violating this chapter, or has violated any lawful order or rule of the division, [~~he~~] the
36590 director shall issue and serve upon the person a cease and desist order and may also order the
36591 person to take such affirmative actions the director determines will carry out the purposes of
36592 this chapter.
36593 (b) The person served may request an adjudicative proceeding within ten days after
36594 receiving the order.
36595 (c) The cease and desist order remains in effect pending the hearing.
36596 (d) The division shall follow the procedures and requirements of [~~Title 63, Chapter~~
36597 ~~46b~~] Title 63G, Chapter 4, Administrative Procedures Act, if the person served requests a
36598 hearing.
36599 (2) (a) After the hearing the director may issue an order making the cease and desist
36600 order permanent if the director finds there has been a violation of this chapter.
36601 (b) If no hearing is requested and the person served does not obey the director's order,
36602 the director shall file suit in the name of the Department of Commerce and the Division of Real
36603 Estate to enjoin the person from violating this chapter. The action shall be filed in the district
36604 court in the county in which the conduct occurred or where the person resides or carries on
36605 business.
36606 (3) The remedies and action provided in this section may not interfere with or prevent
36607 the prosecution of any other remedies or actions including criminal prosecutions.

36608 Section 817. Section **57-11-14** is amended to read:
36609 **57-11-14. Revocation, suspension, or denial of registration -- Grounds --**
36610 **Suspension or revocation of real estate license.**
36611 (1) (a) The division may deny an application for registration or may revoke, suspend,
36612 or deny reissuance of a registration, or may impose a fine of not more than $500 per violation,
36613 by following the procedures and requirements of [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
36614 Administrative Procedures Act, and by making a written finding of fact that the subdivider has:
36615 (i) failed to comply with the terms of a cease and desist order;
36616 (ii) been convicted in any court prior or subsequent to the filing of the application for
36617 registration of a crime involving fraud, deception, false pretenses, misrepresentation, false
36618 advertising, or dishonest dealing in real estate transactions, or has been subject to any
36619 injunction or administrative order restraining a false or misleading promotional plan involving
36620 land dispositions, and that the public interest requires revocation;
36621 (iii) disposed of, concealed, or diverted any funds or assets of any person so as to
36622 defeat the rights of subdivision purchasers;
36623 (iv) failed to perform faithfully any stipulation or agreement made with the division as
36624 an inducement to grant any registration, to reinstate any registration, to revoke any cease and
36625 desist order, or to approve any promotional plan or public offering statement;
36626 (v) made intentional misrepresentations, or concealed material facts, in an application
36627 for registration;
36628 (vi) violated any provision of this chapter or the rules adopted under this chapter;
36629 (vii) directly or through an agent or employee knowingly engaged in any false,
36630 deceptive, or misleading advertising, promotional, or sales methods to offer or dispose of an
36631 interest in subdivided lands;
36632 (viii) engaged in the offering of subdivided lands which has constituted or which may
36633 constitute a fraud upon purchasers or prospective purchasers of the lands; or
36634 (ix) engaged in dishonest practices in any industry involving sales to consumers.
36635 (b) Findings of fact shall be accompanied by a concise and explicit statement of the
36636 underlying facts supporting the findings.
36637 (2) As an alternative to revoking the registration of a subdivider, the director may issue
36638 a cease and desist order if after notice and a hearing [~~he~~] the director finds that the subdivider is

36639 guilty of a violation for which revocation may be ordered.
36640 (3) Any real estate broker or salesman violating any provisions of this chapter shall
36641 have [~~his~~] the real estate broker or salesman's license suspended or revoked by the division for
36642 the period of time the director determines to be justified under the circumstances. The
36643 suspension or revocation shall be in addition to any other penalty which may be imposed under
36644 this chapter, subject to the provisions of Section 61-2-12.
36645 Section 818. Section **57-12-9** is amended to read:
36646 **57-12-9. Rules of displacing agency.**
36647 (1) (a) A displacing agency may enact rules to assure that:
36648 (i) the payments and assistance authorized by this chapter are administered in a manner
36649 that is fair, reasonable, and as uniform as practicable;
36650 (ii) a displaced person who makes proper application for a payment authorized by this
36651 chapter is paid promptly after a move or, in hardship cases, is paid in advance; and
36652 (iii) any person aggrieved by a determination as to eligibility for a payment authorized
36653 by this chapter, or the amount of a payment, may have the person's application reviewed by the
36654 head of the displacing agency.
36655 (b) Each displacing agency that has not adopted rules under Subsection (1)(a) shall
36656 comply with the rules promulgated by the Utah Department of Transportation relating to
36657 displaced persons in right-of-way acquisitions.
36658 (2) Each displacing agency shall comply with the procedures and requirements of [~~Title~~
36659 ~~63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative
36660 proceedings.
36661 Section 819. Section **57-19-20** is amended to read:
36662 **57-19-20. Injunctive relief -- Cease and desist order.**
36663 (1) Whenever it appears to the director that any person has engaged or is about to
36664 engage in any act or practice constituting a violation of any provision of this chapter, and that it
36665 would be in the public interest to stop those acts or practices, the director may either:
36666 (a) seek injunctive relief as provided in Rule 65A, Utah Rules of Civil Procedure; or
36667 (b) issue an administrative cease and desist order.
36668 (2) If an administrative cease and desist order is issued pursuant to Subsection (1), the
36669 person upon whom the order is served may, within ten days after receiving the order, request

36670 that a hearing be held before an administrative law judge. If a request for a hearing is made,
36671 the division shall follow the procedures and requirements of [~~Title 63, Chapter 46b~~] Title 63G,
36672 Chapter 4, Administrative Procedures Act. Pending the hearing, the order remains in effect.
36673 (3) If, at the hearing, a finding is made that there has been a violation of this chapter,
36674 the director, with the concurrence of the executive director, may issue an order making the
36675 cease and desist order permanent. If no hearing is requested, and if the person fails to cease the
36676 act or practice, or after discontinuing the act or practice again commences it, the director shall
36677 file suit in the district court of the county in which the act or practice occurred, or where the
36678 person resides or carries on business, to enjoin and restrain the person from violating this
36679 chapter.
36680 (4) Whether or not the director has issued a cease and desist order, the attorney general,
36681 in the name of the state or of the director, may bring an action in any court of competent
36682 jurisdiction to enjoin any act or practice constituting a violation of any provision of this
36683 chapter, and to enforce compliance with this chapter or any rule or order under this chapter.
36684 Upon a proper showing, a permanent or temporary injunction, restraining order, or writ of
36685 mandamus shall be granted.
36686 Section 820. Section **57-21-2** is amended to read:
36687 **57-21-2. Definitions.**
36688 As used in this chapter:
36689 (1) "Aggrieved person" includes any person who:
36690 (a) claims to have been injured by a discriminatory housing practice; or
36691 (b) believes that [~~he~~] the person will be injured by a discriminatory housing practice
36692 that is about to occur.
36693 (2) "Commission" means the Labor Commission.
36694 (3) "Complainant" means an aggrieved person, including the director, who has
36695 commenced a complaint with the division.
36696 (4) "Conciliation" means the attempted resolution of issues raised by a complaint of
36697 discriminatory housing practices by the investigation of the complaint through informal
36698 negotiations involving the complainant, the respondent, and the division.
36699 (5) "Conciliation agreement" means a written agreement setting forth the resolution of
36700 the issues in conciliation.

36701 (6) "Conciliation conference" means the attempted resolution of issues raised by a
36702 complaint or by the investigation of a complaint through informal negotiations involving the
36703 complainant, the respondent, and the division. The conciliation conference is not subject to
36704 [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
36705 (7) "Covered multifamily dwellings" means:
36706 (a) buildings consisting of four or more dwelling units if the buildings have one or
36707 more elevators; and
36708 (b) ground floor units in other buildings consisting of four or more dwelling units.
36709 (8) "Director" means the director of the division or a designee.
36710 (9) (a) "Disability" means a physical or mental impairment that substantially limits one
36711 or more of a person's major life activities, including a person having a record of such an
36712 impairment or being regarded as having such an impairment.
36713 (b) "Disability" does not include current illegal use of, or addiction to, any federally
36714 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
36715 802.
36716 (10) "Discriminate" includes segregate or separate.
36717 (11) "Discriminatory housing practice" means an act that is unlawful under this
36718 chapter.
36719 (12) "Division" means the Division of Antidiscrimination and Labor established under
36720 the commission.
36721 (13) (a) "Dwelling" means any building or structure, or a portion of a building or
36722 structure, occupied as, or designed or intended for occupancy as, a residence of one or more
36723 families.
36724 (b) "Dwelling" also includes vacant land that is offered for sale or lease for the
36725 construction or location of a dwelling as described in Subsection (13)(a).
36726 (14) (a) "Familial status" means one or more individuals who have not attained the age
36727 of 18 years being domiciled with:
36728 (i) a parent or another person having legal custody of the individual or individuals; or
36729 (ii) the designee of the parent or other person having custody, with the written
36730 permission of the parent or other person.
36731 (b) The protections afforded against discrimination on the basis of familial status shall

36732 apply to any person who:
36733 (i) is pregnant;
36734 (ii) is in the process of securing legal custody of any individual who has not attained
36735 the age of 18 years; or
36736 (iii) is a single individual.
36737 (15) "National origin" means the place of birth of an individual or of any lineal
36738 ancestors.
36739 (16) "Person" includes one or more individuals, corporations, limited liability
36740 companies, partnerships, associations, labor organizations, legal representatives, mutual
36741 companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in
36742 cases under the United States Bankruptcy Code, receivers, and fiduciaries.
36743 (17) "Presiding officer" has the same meaning as provided in Section [~~63-46b-2~~]
36744 63G-4-103.
36745 (18) "Real estate broker" or "salesperson" means a principal real estate broker, an
36746 associate real estate broker, or a real estate sales agent as those terms are defined in Section
36747 61-2-2.
36748 (19) "Respondent" means a person against whom a complaint of housing
36749 discrimination has been initiated.
36750 (20) "Sex" means gender and includes pregnancy, childbirth, and disabilities related to
36751 pregnancy or childbirth.
36752 (21) "Source of income" means the verifiable condition of being a recipient of federal,
36753 state, or local assistance, including medical assistance, or of being a tenant receiving federal,
36754 state, or local subsidies, including rental assistance or rent supplements.
36755 Section 821. Section **57-21-8** is amended to read:
36756 **57-21-8. Jurisdiction -- Department -- Division.**
36757 (1) The commission has jurisdiction over the subject of housing discrimination under
36758 this chapter and may delegate the responsibility of receiving, processing, and investigating
36759 allegations of discriminatory housing practices and enforcing this chapter to the division.
36760 (2) The commission may:
36761 (a) adopt rules necessary to administer this chapter in accordance with [~~Title 63,~~
36762 ~~Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

36763 (b) appoint and prescribe the duties of investigators, legal counsel, and other
36764 employees and agents that it considers necessary for the enforcement of this chapter; and
36765 (c) issue subpoenas to compel the attendance of witnesses or the production of
36766 evidence for use in any investigation, conference, or hearing conducted by the division, and if a
36767 person fails to comply with such a subpoena, petition a court of competent jurisdiction for an
36768 order to show cause why that person should not be held in contempt.
36769 (3) The division:
36770 (a) may receive, reject, investigate, and determine complaints alleging discriminatory
36771 housing practices prohibited by this chapter;
36772 (b) shall attempt conciliation between the parties through informal efforts, conference,
36773 persuasion, or other reasonable methods for the purposes of resolving the complaint;
36774 (c) may seek prompt judicial action for appropriate temporary or preliminary relief
36775 pending final disposition of a complaint if the division and the commission conclude that such
36776 an action is necessary to carry out the purposes of this chapter;
36777 (d) may, with the commission, initiate a civil action in a court of competent jurisdiction
36778 to:
36779 (i) enforce the rights granted or protected under this chapter;
36780 (ii) seek injunctive or other equitable relief, including temporary restraining orders,
36781 preliminary injunctions, or permanent injunctions;
36782 (iii) seek damages; and
36783 (iv) enforce final commission orders on the division's own behalf or on behalf of
36784 another person in order to carry out the purposes of this chapter;
36785 (e) may initiate formal agency action under [~~Title 63, Chapter 46b~~] Title 63G, Chapter
36786 4, Administrative Procedures Act; and
36787 (f) may promote public awareness of the rights and remedies under this chapter by
36788 implementing programs to increase the awareness of landlords, real estate agents, and other
36789 citizens of their rights and responsibilities under the Utah Fair Housing Act, but may not solicit
36790 fair housing complaints or cases.
36791 Section 822. Section **57-21-9** is amended to read:
36792 **57-21-9. Procedure for an aggrieved person to file a complaint -- Conciliation --**
36793 **Investigation -- Determination.**

36794 (1) Any aggrieved person may file a written verified complaint with the division within
36795 180 days after an alleged discriminatory housing practice occurs.
36796 (2) (a) The commission shall adopt rules consistent with the provisions of 24 C.F.R.
36797 Sec. 115.3 (1990), relating to procedures under related federal law, to govern:
36798 (i) the form of the complaint;
36799 (ii) the form of any answer to the complaint;
36800 (iii) procedures for filing or amending a complaint or answer; and
36801 (iv) the form of notice to parties accused of the acts or omissions giving rise to the
36802 complaint.
36803 (b) The commission may, by rule, prescribe any other procedure pertaining to the
36804 division's processing of the complaint.
36805 (3) During the period beginning with the filing of the complaint and ending with the
36806 director's determination, the division shall, to the extent feasible, engage in conciliation with
36807 respect to the complaint.
36808 (4) The division shall commence proceedings to investigate and conciliate a complaint
36809 alleging a discriminatory housing practice within 30 days after the filing of the complaint.
36810 After the commencement of an investigation, any party may request that the commission
36811 review the proceedings to insure compliance with the requirements of this chapter.
36812 (5) The division shall complete the investigation within 100 days after the filing of the
36813 complaint, unless it is impracticable to do so. If the division is unable to complete the
36814 investigation within 100 days after the filing of the complaint, the division shall notify the
36815 complainant and respondent in writing of the reasons for the delay.
36816 (6) (a) If, as a result of the division's investigation, the director determines that there is
36817 no reasonable cause to support the allegations in the complaint, the director shall issue a
36818 written determination dismissing the complaint.
36819 (b) If the director dismisses the complaint pursuant to Subsection (6)(a), the
36820 complainant may request that the director reconsider the dismissal pursuant to Section
36821 [~~63-46b-13~~] 63G-4-302.
36822 (c) Notwithstanding the provisions of [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
36823 Administrative Procedures Act, the director's determination to dismiss a complaint or, in the
36824 case of a request for reconsideration, the director's order denying reconsideration is not subject

36825 to further agency action or direct judicial review. However, the complainant may commence a
36826 private action pursuant to Section 57-21-12.
36827 (7) If, as a result of the division's investigation of a complaint, the director determines
36828 that there is reasonable cause to support the allegations in the complaint, all of the following
36829 apply:
36830 (a) The division shall informally endeavor to eliminate or correct the discriminatory
36831 housing practice through a conciliation conference between the parties, presided over by the
36832 division. Nothing said or done in the course of the conciliation conference may be made public
36833 or admitted as evidence in a subsequent proceeding under this chapter without the written
36834 consent of the parties concerned.
36835 (b) If the conciliation conference results in voluntary compliance with this chapter, a
36836 conciliation agreement setting forth the resolution of the issues shall be executed by the parties
36837 and approved by the division. The parties may enforce the conciliation agreement in an action
36838 filed in a court of competent jurisdiction.
36839 (c) If the division is unable to obtain a conciliation agreement, the director shall issue a
36840 written determination stating the director's findings and ordering any appropriate relief under
36841 Section 57-21-11.
36842 Section 823. Section **57-21-10** is amended to read:
36843 **57-21-10. Judicial election or formal adjudicative hearing.**
36844 (1) If, pursuant to Subsection 57-21-9(7)(c), the director issues a written determination
36845 finding reasonable cause to believe that a discriminatory housing practice has occurred, or is
36846 about to occur, a respondent may obtain de novo review of the determination by submitting a
36847 written request for a formal adjudicative hearing to be conducted by the commission's Division
36848 of Adjudication in accordance with Title 34A, Chapter 1, Part 3, Adjudicative Proceedings, to
36849 the director within 30 days from the date of issuance of the determination. If the director does
36850 not receive a timely request for review, the director's determination becomes the final order of
36851 the commission and is not subject to further agency action or direct judicial review.
36852 (2) If a respondent files a timely request for review pursuant to Subsection (1):
36853 (a) any respondent, complainant, or aggrieved party may elect to have the de novo
36854 review take place in a civil action in the district court rather than in a formal adjudicative
36855 hearing with the Division of Adjudication by filing an election with the commission in

36856 accordance with rules established by the commission pursuant to [~~Title 63, Chapter 46a~~] Title
36857 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the form and time period for
36858 the election;
36859 (b) the complainant shall file a complaint for review in the forum selected pursuant to
36860 Subsection (2)(a) within 30 days after the completion of the forum selection process; and
36861 (c) the commission shall determine whether the director's determination is supported
36862 by substantial evidence.
36863 (3) If, pursuant to Subsection (2)(c), the commission determines that the director's
36864 determination is supported by substantial evidence, the commission shall provide legal
36865 representation on behalf of the aggrieved person, including the filing of a complaint for review
36866 as required by Subsection (2)(b), to support and enforce the director's determination in the de
36867 novo review proceeding. Notwithstanding any provisions of [~~Title 63, Chapter 46b~~] Title 63G,
36868 Chapter 4, Administrative Procedures Act, the commission's determination regarding the
36869 existence or nonexistence of substantial evidence to support the director's determination is not
36870 subject to further agency action or direct judicial review.
36871 (4) Upon timely application, an aggrieved person may intervene with respect to the
36872 issues to be determined in a formal adjudicative hearing or in a civil action brought under this
36873 section.
36874 (5) If a formal adjudicative hearing is elected, all of the following apply:
36875 (a) The presiding officer shall commence the formal adjudicative hearing within 150
36876 days after the respondent files a request for review of the director's determination unless it is
36877 impracticable to do so.
36878 (b) The investigator who investigated the matter may not participate in the formal
36879 adjudicative hearing, except as a witness, nor may the investigator participate in the
36880 deliberations of the presiding officer.
36881 (c) Any party to the complaint may file a written request to the Division of
36882 Adjudication for review of the presiding officer's order in accordance with Section [~~63-46b-12~~]
36883 63G-4-301 and Title 34A, Chapter 1, Part 3, Adjudicative Proceedings.
36884 (d) A final order of the commission under this section is subject to judicial review as
36885 provided in Section [~~63-46b-16~~] 63G-4-403 and Title 34A, Chapter 1, Part 3, Adjudicative
36886 Proceedings.

36887 (6) If a civil action is elected, the commission is barred from continuing or
36888 commencing any adjudicative proceeding in connection with the same claims under this
36889 chapter.
36890 (7) The commission shall make final administrative disposition of the complaint
36891 alleging a discriminatory housing practice within one year after the filing of the complaint,
36892 unless it is impracticable to do so. If the commission is unable to make final administrative
36893 disposition within one year, the commission shall notify the complainant, respondent, and any
36894 other interested party in writing of the reasons for the delay.
36895 Section 824. Section **57-23-8** is amended to read:
36896 **57-23-8. Enforcement powers of division -- Cease and desist orders.**
36897 (1) (a) If the director has reason to believe that any person has been or is engaging in
36898 conduct violating this chapter, or has violated any lawful order or rule of the division, [~~he~~] the
36899 director shall issue and serve upon the person a cease and desist order. [~~He~~] The director may
36900 also order the person to take whatever affirmative actions the director determines to be
36901 necessary to carry out the purposes of this chapter.
36902 (b) The person served with an order under Subsection (a) may request an adjudicative
36903 proceeding within ten days after receiving the order. The cease and desist order remains in
36904 effect pending the hearing.
36905 (c) The division shall follow the procedures and requirements of [~~Title 63, Chapter~~
36906 ~~46b~~] Title 63G, Chapter 4, Administrative Procedures Act, if the person served requests a
36907 hearing.
36908 (2) (a) After the hearing the director may issue a final order making the cease and
36909 desist order permanent if the director finds there has been a violation of this chapter.
36910 (b) If no hearing is requested and the person served does not obey the director's order,
36911 the director may file suit in the name of the Department of Commerce and the Division of Real
36912 Estate to enjoin the person from violating this chapter. The action shall be filed in the district
36913 court in the county in which the conduct occurred, where the person served with the cease and
36914 desist order either resides or carries on business.
36915 (3) The remedies and action provided in this section are not exclusive but are in
36916 addition to any other remedies or actions available under Section 57-23-10.
36917 Section 825. Section **57-24-101** is amended to read:

36918 **57-24-101. Definitions.**
36919 As used in this chapter:
36920 (1) (a) "Flag" means a depiction or emblem:
36921 (i) (A) of the flag of the United States as provided in United States Code Title 4,
36922 Chapter 1, The Flag; or
36923 (B) of the state flag of Utah as provided in Section [~~63-13-5~~] 63G-1-501;
36924 (ii) made from fabric or cloth; and
36925 (iii) with measurements that do not exceed three feet by five feet.
36926 (b) "Flag" does not include a depiction or emblem made from:
36927 (i) lights;
36928 (ii) paint;
36929 (iii) roofing;
36930 (iv) siding;
36931 (v) paving materials;
36932 (vi) flora;
36933 (vii) balloons; or
36934 (viii) any other building, landscaping, or decorative component.
36935 (2) "Resident" means:
36936 (a) a renter as defined in Section 57-22-2;
36937 (b) a resident as defined in Section 57-16-3; or
36938 (c) a unit owner as defined in Section 57-8-3.
36939 (3) "Residential property management authority" means:
36940 (a) an owner as defined in Section 57-22-2;
36941 (b) a mobile home park as defined in Section 57-16-3;
36942 (c) a mobile home park residents' association established in accordance with Section
36943 57-16-16;
36944 (d) an association of unit owners as defined in Section 57-8-3; or
36945 (e) a management committee as defined in Section 57-8-3.
36946 Section 826. Section **57-25-109** is amended to read:
36947 **57-25-109. Duration -- Amendment by court action.**
36948 (1) An environmental covenant is perpetual unless it is:

36949 (a) (i) limited to a specific duration by its terms; or
36950 (ii) terminated by the occurrence of a specific event;
36951 (b) terminated by consent under Section 57-25-110;
36952 (c) terminated under Subsection (2);
36953 (d) terminated by foreclosure of an interest that has priority over the environmental
36954 covenant; or
36955 (e) terminated or modified in an eminent domain proceeding, but only if:
36956 (i) the agency that signed the covenant is a party to the proceeding;
36957 (ii) all persons identified in Subsections 57-25-110(1) and (2) are given notice of the
36958 pendency of the proceeding; and
36959 (iii) the court determines, after hearing, that the termination or modification will not
36960 adversely affect human health or the environment.
36961 (2) (a) If the agency that signed an environmental covenant has determined that the
36962 intended benefits of the covenant can no longer be realized, a court, under the doctrine of
36963 changed circumstances, in an action in which all persons identified in Subsections
36964 57-25-110(1) and (2) have been given notice, may terminate the covenant or reduce its burden
36965 on the real property subject to the covenant.
36966 (b) The Department of Environmental Quality's determination under Subsection (2)(a)
36967 or its failure to make a determination upon request is subject to review under [~~Title 63, Chapter~~
36968 ~~46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
36969 (c) A federal agency's determination under Subsection (2)(a) or its failure to make a
36970 determination upon request is subject to review under applicable federal law.
36971 (3) Except as otherwise provided in Subsections (1) and (2), an environmental
36972 covenant may not be extinguished, limited, or impaired through issuance of a tax deed,
36973 foreclosure of a tax lien, or application of the doctrine of adverse possession, prescription,
36974 abandonment, waiver, lack of enforcement, or acquiescence, or a similar doctrine.
36975 (4) An environmental covenant may not be extinguished, limited, or impaired by
36976 application of Title 57, Chapter 9, Marketable Record Title.
36977 Section 827. Section **58-1-106** is amended to read:
36978 **58-1-106. Division -- Duties, functions, and responsibilities.**
36979 (1) The duties, functions, and responsibilities of the division include the following:

36980 (a) prescribing, adopting, and enforcing rules to administer this title;
36981 (b) investigating the activities of any person whose occupation or profession is
36982 regulated or governed by the laws and rules administered and enforced by the division;
36983 (c) subpoenaing witnesses, taking evidence, and requiring by subpoena duces tecum
36984 the production of any books, papers, documents, records, contracts, recordings, tapes,
36985 correspondence, or information relevant to an investigation upon a finding of sufficient need by
36986 the director or by [~~his~~] the director's designee;
36987 (d) taking administrative and judicial action against persons in violation of the laws
36988 and rules administered and enforced by the division, including the issuance of cease and desist
36989 orders;
36990 (e) seeking injunctions and temporary restraining orders to restrain unauthorized
36991 activity;
36992 (f) giving public notice of board meetings;
36993 (g) keeping records of board meetings, proceedings, and actions and making those
36994 records available for public inspection upon request;
36995 (h) issuing, refusing to issue, revoking, suspending, renewing, refusing to renew, or
36996 otherwise acting upon any license;
36997 (i) preparing and submitting to the governor and the Legislature an annual report of the
36998 division's operations, activities, and goals;
36999 (j) preparing and submitting to the executive director a budget of the expenses for the
37000 division;
37001 (k) establishing the time and place for the administration of examinations; and
37002 (l) preparing lists of licensees and making these lists available to the public at cost
37003 upon request unless otherwise prohibited by state or federal law.
37004 (2) The division may not include home telephone numbers or home addresses of
37005 licensees on the lists prepared under Subsection (1)(l), except as otherwise provided by rules of
37006 the division made in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
37007 Administrative Rulemaking Act.
37008 (3) (a) The division may provide the home address or home telephone number of a
37009 licensee on a list prepared under Subsection (1) upon the request of an individual who provides
37010 proper identification and the reason for the request, in writing, to the division.

37011 (b) A request under Subsection (3)(a) is limited to providing information on only one
37012 licensee per request.
37013 (c) The division shall provide, by rule, what constitutes proper identification under
37014 Subsection (3)(a).
37015 Section 828. Section **58-1-108** is amended to read:
37016 **58-1-108. Adjudicative proceedings.**
37017 (1) The division and all boards created under the authority of this title shall comply
37018 with the procedures and requirements of Title 13, Chapter 1, Department of Commerce, and
37019 [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, in all of their
37020 adjudicative proceedings as defined by Subsection [~~63-46b-2~~] 63G-4-103(1).
37021 (2) Before proceeding under Section [~~63-46b-20~~] 63G-4-502, the division shall review
37022 the proposed action with a committee of no less than three licensees appointed by the chairman
37023 of the licensing board created under this title for the profession of the person against whom the
37024 action is proposed.
37025 (3) Notwithstanding [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
37026 Procedures Act, a warning or final disposition letter which does not constitute disciplinary
37027 action against the addressee, issued in response to a complaint of unprofessional or unlawful
37028 conduct under this title, does not constitute an adjudicative proceeding.
37029 Section 829. Section **58-1-109** is amended to read:
37030 **58-1-109. Presiding officers -- Content of orders -- Recommended orders -- Final**
37031 **orders -- Appeal of orders.**
37032 (1) Unless otherwise specified by statute or rule, the presiding officer for adjudicative
37033 proceedings before the division shall be the director. However, pursuant to [~~Title 63, Chapter~~
37034 ~~46b~~] Title 63G, Chapter 4, Administrative Procedures Act, the director may designate in
37035 writing an individual or body of individuals to act as presiding officer to conduct or to assist
37036 the director in conducting any part or all of an adjudicative proceeding.
37037 (2) Unless otherwise specified by the director, an administrative law judge shall be
37038 designated as the presiding officer to conduct formal adjudicative proceedings in accordance
37039 with Subsection [~~63-46b-1~~] 63G-4-102 (4), Sections [~~63-46b-6~~] 63G-4-204 through [~~63-46b-9~~]
37040 63G-4-207, and [~~63-46b-11~~] 63G-4-209.
37041 (3) Unless otherwise specified by the director, the licensing board of the occupation or

37042 profession that is the subject of the proceedings shall be designated as the presiding officer to
37043 serve as fact finder at the evidentiary hearing in a formal adjudicative proceeding.
37044 (4) At the close of an evidentiary hearing in an adjudicative proceeding, unless
37045 otherwise specified by the director, the presiding officer who served as the fact finder at the
37046 hearing shall issue a recommended order based upon the record developed at the hearing
37047 determining all issues pending before the division.
37048 (5) (a) The director shall issue a final order affirming the recommended order or
37049 modifying or rejecting all or any part of the recommended order and entering new findings of
37050 fact, conclusions of law, statement of reasons, and order based upon the director's personal
37051 attendance at the hearing or a review of the record developed at the hearing. Before modifying
37052 or rejecting a recommended order, the director shall consult with the presiding officer who
37053 issued the recommended order.
37054 (b) If the director issues a final order modifying or rejecting a recommended order, the
37055 licensing board of the occupation or profession that is the subject of the proceeding may, by a
37056 two-thirds majority vote of all board members, petition the executive director or designee
37057 within the department to review the director's final order. The executive director's decision
37058 shall become the final order of the division. This subsection does not limit the right of the
37059 parties to appeal the director's final order by filing a request for agency review under
37060 Subsection (8).
37061 (6) If the director is unable for any reason to rule upon a recommended order of a
37062 presiding officer, the director may designate another person within the division to issue a final
37063 order.
37064 (7) If the director or [~~his~~] the director's designee does not issue a final order within 20
37065 calendar days after the date of the recommended order of the presiding officer, the
37066 recommended order becomes the final order of the director or [~~his~~] the director's designee.
37067 (8) The final order of the director may be appealed by filing a request for agency
37068 review with the executive director or [~~his~~] the executive director's designee within the
37069 department.
37070 (9) The content of all orders shall comply with the requirements of Subsection
37071 [~~63-46b-5~~] 63G-4-203(1)(i) and Sections [~~63-46b-10~~] 63G-4-208 and [~~63-46b-11~~] 63G-4-209.
37072 Section 830. Section **58-1-301** is amended to read:

37073 **58-1-301. License application -- Licensing procedure.**
37074 (1) (a) Each license applicant shall apply to the division in writing upon forms
37075 available from the division. Each completed application shall contain documentation of the
37076 particular qualifications required of the applicant, shall include the applicant's Social Security
37077 number, shall be verified by the applicant, and shall be accompanied by the appropriate fees.
37078 (b) An applicant's Social Security number is a private record under Subsection
37079 [~~63-2-302~~] 63G-2-302(1)(h).
37080 (2) (a) A license shall be issued to an applicant who submits a complete application if
37081 the division determines that the applicant meets the qualifications of licensure.
37082 (b) A written notice of additional proceedings shall be provided to an applicant who
37083 submits a complete application, but who has been, is, or will be placed under investigation by
37084 the division for conduct directly bearing upon [~~his~~] the applicant's qualifications for licensure,
37085 if the outcome of additional proceedings is required to determine the division's response to the
37086 application.
37087 (c) A written notice of denial of licensure shall be provided to an applicant who
37088 submits a complete application if the division determines that the applicant does not meet the
37089 qualifications of licensure.
37090 (d) A written notice of incomplete application and conditional denial of licensure shall
37091 be provided to an applicant who submits an incomplete application. This notice shall advise
37092 the applicant that the application is incomplete and that the application is denied, unless the
37093 applicant corrects the deficiencies within the time period specified in the notice and otherwise
37094 meets all qualifications for licensure.
37095 (3) Before any person is issued a license under this title, all requirements for that
37096 license as established under this title and by rule shall be met.
37097 (4) If all requirements are met for the specific license, the division shall issue the
37098 license.
37099 Section 831. Section **58-1-308** is amended to read:
37100 **58-1-308. Term of license -- Expiration of license -- Renewal of license --**
37101 **Reinstatement of license -- Application procedures.**
37102 (1) (a) Each license issued under this title shall be issued in accordance with a two-year
37103 renewal cycle established by rule.

37104 (b) A renewal period may be extended or shortened by as much as one year to maintain
37105 established renewal cycles or to change an established renewal cycle.
37106 (2) (a) The expiration date of a license shall be shown on the license.
37107 (b) A license that is not renewed prior to the expiration date shown on the license
37108 automatically expires.
37109 (c) A license automatically expires prior to the expiration date shown on the license
37110 upon the death of a licensee who is a natural person, or upon the dissolution of a licensee that is
37111 a partnership, corporation, or other business entity.
37112 (d) If the existence of a dissolved partnership, corporation, or other business entity is
37113 reinstated prior to the expiration date shown upon the entity's expired license issued by the
37114 division, the division shall, upon written application, reinstate the applicant's license, unless it
37115 finds that the applicant no longer meets the qualifications for licensure.
37116 (e) Expiration of licensure is not an adjudicative proceeding under [~~Title 63, Chapter~~
37117 ~~46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
37118 (3) (a) The division shall notify each licensee in accordance with procedures
37119 established by rule that the licensee's license is due for renewal and that unless an application
37120 for renewal is received by the division by the expiration date shown on the license, together
37121 with the appropriate renewal fee and documentation showing completion of or compliance with
37122 renewal qualifications, the license will not be renewed.
37123 (b) Examples of renewal qualifications which by statute or rule the division may
37124 require the licensee to document completion of or compliance with include:
37125 (i) continuing education;
37126 (ii) continuing competency;
37127 (iii) quality assurance;
37128 (iv) utilization plan and protocol;
37129 (v) financial responsibility;
37130 (vi) certification renewal; and
37131 (vii) calibration of equipment.
37132 (4) (a) (i) An application for renewal that complies with Subsection (3) is complete.
37133 (ii) A renewed license shall be issued to applicants who submit a complete application,
37134 unless it is apparent to the division that the applicant no longer meets the qualifications for

37135 continued licensure.
37136 (b) (i) The division may evaluate or verify documentation showing completion of or
37137 compliance with renewal requirements on an entire population or a random sample basis, and
37138 may be assisted by advisory peer committees.
37139 (ii) If necessary, the division may complete its evaluation or verification subsequent to
37140 renewal and, if appropriate, pursue action to suspend or revoke the license of a licensee who no
37141 longer meets the qualifications for continued licensure.
37142 (c) The application procedures specified in Subsection 58-1-301(2), apply to renewal
37143 applications to the extent they are not in conflict with this section.
37144 (5) (a) Any license that is not renewed may be reinstated at any time within two years
37145 after nonrenewal upon submission of an application for reinstatement, payment of the renewal
37146 fee together with a reinstatement fee determined by the department under Section [~~63-38-3.2~~]
37147 63J-1-303, and upon submission of documentation showing completion of or compliance with
37148 renewal qualifications.
37149 (b) The application procedures specified in Subsection 58-1-301(2) apply to the
37150 reinstatement applications to the extent they are not in conflict with this section.
37151 (c) Except as otherwise provided by rule, a license that is reinstated no later than 120
37152 days after it expires shall be retroactively reinstated to the date it expired.
37153 (6) (a) If not reinstated within two years, the holder may obtain a license only if [~~he~~]
37154 the holder meets requirements provided by the division by rule or by statute for a new license.
37155 (b) Each licensee under this title who has been active in the licensed occupation or
37156 profession while in the full-time employ of the United States government or under license to
37157 practice that occupation or profession in any other state or territory of the United States may
37158 reinstate [~~his~~] the licensee's license without taking an examination by submitting an application
37159 for reinstatement, paying the current annual renewal fee and the reinstatement fee, and
37160 submitting documentation showing completion of or compliance with any renewal
37161 qualifications at any time within six months after reestablishing domicile within Utah or
37162 terminating full-time government service.
37163 Section 832. Section **58-1-402** is amended to read:
37164 **58-1-402. Administrative review -- Special appeals boards.**
37165 (1) (a) Any applicant who has been denied a license to practice on the basis of

37166 credentials, character, or failure to pass a required examination, or who has been refused
37167 renewal or reinstatement of a license to practice on the basis that the applicant does not meet
37168 qualifications for continued licensure in any occupation or profession under the jurisdiction of
37169 the division may submit a request for agency review to the executive director within 30 days
37170 following notification of the denial of a license or refusal to renew or reinstate a license.
37171 (b) The executive director shall determine whether the circumstances for denying an
37172 application for an initial license or for renewal or reinstatement of a license would justify
37173 calling a special appeals board under Subsection (2). The executive director's decision is not
37174 subject to agency review.
37175 (2) A special appeals board shall consist of three members appointed by the executive
37176 director as follows:
37177 (a) one member from the occupation or profession in question who is not on the board
37178 of that occupation or profession;
37179 (b) one member from the general public who is neither an attorney nor a practitioner in
37180 an occupation or profession regulated by the division; and
37181 (c) one member who is a resident lawyer currently licensed to practice law in this state
37182 who shall serve as chair of the special appeals board.
37183 (3) The special appeals board shall comply with the procedures and requirements of
37184 [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, in its
37185 proceedings.
37186 (4) (a) Within a reasonable amount of time following the conclusion of a hearing
37187 before a special appeals board, the board shall enter an order based upon the record developed
37188 at the hearing. The order shall state whether a legal basis exists for denying the application for
37189 an initial license or for renewal or reinstatement of a license that is the subject of the appeal.
37190 The order is not subject to further agency review.
37191 (b) The division or the applicant may obtain judicial review of the decision of the
37192 special appeals board in accordance with Sections [~~63-46b-14~~] 63G-4-401 and [~~63-46b-16~~]
37193 63G-4-403.
37194 (5) (a) Members shall receive no compensation or benefits for their services, but may
37195 receive per diem and expenses incurred in the performance of the member's official duties at
37196 the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

37197 (b) Members may decline to receive per diem and expenses for their service.
37198 (6) If an applicant under Subsection (1) is not given a special appeals board, the
37199 applicant shall be given agency review under the ordinary agency review procedures specified
37200 by rule.
37201 Section 833. Section **58-1-404** is amended to read:
37202 **58-1-404. Diversion -- Procedure.**
37203 (1) As used in this section, "diversion" means suspending action to discipline a
37204 licensee who is or could be charged in a Notice of Agency Action with certain offenses within
37205 the category of unprofessional or unlawful conduct on the condition that the licensee agrees to
37206 participate in an educational or rehabilitation program or fulfill some other condition.
37207 (2) (a) (i) The director may establish, as circumstances require, a diversion advisory
37208 committee for each occupation or profession or similar groups of occupations or professions
37209 licensed by the division.
37210 (ii) The committees shall assist the director in the administration of this section.
37211 (b) (i) Each committee shall consist of at least three licensees from the same or similar
37212 occupation or profession as the person whose conduct is the subject of the committee's
37213 consideration.
37214 (ii) The director shall appoint the members of a diversion advisory committee from
37215 nominations submitted by the corresponding board established for the same or similar
37216 occupation or profession under Section 58-1-201 or from other qualified nominees developed
37217 by or submitted to the division.
37218 (iii) Committee members may not serve concurrently as members of the corresponding
37219 board.
37220 (iv) Committee members shall serve voluntarily without remuneration.
37221 (v) The director may:
37222 (A) dissolve any diversion advisory committee;
37223 (B) remove or request the replacement of any member of a committee; and
37224 (C) establish any procedure that is necessary and proper for a committee's
37225 administration.
37226 (3) The director may, after consultation with the appropriate diversion advisory
37227 committee and by written agreement with the licensee, divert the licensee to a diversion

37228 program:
37229 (a) at any time after receipt by the division of a complaint against the licensee when no
37230 adjudicative proceeding has been commenced;
37231 (b) at any time prior to the conclusion of a hearing under Section [~~63-46b-8~~]
37232 63G-4-206 when an adjudicative proceeding has been commenced against the licensee; or
37233 (c) after a self-referral by a licensee who is not the subject of a current investigation,
37234 complaint, or adjudicative proceeding.
37235 (4) (a) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
37236 Administrative Rulemaking Act, the division shall define by rule the particular offenses within
37237 the category of unprofessional or unlawful conduct which may be subject to diversion.
37238 (b) A licensee may be eligible for a diversion program only once for the same or
37239 similar offense, whether the diversion program was in this state or another jurisdiction, and is
37240 not eligible if previously disciplined by the division, by a licensing agency of another state, or
37241 by a federal government agency for the same or a similar offense.
37242 (c) The term of a diversion agreement shall be five years or less, but may be extended
37243 for an additional period of time as agreed to by the parties in writing.
37244 (d) A decision by the director not to divert a licensee is not subject to appeal or judicial
37245 review.
37246 (5) A licensee may be represented by counsel:
37247 (a) during the negotiations for diversion;
37248 (b) at the time of the execution of the diversion agreement; and
37249 (c) at any hearing before the director relating to a diversion program.
37250 (6) (a) As used in this section, "diversion agreement" means a written agreement
37251 between the division, through its director, and the licensee, which specifies formal terms and
37252 conditions the licensee must fulfill in order to comply with the diversion program.
37253 (b) (i) A diversion agreement shall contain a full detailed statement of the requirements
37254 agreed to by the licensee and a full detailed stipulation of the facts upon which the diversion
37255 agreement is premised.
37256 (ii) The facts stipulated in the diversion agreement shall constitute binding admissions
37257 of the licensee:
37258 (A) in any proceeding under Subsection (6)(c) or (6)(d) to terminate the diversion

37259 agreement and impose disciplinary sanctions against the licensee; and
37260 (B) in any disciplinary proceeding based on unprofessional or unlawful conduct that is
37261 not the basis of the diversion agreement.
37262 (c) The diversion agreement shall provide that if the licensee makes an intentional
37263 material misrepresentation of fact in the stipulation of facts contained in the diversion
37264 agreement, the director shall initiate the procedures set forth in Subsection (13) to terminate the
37265 diversion agreement and issue an order of license revocation.
37266 (d) (i) The diversion agreement shall provide that if the licensee fails to comply with its
37267 terms, the director shall initiate the procedures set forth in Subsection (14) to terminate the
37268 diversion agreement and issue an order of license suspension, which shall be stayed in favor of
37269 an order of probation having the same terms as those which comprised the diversion
37270 agreement.
37271 (ii) The division may waive and not include as probationary requirements any terms of
37272 the diversion agreement it does not consider necessary to protect the public.
37273 (iii) The term of the order of probation shall be as provided in Subsection (14)(c)(ii).
37274 (e) The division director may not approve a diversion agreement unless the licensee, as
37275 part of the diversion agreement:
37276 (i) knowingly and intelligently waives the right to a hearing under [~~Title 63, Chapter~~
37277 ~~46b~~] Title 63G, Chapter 4, Administrative Procedures Act, for the conduct upon which the
37278 diversion agreement was premised;
37279 (ii) agrees to be subject to the procedures and remedies set forth in this section;
37280 (iii) acknowledges an understanding of the consequences of making an intentional
37281 misrepresentation of fact in the stipulation of facts contained in the diversion agreement; and
37282 (iv) acknowledges an understanding of the consequences of failing to comply with the
37283 terms of the diversion agreement.
37284 (7) (a) If the division and the licensee enter into a diversion agreement after the
37285 division has commenced an adjudicative proceeding against the licensee, the director shall stay
37286 that proceeding pending completion of the diversion agreement.
37287 (b) The order staying the adjudicative proceeding shall be filed in that proceeding and
37288 may reference the diversion agreement.
37289 (8) (a) Upon successful completion of a diversion agreement, the director shall dismiss

37290 any charges under the director's jurisdiction of unprofessional or unlawful conduct that were
37291 filed against the licensee.
37292 (b) Whether or not an adjudicative proceeding had been commenced against the
37293 licensee, the division may not thereafter subject the licensee to disciplinary action for the
37294 conduct which formed the basis of the completed diversion agreement.
37295 (c) Neither the execution of a diversion agreement nor the dismissal of filed charges
37296 constitute disciplinary action, and no report of either may be made to disciplinary databases.
37297 (d) The division may consider the completion of a diversion program and the contents
37298 of the diversion agreement in determining the appropriate disciplinary action if the licensee is
37299 charged in the future with the same or similar conduct.
37300 (e) The order of dismissal shall be filed in the adjudicative proceeding in which the
37301 misconduct was charged and may reference the diversion agreement.
37302 (9) (a) Acceptance of the licensee into diversion does not preclude the division from
37303 investigating or continuing to investigate the licensee for any unlawful or unprofessional
37304 conduct committed before, during, or after participation in the diversion program.
37305 (b) Acceptance of the licensee into diversion does not preclude the division from
37306 taking disciplinary action or continuing to take disciplinary action against the licensee for
37307 unlawful or unprofessional conduct committed before, during, or after participation in the
37308 diversion program, except for that conduct which formed the basis for the diversion agreement.
37309 (c) Any licensee terminated from the diversion program for failure to comply with the
37310 diversion agreement is subject to disciplinary action by the division for acts committed before,
37311 during, and after participation in the diversion program, including violations identified in the
37312 diversion agreement.
37313 (10) The classification, retention, and disclosure of records relating to a licensee's
37314 participation in the diversion program is governed by [~~Title 63, Chapter 2~~] Title 63G, Chapter
37315 2, Government Records Access and Management Act, except that any provision in the
37316 diversion agreement which addresses access to or release of diversion records regarding the
37317 licensee shall govern the access to and release of those records.
37318 (11) Notwithstanding any other provision of this section, the fact that the licensee
37319 completed a diversion program and the contents of the diversion agreement itself may be
37320 considered by the division in determining the appropriate disciplinary action if the licensee is

37321 charged in the future with the same or similar conduct.
37322 (12) Meetings regarding the diversion program are not subject to Title 52, Chapter 4,
37323 Open and Public Meetings Act.
37324 (13) (a) If, during the course of the diversion agreement, information is brought to the
37325 attention of the director that the licensee made an intentional material misrepresentation of fact
37326 in the stipulation of facts contained in the diversion agreement, the director shall cause to be
37327 served upon the licensee an order to show cause specifying the information relied upon by the
37328 director and setting a time and place for hearing to determine whether or not the licensee made
37329 the intentional material misrepresentation of fact and whether the agreement should be
37330 terminated on that ground.
37331 (b) Proceedings to terminate a diversion agreement on the grounds that the licensee
37332 made an intentional material misrepresentation of fact in the stipulation of facts contained in
37333 the diversion agreement and to issue an order of license revocation shall comply with [~~Title 63,~~
37334 ~~Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, except as follows:
37335 (i) the notice of agency action shall be in the form of an order to show cause, which
37336 shall contain all of the information specified in Subsection [~~63-46b-3~~] 63G-4-201(2), except a
37337 statement that a written response to the order to show cause is required;
37338 (ii) no written response to the order to show cause is required;
37339 (iii) discovery is prohibited, but the division may issue subpoenas or other orders to
37340 compel production of necessary evidence on behalf of either party and all parties shall have
37341 access to information contained in the division's diversion file to the extent permitted by law;
37342 (iv) the hearing shall be held only after timely notice to all parties; and
37343 (v) any agency review or reconsideration of an order terminating a diversion agreement
37344 or of an order of license revocation pursuant to this Subsection (13) shall be limited to the
37345 division director's findings of fact, conclusions of law, and order which arose out of the order
37346 to show cause proceeding.
37347 (c) Upon finding the licensee made an intentional material misrepresentation of fact in
37348 the stipulation of facts contained in the diversion agreement and that terminating the agreement
37349 is in the best interest of the public, and issuing an order to that effect, the director shall issue an
37350 order of license revocation, revoking the licensee's professional license.
37351 (d) The order terminating the diversion agreement and the order of license revocation

37352 shall include findings of fact and conclusions of law as determined by the director following
37353 the hearing or as otherwise stipulated and agreed to by the parties.
37354 (e) If the diversion agreement being terminated was entered into after the division had
37355 commenced an adjudicative proceeding against the licensee, that adjudicative proceeding shall
37356 be considered to be merged into the order of license revocation and it may not constitute a basis
37357 for any separate disciplinary action against the licensee.
37358 (f) The order terminating the diversion agreement and the order of license revocation
37359 shall notify the licensee of the right to request agency review or reconsideration.
37360 (14) (a) If, during the course of the diversion agreement, information is brought to the
37361 attention of the director that the licensee has violated the diversion agreement and if it appears
37362 in the best interest of the public to proceed with charges, the director, after consultation with
37363 the diversion advisory committee, shall cause to be served upon the licensee an order to show
37364 cause specifying the facts relied upon by the director and setting a time and place for hearing to
37365 determine whether or not the licensee has violated the diversion agreement and whether the
37366 agreement should be terminated.
37367 (b) Proceedings to terminate a diversion agreement and to issue an order of license
37368 suspension and probation, and proceedings to terminate the probation and lift the stay of a
37369 license suspension, shall comply with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
37370 Administrative Procedures Act, except as follows:
37371 (i) the notice of agency action shall be in the form of an order to show cause, which
37372 shall contain all of the information specified in Subsection [~~63-46b-3~~] 63G-4-201(2), except a
37373 statement that a written response to the order to show cause is required;
37374 (ii) no written response to the order to show cause shall be required;
37375 (iii) discovery is prohibited, but the division may issue subpoenas or other orders to
37376 compel production of necessary evidence on behalf of either party and all parties shall have
37377 access to information contained in the division's diversion file to the extent permitted by law;
37378 (iv) the hearing shall be held only after timely notice to all parties; and
37379 (v) any agency review or reconsideration of an order terminating a diversion agreement
37380 or of an order of license suspension and probation pursuant to this Subsection (14) shall be
37381 limited to the division director's findings of fact, conclusions of law, and order which arose out
37382 of the order to show cause proceeding.

37383 (c) (i) Upon finding the licensee has violated the diversion agreement and that
37384 terminating the agreement is in the best interest of the public, and issuing an order to that
37385 effect, the director shall issue an order of license suspension, suspending the licensee's
37386 professional license, but shall stay that suspension in favor of an order of probation, consisting
37387 of the same terms as those which comprised the diversion agreement.
37388 (ii) The period of probation shall be the time period which remained under the
37389 diversion agreement, or five years from the date of the order of license suspension and
37390 probation, whichever is longer, unless otherwise agreed by the parties.
37391 (iii) The period of probation is tolled during any time in which the licensee does not
37392 have an active license in the state.
37393 (d) (i) The order terminating the diversion agreement and the order of license
37394 suspension and probation shall include findings of fact and conclusions of law as determined
37395 by the director following the hearing or as otherwise stipulated and agreed to by the parties.
37396 (ii) The findings of fact may include those facts to which the licensee stipulated in the
37397 diversion agreement and any additional facts as the director may determine in the course of the
37398 hearing.
37399 (e) If the diversion agreement being terminated was entered into after the division had
37400 commenced an adjudicative proceeding against the licensee, that adjudicative proceeding shall
37401 be considered to be merged into the order of license suspension and probation and it may not
37402 constitute a basis for any separate disciplinary action against the licensee.
37403 (f) The order terminating the diversion agreement and the order of license suspension
37404 and probation shall notify the licensee of the right to request agency review or reconsideration.
37405 (g) (i) The terms and conditions of the order of license suspension and probation may
37406 be amended by order of the director, pursuant to motion or stipulation of the parties.
37407 (ii) The order of the director on the motion shall not be subject to agency review, but is
37408 subject to agency reconsideration under Section [~~63-46b-13~~] 63G-4-302.
37409 (h) (i) If, during the course of probation, the director has reason to believe the licensee
37410 has violated the order of suspension and probation, the director shall cause to be served upon
37411 the licensee an order to show cause why the probation should not be terminated and the stay of
37412 suspension lifted.
37413 (ii) The order to show cause shall specify the facts relied upon by the director and shall

37414 set a time and place for hearing before the director to determine whether or not the licensee has
37415 violated the order of suspension and probation and whether that order should be terminated and
37416 the stay of suspension lifted.
37417 (15) (a) Nothing in this section precludes the division from issuing an emergency order
37418 pursuant to Section [~~63-46b-20~~] 63G-4-502.
37419 (b) If the division issues an emergency order against a licensee who is subject to a
37420 diversion agreement with the division, that diversion agreement shall be immediately and
37421 automatically terminated upon the issuance of the emergency order, without compliance with
37422 the provisions of [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
37423 (c) (i) A licensee whose diversion agreement has been terminated pursuant to
37424 Subsection (15)(b) is entitled, upon request, to a posttermination hearing to challenge the
37425 termination of the diversion agreement.
37426 (ii) The request shall be considered a request for agency action and shall comply with
37427 the requirements of Subsection [~~63-46b-3~~] 63G-4-201(3).
37428 (iii) The division shall uphold the termination of the diversion agreement if it finds
37429 that:
37430 (A) the licensee violated the diversion agreement; and
37431 (B) it is in the best interest of the public to terminate the diversion agreement.
37432 (16) The administrative statute of limitations for taking disciplinary action described in
37433 Subsection 58-1-401(5) shall be tolled during a diversion program.
37434 Section 834. Section **58-3a-103** is amended to read:
37435 **58-3a-103. Education and enforcement fund.**
37436 (1) There is created a restricted special revenue fund known as the "Architects
37437 Education and Enforcement Fund."
37438 (2) The fund consists of monies from:
37439 (a) a surcharge fee placed on initial, renewal, and reinstatement licensure fees under
37440 this chapter in accordance with the following:
37441 (i) the surcharge fee shall be determined by the department in accordance with Section
37442 [~~63-38-3.2~~] 63J-1-303; and
37443 (ii) the surcharge fee shall not exceed 50% of the respective initial, renewal, or
37444 reinstatement licensure fee; and

37445 (b) administrative penalties collected pursuant to this chapter.
37446 (3) The fund shall earn interest and all interest earned on fund monies shall be
37447 deposited into the fund.
37448 (4) The director may, with concurrence of the board, make distributions from the fund
37449 for the following purposes:
37450 (a) education and training of licensees under this chapter;
37451 (b) education and training of the public or other interested persons in matters
37452 concerning architectural laws and practices; and
37453 (c) enforcement of this chapter by:
37454 (i) investigating unprofessional or unlawful conduct; and
37455 (ii) providing legal representation to the division when the division takes legal action
37456 against a person engaging in unprofessional or unlawful conduct.
37457 (5) If the balance in the fund exceeds $100,000 at the close of any fiscal year, the
37458 excess shall be transferred to the General Fund.
37459 (6) The division shall report annually to the appropriate appropriations subcommittee
37460 of the Legislature concerning the fund.
37461 Section 835. Section **58-3a-302** is amended to read:
37462 **58-3a-302. Qualifications for licensure.**
37463 (1) Except as provided in Subsection (2), each applicant for licensure as an architect
37464 shall:
37465 (a) submit an application in a form prescribed by the division;
37466 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
37467 (c) provide satisfactory evidence of good moral character;
37468 (d) have graduated and received an earned bachelors or masters degree from an
37469 architecture program meeting criteria established by rule by the division in collaboration with
37470 the board;
37471 (e) have successfully completed a program of diversified practical experience
37472 established by rule by the division in collaboration with the board;
37473 (f) have successfully passed examinations established by rule by the division in
37474 collaboration with the board; and
37475 (g) meet with the board or representative of the division upon request for the purpose

37476 of evaluating the applicant's qualifications for license.
37477 (2) Each applicant for licensure as an architect by endorsement shall:
37478 (a) submit an application in a form prescribed by the division;
37479 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
37480 (c) provide satisfactory evidence of good moral character;
37481 (d) submit satisfactory evidence of:
37482 (i) current licensure in good standing in a jurisdiction recognized by rule by the
37483 division in collaboration with the board; and
37484 (ii) current certification from the National Council of Architectural Registration
37485 Boards; or
37486 (iii) current license in good standing in a jurisdiction recognized by rule by the division
37487 in collaboration with the board; and
37488 (iv) full-time employment as a licensed architect as a principal for at least five of the
37489 last seven years immediately preceding the date of the application; and
37490 (e) have successfully passed any examination established by rule by the division in
37491 collaboration with the board; and
37492 (f) meet with the board or representative of the division upon request for the purpose of
37493 evaluating the applicant's qualifications for license.
37494 Section 836. Section **58-3a-502** is amended to read:
37495 **58-3a-502. Penalty for unlawful conduct.**
37496 (1) (a) If upon inspection or investigation, the division concludes that a person has
37497 violated Subsections 58-1-501(1)(a) through (d) or Section 58-3a-501 or any rule or order
37498 issued with respect to Section 58-3a-501, and that disciplinary action is appropriate, the
37499 director or [~~his~~] the director's designee from within the division for each alternative
37500 respectively, shall promptly issue a citation to the person according to this chapter and any
37501 pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to appear
37502 before an adjudicative proceeding conducted under [~~Title 63, Chapter 46b~~] Title 63G, Chapter
37503 4, Administrative Procedures Act.
37504 (i) A person who violates Subsections 58-1-501(1)(a) through (d) or Section 58-3a-501
37505 or any rule or order issued with respect to Section 58-3a-501, as evidenced by an uncontested
37506 citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may

37507 be assessed a fine pursuant to this Subsection (1) and may, in addition to or in lieu of, be
37508 ordered to cease and desist from violating Subsections 58-1-501(1)(a) through (d) or Section
37509 58-3a-501 or any rule or order issued with respect to this section.
37510 (ii) Except for a cease and desist order, the licensure sanctions cited in Section
37511 58-3a-401 may not be assessed through a citation.
37512 (b) A citation shall:
37513 (i) be in writing;
37514 (ii) describe with particularity the nature of the violation, including a reference to the
37515 provision of the chapter, rule, or order alleged to have been violated;
37516 (iii) clearly state that the recipient must notify the division in writing within 20
37517 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing
37518 conducted under [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act;
37519 and
37520 (iv) clearly explain the consequences of failure to timely contest the citation or to make
37521 payment of any fines assessed by the citation within the time specified in the citation.
37522 (c) The division may issue a notice in lieu of a citation.
37523 (d) Each citation issued under this section, or a copy of each citation, may be served
37524 upon any person whom a summons may be served in accordance with the Utah Rules of Civil
37525 Procedure and may be made personally or upon [~~his~~] the person's agent by a division
37526 investigator or by any person specially designated by the director or by mail.
37527 (e) If within 20 calendar days from the service of the citation, the person to whom the
37528 citation was issued fails to request a hearing to contest the citation, the citation becomes the
37529 final order of the division and is not subject to further agency review. The period to contest a
37530 citation may be extended by the division for cause.
37531 (f) The division may refuse to issue or renew, suspend, revoke, or place on probation
37532 the license of a licensee who fails to comply with a citation after it becomes final.
37533 (g) The failure of an applicant for licensure to comply with a citation after it becomes
37534 final is a ground for denial of license.
37535 (h) No citation may be issued under this section after the expiration of six months
37536 following the occurrence of any violation.
37537 (i) The director or [~~his~~] the director's designee shall assess fines according to the

37538 following:
37539 (i) for a first offense handled pursuant to Subsection (1)(a), a fine of up to $1,000;
37540 (ii) for a second offense handled pursuant to Subsection (1)(a), a fine of up to $2,000;
37541 and
37542 (iii) for any subsequent offense handled pursuant to Subsection (1)(a), a fine of up to
37543 $2,000 for each day of continued offense.
37544 (2) An action initiated for a first or second offense which has not yet resulted in a final
37545 order of the division shall not preclude initiation of any subsequent action for a second or
37546 subsequent offense during the pendency of any preceding action. The final order on a
37547 subsequent action shall be considered a second or subsequent offense, respectively, provided
37548 the preceding action resulted in a first or second offense, respectively.
37549 (3) Any penalty which is not paid may be collected by the director by either referring
37550 the matter to a collection agency or bringing an action in the district court of the county in
37551 which the person against whom the penalty is imposed resides or in the county where the office
37552 of the director is located. Any county attorney or the attorney general of the state shall provide
37553 legal assistance and advice to the director in any action to collect the penalty. In any action
37554 brought to enforce the provisions of this section, reasonable attorney's fees and costs shall be
37555 awarded to the division.
37556 Section 837. Section **58-5a-302** is amended to read:
37557 **58-5a-302. Qualifications to practice podiatry.**
37558 An applicant for licensure to practice podiatry shall:
37559 (1) submit an application in a form as prescribed by the division;
37560 (2) pay a fee as determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
37561 (3) be of good moral character;
37562 (4) be a graduate of a college of podiatric medicine accredited by the Council of
37563 Podiatric Education;
37564 (5) have completed one year of postgraduate training in a residency program
37565 recognized by the board; and
37566 (6) pass examinations required by rule.
37567 Section 838. Section **58-9-302** is amended to read:
37568 **58-9-302. Qualifications for licensure.**

37569 (1) Each applicant for licensure as a funeral service director shall:
37570 (a) submit an application in a form prescribed by the division;
37571 (b) pay a fee as determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
37572 (c) be of good moral character in that the applicant has not been convicted of:
37573 (i) a first or second degree felony;
37574 (ii) a misdemeanor involving moral turpitude; or
37575 (iii) any other crime that when considered with the duties and responsibilities of a
37576 funeral service director is considered by the division and the board to indicate that the best
37577 interests of the public are not served by granting the applicant a license;
37578 (d) have obtained a high school diploma or its equivalent or a higher education degree;
37579 (e) have obtained an associate degree, or its equivalent, in mortuary science from a
37580 school of funeral service accredited by the American Board of Funeral Service Education or
37581 other accrediting body recognized by the U.S. Department of Education;
37582 (f) have completed not less than 2,000 hours and 50 embalmings, over a period of not
37583 less than one year, of satisfactory performance in training as a licensed funeral service intern
37584 under the supervision of a licensed funeral service director; and
37585 (g) obtain a passing score on examinations approved by the division in collaboration
37586 with the board.
37587 (2) Each applicant for licensure as a funeral service intern shall:
37588 (a) submit an application in a form prescribed by the division;
37589 (b) pay a fee as determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
37590 (c) be of good moral character in that the applicant has not been convicted of:
37591 (i) a first or second degree felony;
37592 (ii) a misdemeanor involving moral turpitude; or
37593 (iii) any other crime that when considered with the duties and responsibilities of a
37594 funeral service intern is considered by the division and the board to indicate that the best
37595 interests of the public are not served by granting the applicant a license;
37596 (d) have obtained a high school diploma or its equivalent or a higher education degree;
37597 and
37598 (e) obtain a passing score on an examination approved by the division in collaboration
37599 with the board.

37600 (3) Each applicant for licensure as a funeral service establishment and each funeral
37601 service establishment licensee shall:
37602 (a) submit an application in a form prescribed by the division;
37603 (b) pay a fee as determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
37604 (c) have in place:
37605 (i) an embalming room for preparing dead human bodies for burial or final disposition,
37606 which may serve one or more facilities operated by the applicant;
37607 (ii) a refrigeration room that maintains a temperature of not more than 40 degrees
37608 fahrenheit for preserving dead human bodies prior to burial or final disposition, which may
37609 serve one or more facilities operated by the applicant; and
37610 (iii) maintain at all times a licensed funeral service director who is responsible for the
37611 day-to-day operation of the funeral service establishment and who is personally available to
37612 perform the services for which the license is required;
37613 (d) affiliate with a licensed preneed funeral arrangement sales agent or funeral service
37614 director if the funeral service establishment sells preneed funeral arrangements;
37615 (e) file with the completed application a copy of each form of contract or agreement the
37616 applicant will use in the sale of preneed funeral arrangements; and
37617 (f) provide evidence of appropriate licensure with the Insurance Department if the
37618 applicant intends to engage in the sale of any preneed funeral arrangements funded in whole or
37619 in part by an insurance policy or product to be sold by the provider or the provider's sales agent.
37620 (4) Each applicant for licensure as a preneed funeral arrangement sales agent shall:
37621 (a) submit an application in a form prescribed by the division;
37622 (b) pay a fee as determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
37623 (c) be of good moral character in that the applicant has not been convicted of:
37624 (i) a first or second degree felony;
37625 (ii) a misdemeanor involving moral turpitude; or
37626 (iii) any other crime that when considered with the duties and responsibilities of a
37627 preneed funeral sales agent is considered by the division and the board to indicate that the best
37628 interests of the public are not served by granting the applicant a license;
37629 (d) have obtained a high school diploma or its equivalent or a higher education degree;
37630 (e) have obtained a passing score on an examination approved by the division in

37631 collaboration with the board;
37632 (f) affiliate with a licensed funeral service establishment; and
37633 (g) provide evidence of appropriate licensure with the Insurance Department if the
37634 applicant intends to engage in the sale of any preneed funeral arrangements funded in whole or
37635 in part by an insurance policy or product.
37636 Section 839. Section **58-9-504** is amended to read:
37637 **58-9-504. Authority to promulgate rules.**
37638 In addition to the authority granted under Section 58-1-106, in accordance with [~~Title~~
37639 ~~63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division in
37640 collaboration with the board shall establish by rule:
37641 (1) the minimum requirements for a licensed funeral establishment for the following:
37642 (a) physical facilities;
37643 (b) equipment;
37644 (c) instruments; and
37645 (d) supplies;
37646 (2) license cycles under Section 58-9-303;
37647 (3) standards to protect the interests of buyers and potential buyers of preneed funeral
37648 arrangements under Section 58-9-701; and
37649 (4) standards for preneed funeral arrangement trusts.
37650 Section 840. Section **58-9-701** is amended to read:
37651 **58-9-701. Preneed contract requirements.**
37652 (1) (a) Every preneed funeral arrangement sold in Utah shall be evidenced by a written
37653 contract.
37654 (b) The funeral service establishment shall maintain a copy of the contract until five
37655 years after all of its obligations under the contract have been executed.
37656 (2) Each preneed contract form shall:
37657 (a) be written in clear and understandable language printed in an easy-to-read type size
37658 and style;
37659 (b) bear the preprinted name, address, telephone number, and license number of the
37660 funeral service establishment obligated to provide the services under the contract terms;
37661 (c) be sequentially numbered by contract form;

37662 (d) clearly identify that the contract is a guaranteed product contract;
37663 (e) provide that a trust is established in accordance with the provisions of Section
37664 58-9-702;
37665 (f) if the contract is funded by an insurance policy or product, provide that the
37666 insurance policy or product is filed with the Insurance Department and meets the requirements
37667 of Title 31A, Insurance Code; and
37668 (g) conform to other standards created by rule under [~~Title 63, Chapter 46a~~] Title 63G,
37669 Chapter 3, Utah Administrative Rulemaking Act, to protect the interests of buyers and potential
37670 buyers.
37671 (3) A preneed contract shall provide for payment by the buyer in a form which may be
37672 liquidated by the funeral service establishment within 30 days after the day the funeral service
37673 establishment or sales agent receives the payment.
37674 (4) A preneed contract may not be revocable by the funeral service establishment
37675 except:
37676 (a) in the event of nonpayment; and
37677 (b) under terms and conditions clearly set forth in the contract.
37678 (5) (a) A preneed contract may not be revocable by the buyer or beneficiary except:
37679 (i) in the event of:
37680 (A) a substantial contract breach by the funeral service establishment; or
37681 (B) substantial evidence that the funeral service establishment is or will be unable to
37682 provide the personal property or services to the beneficiary as provided under the contract; or
37683 (ii) under terms and conditions clearly set forth in the contract.
37684 (b) The contract shall contain a clear statement of the manner in which payments made
37685 on the contract shall be refunded to the buyer or beneficiary upon revocation by the beneficiary.
37686 (6) (a) A preneed contract shall provide the buyer the option to require the funeral
37687 service establishment to furnish a written disclosure to a person who does not live at the same
37688 residence as the buyer.
37689 (b) The buyer may choose:
37690 (i) a full disclosure containing a copy of the entire preneed contract;
37691 (ii) a partial disclosure informing the recipient of:
37692 (A) the existence of a preneed contract; and

37693 (B) the name, address, telephone number, and license number of the funeral service
37694 establishment obligated to provide the services under the preneed contract; or
37695 (iii) not to require the funeral service establishment to furnish a written disclosure to
37696 another person.
37697 Section 841. Section **58-11a-102** is amended to read:
37698 **58-11a-102. Definitions.**
37699 (1) "Approved barber or cosmetologist/barber apprenticeship" means an apprenticeship
37700 that meets the requirements of Subsection 58-11a-306(1) for barbers or Subsection
37701 58-11a-306(2) for cosmetologist/barbers and the requirements established by rule by the
37702 division in collaboration with the board in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
37703 Chapter 3, Utah Administrative Rulemaking Act.
37704 (2) "Approved esthetician apprenticeship" means an apprenticeship that meets the
37705 requirements of Subsection 58-11a-306(3) and the requirements established by rule by the
37706 division in collaboration with the board in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
37707 Chapter 3, Utah Administrative Rulemaking Act.
37708 (3) "Approved master esthetician apprenticeship" means an apprenticeship that meets
37709 the requirements of Subsection 58-11a-306(4) and the requirements established by rule by the
37710 division in collaboration with the board in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
37711 Chapter 3, Utah Administrative Rulemaking Act.
37712 (4) "Approved nail technician apprenticeship" means an apprenticeship that meets the
37713 requirements of Subsection 58-11a-306(5) and the requirements established by rule by the
37714 division in collaboration with the board in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
37715 Chapter 3, Utah Administrative Rulemaking Act.
37716 (5) "Barber" means a person who is licensed under this chapter to engage in the
37717 practice of barbering.
37718 (6) "Barber instructor" means a barber who is licensed under this chapter to teach
37719 barbering at a licensed barber school.
37720 (7) "Board" means the Barber, Cosmetology/Barbering, Esthetics, Electrology, and
37721 Nail Technology Licensing Board created in Section 58-11a-201.
37722 (8) "Cosmetologist/barber" means a person who is licensed under this chapter to
37723 engage in the practice of cosmetology/barbering.

37724 (9) "Cosmetologist/barber instructor" means a cosmetologist/barber who is licensed
37725 under this chapter to teach cosmetology/barbering at a licensed cosmetology/barber school.
37726 (10) "Direct supervision" means that the supervisor of an apprentice or the instructor of
37727 a student is immediately available for consultation, advice, instruction, and evaluation.
37728 (11) "Electrologist" means a person who is licensed under this chapter to engage in the
37729 practice of electrology.
37730 (12) "Electrologist instructor" means an electrologist who is licensed under this chapter
37731 to teach electrology at a licensed electrology school.
37732 (13) "Esthetician" means a person who is licensed under this chapter to engage in the
37733 practice of esthetics.
37734 (14) "Esthetician instructor" means a master esthetician who is licensed under this
37735 chapter to teach the practice of esthetics and the practice of master-level esthetics at a licensed
37736 esthetics school.
37737 (15) "Fund" means the Barber, Cosmetologist/Barber, Esthetician, Electrologist, and
37738 Nail Technician Education and Enforcement Fund created in Section 58-11a-103.
37739 (16) "Licensed barber or cosmetology/barber school" means a barber or
37740 cosmetology/barber school licensed under this chapter.
37741 (17) "Licensed electrology school" means an electrology school licensed under this
37742 chapter.
37743 (18) "Licensed esthetics school" means an esthetics school licensed under this chapter.
37744 (19) "Licensed nail technology school" means a nail technology school licensed under
37745 this chapter.
37746 (20) "Master esthetician" means an individual who is licensed under this chapter to
37747 engage in the practice of master-level esthetics.
37748 (21) "Nail technician" means an individual who is licensed under this chapter to engage
37749 in the practice of nail technology.
37750 (22) "Nail technician instructor" means a nail technician licensed under this chapter to
37751 teach the practice of nail technology in a licensed nail technology school.
37752 (23) "Practice of barbering" means:
37753 (a) cutting, clipping, or trimming the hair of the head of any person by the use of
37754 scissors, shears, clippers, or other appliances; and

37755 (b) removing hair from the face or neck of a person by the use of shaving equipment.
37756 (24) "Practice of barbering instruction" means instructing barbering in a licensed
37757 barber school.
37758 (25) "Practice of basic esthetics" means any one of the following skin care procedures
37759 done on the head, face, neck, arms, hands, legs, feet, eyebrows, or eyelashes for cosmetic
37760 purposes and not for the treatment of medical, physical, or mental ailments:
37761 (a) cleansing, stimulating, manipulating, exercising, applying oils, antiseptics, clays, or
37762 masks, manual extraction, including a comodone extractor, depilatories, waxes, tweezing,
37763 natural nail manicures or pedicures, or callous removal by buffing or filing;
37764 (b) limited chemical exfoliation as defined by rule;
37765 (c) removing superfluous hair by means other than electrolysis or laser procedures; or
37766 (d) other esthetic preparations or procedures with the use of the hands, a
37767 high-frequency or galvanic electrical apparatus, or a heat lamp for cosmetic purposes and not
37768 for the treatment of medical, physical, or mental ailments.
37769 (26) (a) "Practice of cosmetology/barbering" means:
37770 (i) styling, arranging, dressing, curling, waving, permanent waving, cleansing,
37771 singeing, bleaching, dyeing, tinting, coloring, or similarly treating the hair of the head of a
37772 person;
37773 (ii) cutting, clipping, or trimming the hair by the use of scissors, shears, clippers, or
37774 other appliances;
37775 (iii) arching eyebrows, or tinting eyebrows or eyelashes, or both;
37776 (iv) removing hair from the face, neck, shoulders, arms, back, torso, feet, bikini line,
37777 or legs of a person by the use of depilatories, waxing, or shaving equipment;
37778 (v) cutting, curling, styling, fitting, measuring, or forming caps for wigs or hairpieces
37779 or both on the human head; or
37780 (vi) practicing hair weaving or hair fusing or servicing previously medically implanted
37781 hair.
37782 (b) The term "practice of cosmetology/barbering" includes:
37783 (i) the practice of basic esthetics; and
37784 (ii) the practice of nail technology.
37785 (27) "Practice of cosmetology/barbering instruction" means instructing

37786 cosmetology/barbering in a licensed cosmetology/barber school.
37787 (28) "Practice of electrology" means the removal of superfluous hair from the body of a
37788 person by the use of electricity.
37789 (29) "Practice of electrology instruction" means instructing electrology in a licensed
37790 electrology school.
37791 (30) "Practice of esthetics instruction" means instructing esthetics or master-level
37792 esthetics in a licensed esthetics school.
37793 (31) (a) "Practice of master-level esthetics" means:
37794 (i) any of the following when done for cosmetic purposes on the head, face, neck,
37795 torso, abdomen, back, arms, hands, legs, feet, eyebrows, or eyelashes and not for the treatment
37796 of medical, physical, or mental ailments:
37797 (A) body wraps as defined by rule;
37798 (B) hydrotherapy as defined by rule;
37799 (C) chemical exfoliation as defined by rule;
37800 (D) advanced pedicures as defined by rule;
37801 (E) sanding, including microdermabrasion;
37802 (F) advanced extraction; or
37803 (G) other esthetic preparations or procedures with the use of:
37804 (I) the hands; or
37805 (II) a mechanical or electrical apparatus which is approved for use by division rule for
37806 beautifying or similar work performed on the body for cosmetic purposes and not for the
37807 treatment of a medical, physical, or mental ailment; and
37808 (ii) lymphatic massage by manual or other means.
37809 (b) Notwithstanding the provisions of Subsection (31)(a), a master-level esthetician
37810 may perform procedures listed in Subsection (31)(a)(i) for noncosmetic purposes if done under
37811 the supervision of a licensed health care practitioner acting within the scope of [~~his or her~~] the
37812 licensed health care practitioner's license.
37813 (c) The term "practice of master-level esthetics" includes the practice of esthetics.
37814 (32) "Practice of nail technology" means to trim, cut, clean, manicure, shape, massage,
37815 or enhance the appearance of the hands, feet, and nails of an individual by the use of hands,
37816 mechanical, or electrical preparation, antiseptic, lotions, or creams, including the application

37817 and removal of sculptured or artificial nails.
37818 (33) "Practice of nail technology instruction" means instructing nail technology in a
37819 licensed nail technician school.
37820 (34) "Recognized barber school" means a barber school located in a state other than
37821 Utah, whose students, upon graduation, are recognized as having completed the educational
37822 requirements for licensure in that state.
37823 (35) "Recognized cosmetology/barber school" means a cosmetology/barber school
37824 located in a state other than Utah, whose students, upon graduation, are recognized as having
37825 completed the educational requirements for licensure in that state.
37826 (36) "Recognized electrology school" means an electrology school located in a state
37827 other than Utah, whose students, upon graduation, are recognized as having completed the
37828 educational requirements for licensure in that state.
37829 (37) "Recognized esthetics school" means an esthetics school located in a state other
37830 than Utah, whose students, upon graduation, are recognized as having completed the
37831 educational requirements for licensure in that state.
37832 (38) "Recognized nail technology school" means a nail technology school located in a
37833 state other than Utah, whose students, upon graduation, are recognized as having completed the
37834 educational requirements for licensure in that state.
37835 (39) "Salon" means a place, shop, or establishment in which cosmetology/barbering,
37836 esthetics, electrology, or nail technology is practiced.
37837 (40) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-11a-502.
37838 (41) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-11a-501 and
37839 as may be further defined by rule by the division in collaboration with the board in accordance
37840 with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
37841 Section 842. Section **58-11a-302** is amended to read:
37842 **58-11a-302. Qualifications for licensure.**
37843 (1) Each applicant for licensure as a barber shall:
37844 (a) submit an application in a form prescribed by the division;
37845 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
37846 (c) be of good moral character;
37847 (d) provide satisfactory documentation of:

37848 (i) graduation from a licensed or recognized barber school whose curriculum consists
37849 of a minimum of 1,000 hours of instruction or the equivalent number of credit hours over a
37850 period of not less than six months;
37851 (ii) (A) having graduated from a recognized barber school whose curriculum consists
37852 of less than 1,000 hours of instruction or the equivalent number of credit hours; and
37853 (B) having practiced as a licensed barber for a period of not less than 2,000 hours; or
37854 (iii) having completed an approved barber apprenticeship; and
37855 (e) meet the examination requirement established by rule.
37856 (2) Each applicant for licensure as a barber instructor shall:
37857 (a) submit an application in a form prescribed by the division;
37858 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
37859 (c) provide satisfactory documentation that the applicant is currently licensed as a
37860 barber;
37861 (d) be of good moral character;
37862 (e) provide satisfactory documentation of completion of:
37863 (i) an instructor training program conducted by a barber school consisting of a
37864 minimum of 500 hours or the equivalent number of credit hours; or
37865 (ii) a minimum of 2,000 hours of experience as a barber; and
37866 (f) meet the examination requirement established by rule.
37867 (3) Each applicant for licensure as a barber school shall:
37868 (a) submit an application in a form prescribed by the division;
37869 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303; and
37870 (c) provide satisfactory documentation:
37871 (i) of appropriate registration with the Division of Corporations and Commercial Code;
37872 (ii) of business licensure from the city, town, or county in which the school is located;
37873 (iii) that the applicant's physical facilities comply with the requirements established by
37874 rule; and
37875 (iv) that the applicant meets the standards for barber schools, including staff and
37876 accreditation requirements, established by rule.
37877 (4) Each applicant for licensure as a cosmetologist/barber shall:
37878 (a) submit an application in a form prescribed by the division;

37879 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
37880 (c) be of good moral character;
37881 (d) provide satisfactory documentation of:
37882 (i) graduation from a licensed or recognized cosmetology/barber school whose
37883 curriculum consists of a minimum of 2,000 hours of instruction, with full flexibility within the
37884 2,000 hours, or the equivalent number of credit hours over a period of not less than 12 months;
37885 (ii) (A) having graduated from a recognized cosmetology/barber school whose
37886 curriculum consists of less than 2,000 hours of instruction, with full flexibility within the 2,000
37887 hours, or the equivalent number of credit hours; and
37888 (B) having practiced as a licensed cosmetologist/barber for a period of not less than
37889 4,000 hours; or
37890 (iii) having completed an approved cosmetology/barber apprenticeship; and
37891 (e) meet the examination requirement established by rule.
37892 (5) Each applicant for licensure as a cosmetologist/barber instructor shall:
37893 (a) submit an application in a form prescribed by the division;
37894 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
37895 (c) provide satisfactory documentation that the applicant is currently licensed as a
37896 cosmetologist/barber;
37897 (d) be of good moral character;
37898 (e) provide satisfactory documentation of completion of:
37899 (i) an instructor training program conducted by a cosmetology/barber school consisting
37900 of a minimum of 1,000 hours or the equivalent number of credit hours; or
37901 (ii) a minimum of 4,000 hours of experience as a cosmetologist/barber; and
37902 (f) meet the examination requirement established by rule.
37903 (6) Each applicant for licensure as a cosmetologist/barber school shall:
37904 (a) submit an application in a form prescribed by the division;
37905 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303; and
37906 (c) provide satisfactory documentation:
37907 (i) of appropriate registration with the Division of Corporations and Commercial Code;
37908 (ii) of business licensure from the city, town, or county in which the school is located;
37909 (iii) that the applicant's physical facilities comply with the requirements established by

37910 rule; and
37911 (iv) that the applicant meets the standards for cosmetology schools, including staff and
37912 accreditation requirements, established by rule.
37913 (7) Each applicant for licensure as an electrologist shall:
37914 (a) submit an application in a form prescribed by the division;
37915 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
37916 (c) be of good moral character;
37917 (d) provide satisfactory documentation of having graduated from a licensed or
37918 recognized electrology school after completing a curriculum of 600 hours of instruction or the
37919 equivalent number of credit hours; and
37920 (e) meet the examination requirement established by rule.
37921 (8) Each applicant for licensure as an electrologist instructor shall:
37922 (a) submit an application in a form prescribed by the division;
37923 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
37924 (c) provide satisfactory documentation that the applicant is currently licensed as an
37925 electrologist;
37926 (d) be of good moral character;
37927 (e) provide satisfactory documentation of completion of:
37928 (i) an instructor training program conducted by an electrology school consisting of a
37929 minimum of 175 hours or the equivalent number of credit hours; or
37930 (ii) a minimum of 1,000 hours of experience as an electrologist; and
37931 (f) meet the examination requirement established by rule.
37932 (9) Each applicant for licensure as an electrologist school shall:
37933 (a) submit an application in a form prescribed by the division;
37934 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303; and
37935 (c) provide satisfactory documentation:
37936 (i) of appropriate registration with the Division of Corporations and Commercial Code;
37937 (ii) of business licensure from the city, town, or county in which the school is located;
37938 (iii) that the applicant's facilities comply with the requirements established by rule; and
37939 (iv) that the applicant meets the standards for electrologist schools, including staff,
37940 curriculum, and accreditation requirements, established by rule.

37941 (10) Each applicant for licensure as an esthetician shall:
37942 (a) submit an application in a form prescribed by the division;
37943 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
37944 (c) be of good moral character; and
37945 (d) provide satisfactory documentation of one of the following:
37946 (i) (A) graduation from a licensed or recognized esthetic school whose curriculum
37947 consists of not less than 15 weeks of esthetic instruction with a minimum of 600 hours or the
37948 equivalent number of credit hours; and
37949 (B) having met the examination requirement established by division rule;
37950 (ii) (A) completion of an approved esthetician apprenticeship; and
37951 (B) having met the examination requirement established by division rule; or
37952 (iii) having met the examination requirement established by division rule prior to
37953 December 31, 2001.
37954 (11) Each applicant for licensure as a master esthetician shall:
37955 (a) submit an application in a form prescribed by the division;
37956 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
37957 (c) be of good moral character; and
37958 (d) provide satisfactory documentation of one of the following:
37959 (i) (A) completion of 1,200 hours of training or the equivalent number of credit hours
37960 at a licensed or recognized esthetics school;
37961 (B) having met the examination requirement established by division rule; and
37962 (C) for practice of lymphatic massage, provide satisfactory documentation to show
37963 completion of 200 hours of training or equivalent number of credit hours in lymphatic
37964 massage;
37965 (ii) (A) completion of an approved master esthetician apprenticeship; and
37966 (B) having met the examination requirement established by division rule; or
37967 (iii) having met the examination requirement established by division rule prior to
37968 December 31, 2001.
37969 (12) Each applicant for licensure as an esthetician instructor shall:
37970 (a) submit an application in a form prescribed by the division;
37971 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;

37972 (c) provide satisfactory documentation that the applicant is currently licensed as a
37973 master esthetician;
37974 (d) be of good moral character;
37975 (e) provide satisfactory documentation of completion of:
37976 (i) an instructor training program conducted by a licensed or recognized esthetics
37977 school consisting of a minimum of 300 hours or the equivalent number of credit hours; or
37978 (ii) a minimum of 1,000 hours of experience in esthetics; and
37979 (f) meet the examination requirement established by rule.
37980 (13) Each applicant for licensure as an esthetics school shall:
37981 (a) submit an application in a form prescribed by the division;
37982 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303; and
37983 (c) provide satisfactory documentation:
37984 (i) of appropriate registration with the Division of Corporations and Commercial Code;
37985 (ii) of business licensure from the city, town, or county in which the school is located;
37986 (iii) that the applicant's physical facilities comply with the requirements established by
37987 rule; and
37988 (iv) that the applicant meets the standards for esthetics schools, including staff,
37989 curriculum, and accreditation requirements, established by division rule made in collaboration
37990 with the board.
37991 (14) Each applicant for licensure as a nail technician shall:
37992 (a) submit an application in a form prescribed by the division;
37993 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
37994 (c) be of good moral character; and
37995 (d) provide satisfactory documentation of one of the following:
37996 (i) (A) graduation from a licensed or recognized nail technology school whose
37997 curriculum consists of not less than 300 hours or the equivalent number of credit hours of not
37998 more than eight hours a day and six days a week during the program; and
37999 (B) having met the examination requirement established by division rule;
38000 (ii) (A) having completed an approved nail technician apprenticeship; and
38001 (B) having met the examination requirement established by division rule; or
38002 (iii) having met the examination requirement established by division rule prior to

38003 December 31, 2001.
38004 (15) Each applicant for licensure as a nail technician instructor shall:
38005 (a) submit an application in a form prescribed by the division;
38006 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
38007 (c) provide satisfactory documentation that the applicant is currently licensed as a nail
38008 technician;
38009 (d) be of good moral character;
38010 (e) provide satisfactory documentation of completion of:
38011 (i) an instructor training program conducted by a licensed or recognized nail
38012 technology school consisting of a minimum of 150 hours or the equivalent number of credit
38013 hours; or
38014 (ii) a minimum of 600 hours of experience in nail technology; and
38015 (f) meet the examination requirement established by rule.
38016 (16) Each applicant for licensure as a nail technology school shall:
38017 (a) submit an application in a form prescribed by the division;
38018 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303; and
38019 (c) provide satisfactory documentation:
38020 (i) of appropriate registration with the Division of Corporations and Commercial Code;
38021 (ii) of business licensure from the city, town, or county in which the school is located;
38022 (iii) that the applicant's facilities comply with the requirements established by rule; and
38023 (iv) that the applicant meets the standards for nail technology schools, including staff,
38024 curriculum, and accreditation requirements, established by rule.
38025 (17) Each applicant for licensure under this chapter whose education in the field for
38026 which a license is sought was completed at a foreign school may satisfy the educational
38027 requirement for licensure by demonstrating, to the satisfaction of the division, the educational
38028 equivalency of the foreign school education with a licensed school under this chapter.
38029 Section 843. Section **58-11a-503** is amended to read:
38030 **58-11a-503. Penalties.**
38031 (1) Unless Subsection (2) applies, an individual who commits an act of unlawful
38032 conduct under Section 58-11a-502 or who fails to comply with a citation issued under this
38033 section after it is final is guilty of a class A misdemeanor.

38034 (2) Sexual conduct that violates Section 58-11a-502 and Title 76, Utah Criminal Code,
38035 shall be subject to the applicable penalties in Title 76.
38036 (3) Grounds for immediate suspension of a licensee's license by the division include
38037 the issuance of a citation for violation of Subsection 58-11a-502(1), (2), or (4).
38038 (4) (a) If upon inspection or investigation, the division concludes that a person has
38039 violated the provisions of Subsection 58-11a-502(1), (2), or (4), or a rule or order issued with
38040 respect to Subsection 58-11a-502(1), (2), or (4), and that disciplinary action is appropriate, the
38041 director or the director's designee from within the division shall promptly issue a citation to the
38042 person according to this chapter and any pertinent rules, attempt to negotiate a stipulated
38043 settlement, or notify the person to appear before an adjudicative proceeding conducted under
38044 [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
38045 (i) A person who is in violation of Subsection 58-11a-502(1), (2), or (4), as evidenced
38046 by an uncontested citation, a stipulated settlement, or by a finding of violation in an
38047 adjudicative proceeding, may be assessed a fine pursuant to this Subsection (4) and may, in
38048 addition to or in lieu of, be ordered to cease and desist from violating Subsection
38049 58-11a-502(1), (2), or (4).
38050 (ii) Except for a cease and desist order, the licensure sanctions cited in Section
38051 58-11a-401 may not be assessed through a citation.
38052 (b) (i) Each citation shall be in writing and describe with particularity the nature of the
38053 violation, including a reference to the provision of the chapter, rule, or order alleged to have
38054 been violated.
38055 (ii) The citation shall clearly state that the recipient must notify the division in writing
38056 within 20 calendar days of service of the citation if the recipient wishes to contest the citation
38057 at a hearing conducted under [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
38058 Procedures Act.
38059 (iii) The citation shall clearly explain the consequences of failure to timely contest the
38060 citation or to make payment of a fine assessed by the citation within the time specified in the
38061 citation.
38062 (c) Each citation issued under this section, or a copy of each citation, may be served
38063 upon a person upon whom a summons may be served in accordance with the Utah Rules of
38064 Civil Procedure and may be made personally or upon the person's agent by a division

38065 investigator or by a person specially designated by the director or by mail.
38066 (d) (i) If within 20 calendar days from the service of a citation, the person to whom the
38067 citation was issued fails to request a hearing to contest the citation, the citation becomes the
38068 final order of the division and is not subject to further agency review.
38069 (ii) The period to contest a citation may be extended by the division for cause.
38070 (e) The division may refuse to issue or renew, suspend, revoke, or place on probation
38071 the license of a licensee who fails to comply with a citation after it becomes final.
38072 (f) The failure of an applicant for licensure to comply with a citation after it becomes
38073 final is a ground for denial of license.
38074 (g) No citation may be issued under this section after the expiration of six months
38075 following the occurrence of a violation.
38076 (h) Fines shall be assessed by the director or the director's designee according to the
38077 following:
38078 (i) for a first offense under Subsection (4)(a), a fine of up to $1,000;
38079 (ii) for a second offense under Subsection (4)(a), a fine of up to $2,000; and
38080 (iii) for any subsequent offense under Subsection (4)(a), a fine of up to $2,000 for each
38081 day of continued offense.
38082 (i) (i) For purposes of issuing a final order under this section and assessing a fine under
38083 Subsection (4)(h), an offense constitutes a second or subsequent offense if:
38084 (A) the division previously issued a final order determining that a person committed a
38085 first or second offense in violation of Subsection 58-11a-502(1), (2), or (4); or
38086 (B) (I) the division initiated an action for a first or second offense;
38087 (II) no final order has been issued by the division in the action initiated under
38088 Subsection (4)(i)(i)(B)(I);
38089 (III) the division determines during an investigation that occurred after the initiation of
38090 the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent
38091 violation of Subsection 58-11a-502(1), (2), or (4); and
38092 (IV) after determining that the person committed a second or subsequent offense under
38093 Subsection (4)(i)(i)(B)(III), the division issues a final order on the action initiated under
38094 Subsection (4)(i)(i)(B)(I).
38095 (ii) In issuing a final order for a second or subsequent offense under Subsection

38096 (4)(i)(i), the division shall comply with the requirements of this section.
38097 (5) (a) A penalty imposed by the director under Subsection (4)(h) shall be deposited
38098 into the Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician
38099 Education and Enforcement Fund.
38100 (b) A penalty which is not paid may be collected by the director by either referring the
38101 matter to a collection agency or bringing an action in the district court of the county in which
38102 the person against whom the penalty is imposed resides or in the county where the office of the
38103 director is located.
38104 (c) A county attorney or the attorney general of the state is to provide legal assistance
38105 and advice to the director in an action to collect the penalty.
38106 (d) A court shall award reasonable attorney fees and costs in an action brought to
38107 enforce the provisions of this section.
38108 Section 844. Section **58-13-5** is amended to read:
38109 **58-13-5. Information relating to adequacy and quality of medical care --**
38110 **Immunity from liability.**
38111 (1) As used in this section, "health care provider" has the same meaning as defined in
38112 Section 78-14-3.
38113 (2) (a) The division, and the boards within the division that act regarding the health
38114 care providers defined in this section, shall adopt rules to establish procedures to obtain
38115 information concerning the quality and adequacy of health care rendered to patients by those
38116 health care providers.
38117 (b) It is the duty of an individual licensed under Title 58, Occupations and Professions,
38118 as a health care provider to furnish information known to him with respect to health care
38119 rendered to patients by any health care provider licensed under Title 58, Occupations and
38120 Professions, as the division or a board may request during the course of the performance of its
38121 duties.
38122 (3) A health care facility as defined in Section 26-21-2 which employs, grants
38123 privileges to, or otherwise permits a licensed health care provider to engage in licensed practice
38124 within the health care facility, and any professional society of licensed health care providers,
38125 shall report any of the following events in writing to the division within sixty days after the
38126 event occurs regarding the licensed health care provider:

38127 (a) terminating employment of an employee for cause related to the employee's practice
38128 as a licensed health care provider;
38129 (b) terminating or restricting privileges for cause to engage in any act or practice
38130 related to practice as a licensed health care provider;
38131 (c) terminating, suspending, or restricting membership or privileges associated with
38132 membership in a professional association for acts of unprofessional, unlawful, incompetent, or
38133 negligent conduct related to practice as a licensed health care provider;
38134 (d) subjecting a licensed health care provider to disciplinary action for a period of more
38135 than 30 days;
38136 (e) a finding that a licensed health care provider has violated professional standards or
38137 ethics;
38138 (f) a finding of incompetence in practice as a licensed health care provider;
38139 (g) a finding of acts of moral turpitude by a licensed health care provider; or
38140 (h) a finding that a licensed health care provider is engaged in abuse of alcohol or
38141 drugs.
38142 (4) This section does not prohibit any action by a health care facility, or professional
38143 society comprised primarily of licensed health care providers to suspend, restrict, or revoke the
38144 employment, privileges, or membership of a health care provider.
38145 (5) The data and information obtained in accordance with this section is classified as a
38146 "protected" record under [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records
38147 Access and Management Act.
38148 (6) (a) Any person or organization furnishing information in accordance with this
38149 section in response to the request of the division or a board, or voluntarily, is immune from
38150 liability with respect to information provided in good faith and without malice, which good
38151 faith and lack of malice is presumed to exist absent clear and convincing evidence to the
38152 contrary.
38153 (b) The members of the board are immune from liability for any decisions made or
38154 actions taken in response to information acquired by the board if those decisions or actions are
38155 made in good faith and without malice, which good faith and lack of malice is presumed to
38156 exist absent clear and convincing evidence to the contrary.
38157 (7) An individual who is a member of a hospital administration, board, committee,

38158 department, medical staff, or professional organization of health care providers is, and any
38159 hospital, other health care entity, or professional organization conducting or sponsoring the
38160 review, immune from liability arising from participation in a review of a health care provider's
38161 professional ethics, medical competence, moral turpitude, or substance abuse.
38162 (8) This section does not exempt a person licensed under Title 58, Occupations and
38163 Professions, from complying with any reporting requirements established under state or federal
38164 law.
38165 Section 845. Section **58-15-4** is amended to read:
38166 **58-15-4. Licensure requirements.**
38167 (1) An applicant for a license under this chapter shall submit a written application to
38168 the division, verified under oath, that the applicant is of good moral character as it relates to the
38169 functions and responsibilities of the practice of administration of a health facility.
38170 (2) After July 1, 1985, all new applicants are required to have, in addition to
38171 Subsection (1), the education or experience requirements as established by rule and as
38172 approved by the division.
38173 (3) The applicant shall pay a fee to the Department of Commerce determined by it
38174 pursuant to Section [~~63-38-3.2~~] 63J-1-303 for admission to the examination, for an initial
38175 license, and for a renewal license.
38176 (4) The applicant shall pass a written examination in subjects determined by the board.
38177 Upon passing the examination and payment of the license fee, the board shall recommend
38178 issuance to the applicant of a license to practice as a health facility administrator.
38179 (5) A temporary license may be issued without examination to a person who meets the
38180 requirements established by statute and by rule for an administrator. The temporary license
38181 may be issued only to fill a position of administrator that unexpectedly becomes vacant and
38182 may be issued for only a single period not to exceed six months.
38183 (6) A license may be granted to an applicant who is a licensed nursing home
38184 administrator in another state if the standards for licensure in the other state are equivalent to
38185 those criteria set forth in Subsections (1) and (2), and if the applicant is otherwise qualified.
38186 Section 846. Section **58-16a-302** is amended to read:
38187 **58-16a-302. Qualifications for licensure.**
38188 (1) Each applicant for licensure as an optometrist shall:

38189 (a) submit an application in a form prescribed by the division;
38190 (b) pay a fee as determined by the division under Section [~~63-38-3.2~~] 63J-1-303;
38191 (c) be of good moral character;
38192 (d) (i) be a doctoral graduate of a recognized school of optometry accredited by:
38193 (A) a regional accrediting body recognized by the Council on Post-Secondary
38194 Education; and
38195 (B) the American Optometric Association's Council on Optometric Education; or
38196 (ii) be a graduate of a school of optometry located outside the United States that meets
38197 the criteria that would qualify the school for accreditation under Subsection (1)(d)(i), as
38198 demonstrated by the applicant for licensure;
38199 (e) if the applicant graduated from a recognized school of optometry prior to July 1,
38200 1996, have successfully completed a course of study satisfactory to the division, in consultation
38201 with the board, in general and ocular pharmacology and emergency medical care;
38202 (f) have passed examinations approved by the division in consultation with the board
38203 that include:
38204 (i) a standardized national optometry examination;
38205 (ii) a standardized clinical examination;
38206 (iii) a standardized national therapeutics examination; and
38207 (iv) the Utah Optometry Law Examination; and
38208 (g) meet with the board and representatives of the division, if requested by either party,
38209 for the purpose of evaluating the applicant's qualifications for licensure.
38210 (2) An applicant for licensure as an optometrist qualifying under the endorsement
38211 provision of Section 58-1-302 shall:
38212 (a) be currently licensed in good standing in any state of the United States; and
38213 (b) have been actively engaged in the legal practice of optometry for not less than
38214 3,200 hours in the immediately preceding two years, in a manner that is consistent with the
38215 legal practice of optometry in this state.
38216 Section 847. Section **58-17b-303** is amended to read:
38217 **58-17b-303. Qualifications for licensure as a pharmacist.**
38218 (1) Each applicant for licensure as a pharmacist shall:
38219 (a) submit an application in a form prescribed by the division;

38220 (b) pay a fee as determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
38221 (c) produce satisfactory evidence of good moral character as it relates to the applicant's
38222 ability to practice pharmacy;
38223 (d) complete a criminal background check and be free from criminal convictions as
38224 required by Section 58-17b-307, or as described in Section 58-1-501;
38225 (e) have no physical or mental condition of a nature which prevents the applicant from
38226 engaging in the practice of pharmacy with reasonable skill, competency, and safety to the
38227 public;
38228 (f) have graduated and received a professional entry degree from a school or college of
38229 pharmacy which is accredited by the Accreditation Council on Pharmacy Education;
38230 (g) have completed an internship meeting standards established by division rule made
38231 in collaboration with the board; and
38232 (h) have successfully passed examinations required by division rule made in
38233 collaboration with the board.
38234 (2) Each applicant for licensure as a pharmacist whose pharmacy education was
38235 completed at a foreign pharmacy school shall, in addition to the requirements under
38236 Subsections (1)(a) through (e), (g), and (h), obtain a certification of equivalency from a
38237 credentialing agency required by division rule made in collaboration with the board.
38238 (3) Each applicant for a license by endorsement as a pharmacist under this section
38239 shall:
38240 (a) submit a written application in the form prescribed by the division;
38241 (b) pay the fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
38242 (c) be of good moral character as required of applicants for licensure as pharmacists
38243 under Subsection (1);
38244 (d) complete a criminal background check and be free from criminal convictions as
38245 required by Section 58-17b-307, or as otherwise described in Section 58-1-501;
38246 (e) have no physical or mental condition of a nature which prevents the applicant from
38247 engaging in the practice of pharmacy with reasonable skill, competency, and safety to the
38248 public;
38249 (f) have lawfully practiced as a licensed pharmacist a minimum of 2,000 hours in the
38250 four years immediately preceding the date of application;

38251 (g) produce satisfactory evidence of completing the professional education required
38252 under Subsection (1);
38253 (h) be currently licensed in good standing as a pharmacist in another state, territory, or
38254 possession of the United States;
38255 (i) produce satisfactory evidence that the examination requirements are or were at the
38256 time the license was issued, equal to those of this state; and
38257 (j) pass the jurisprudence examination prescribed by division rule made in
38258 collaboration with the board.
38259 Section 848. Section **58-17b-304** is amended to read:
38260 **58-17b-304. Qualifications for licensure of pharmacy intern.**
38261 Each applicant for licensure as a pharmacy intern shall:
38262 (1) submit an application in a form prescribed by the division;
38263 (2) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
38264 (3) produce satisfactory evidence of good moral character as it relates to the applicant's
38265 ability to practice pharmacy;
38266 (4) complete a criminal background check and be free from criminal convictions as
38267 required by Section 58-17b-307, or as otherwise described in Section 58-1-501;
38268 (5) have no physical or mental condition of a nature which prevents the applicant from
38269 engaging in the practice of pharmacy with reasonable skill, competency, and safety to the
38270 public;
38271 (6) meet the preliminary educational qualifications required by division rule made in
38272 collaboration with the board; and
38273 (7) meet one of the following educational criteria:
38274 (a) be a current pharmacy student, a resident, or fellow in a program approved by
38275 division rule made in collaboration with the board;
38276 (b) have graduated and received a pharmacy degree from a school or college of
38277 pharmacy which is accredited by the Accreditation Council on Pharmacy Education but not
38278 completed the internship hours required by division rule for licensure as a pharmacist; or
38279 (c) have graduated from a foreign pharmacy school and received certification of
38280 equivalency from a credentialing agency approved by division rule made in collaboration with
38281 the board.

38282 Section 849. Section **58-17b-305** is amended to read:
38283 **58-17b-305. Qualifications for licensure of pharmacy technician.**
38284 (1) Each applicant for licensure as a pharmacy technician shall:
38285 (a) submit an application in a form prescribed by the division;
38286 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
38287 (c) produce satisfactory evidence of good moral character as it relates to the applicant's
38288 ability to practice pharmacy;
38289 (d) complete a criminal background check and be free from criminal convictions as
38290 required by Section 58-17b-307, or as otherwise permitted by Section 58-1-501;
38291 (e) have no physical or mental condition of a nature which prevents the applicant from
38292 engaging in practice as a pharmacy technician with reasonable skill, competency, and safety to
38293 the public;
38294 (f) have completed a board approved program and curriculum of education and
38295 training, meeting standards established by division rule made in collaboration with the board;
38296 and
38297 (g) successfully complete the examinations requirement within the time periods
38298 established by division rule made in collaboration with the board.
38299 (2) A pharmacist whose license has been denied, revoked, suspended, or restricted for
38300 disciplinary purposes shall not be eligible to be a licensed pharmacy technician while on
38301 probation with the division.
38302 Section 850. Section **58-17b-306** is amended to read:
38303 **58-17b-306. Qualifications for licensure as a pharmacy.**
38304 (1) Each applicant for licensure under this section, except for those applying for a class
38305 D license, shall:
38306 (a) submit a written application in the form prescribed by the division;
38307 (b) pay a fee as determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
38308 (c) satisfy the division that the applicant, and each owner, officer, or manager of the
38309 applicant have not engaged in any act, practice, or omission, which when considered with the
38310 duties and responsibilities of a licensee under this section indicates there is cause to believe
38311 that issuing a license to the applicant is inconsistent with the interest of the public's health,
38312 safety, or welfare;

38313 (d) demonstrate the licensee's operations will be in accordance with all federal, state,
38314 and local laws relating to the type of activity engaged in by the licensee, including regulations
38315 of the Federal Drug Enforcement Administration and Food and Drug Administration;
38316 (e) maintain operating standards established by division rule made in collaboration
38317 with the board; and
38318 (f) acknowledge the division's authority to inspect the licensee's business premises
38319 pursuant to Section 58-17b-103.
38320 (2) Each applicant applying for a class D license shall:
38321 (a) submit a written application in the form prescribed by the division;
38322 (b) pay a fee as determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
38323 (c) present to the division verification of licensure in the state where physically located
38324 and verification that such license is in good standing;
38325 (d) provide a statement of the scope of pharmacy services that will be provided and a
38326 detailed description of the protocol as described by rule by which pharmacy care will be
38327 provided, including any collaborative practice arrangements with other health care
38328 practitioners;
38329 (e) sign an affidavit attesting that any healthcare practitioners employed by the
38330 applicant and physically located in Utah have the appropriate license issued by the division and
38331 in good standing; and
38332 (f) sign an affidavit attesting that the applicant will abide by the pharmacy laws and
38333 regulations of the jurisdiction in which the pharmacy is located.
38334 (3) Each license issued under this section shall be issued for a single, specific address,
38335 and is not transferable or assignable.
38336 Section 851. Section **58-17b-307** is amended to read:
38337 **58-17b-307. Qualification for licensure -- Criminal background checks.**
38338 (1) An applicant for licensure under this chapter shall submit fingerprint cards in a
38339 form acceptable to the division at the time the license application is filed and shall consent to a
38340 fingerprint background check by the Utah Bureau of Criminal Identification and the Federal
38341 Bureau of Investigation regarding the application.
38342 (2) The division shall request the Department of Public Safety to complete a Federal
38343 Bureau of Investigation criminal background check for each applicant through the National

38344 Criminal History System (NCIC) or any successor system.
38345 (3) If convicted of one or more felonies, an applicant must receive an absolute
38346 discharge from the sentences for all felony convictions five or more years prior to the date of
38347 filing an application for licensure under this chapter.
38348 (4) For purposes of conducting the criminal background check required in Subsection
38349 (1), the division shall have direct access to criminal background information maintained
38350 pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.
38351 (5) Any new pharmacist, pharmacy intern, or pharmacy technician license issued under
38352 this section shall be conditional, pending completion of the criminal background check.
38353 Notwithstanding [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act,
38354 if the criminal background check discloses the applicant has failed to accurately disclose a
38355 criminal history, the license shall be immediately and automatically revoked upon notice to the
38356 licensee.
38357 (6) Any person whose conditional license has been revoked under Subsection (5) shall
38358 be entitled to a postrevocation hearing to challenge the revocation. The hearing shall be
38359 conducted in accordance with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
38360 Procedures Act.
38361 Section 852. Section **58-17b-504** is amended to read:
38362 **58-17b-504. Penalty for unlawful or unprofessional conduct -- Fines -- Citations.**
38363 (1) Any person who violates any of the unlawful conduct provisions of Subsection
38364 58-1-501(1)(a)(i) and Subsections 58-17b-501(7) and (11) is guilty of a third degree felony.
38365 (2) Any person who violates any of the unlawful conduct provisions of Subsection
38366 58-1-501(1)(a)(ii), Subsections 58-1-501(1)(b) through (e), and Section 58-17b-501, except
38367 Subsections 58-17b-501(7) and (11), is guilty of a class A misdemeanor.
38368 (3) (a) Subject to Subsection (5) and in accordance with Section 58-17b-401, for acts
38369 of unprofessional or unlawful conduct, the division may:
38370 (i) assess administrative penalties; and
38371 (ii) take any other appropriate administrative action.
38372 (b) An administrative penalty imposed pursuant to this section shall be deposited in the
38373 General Fund as a dedicated credit to be used by the division for pharmacy licensee education
38374 and enforcement as provided in Section 58-17b-505.

38375 (4) If a licensee has been convicted of violating Section 58-17b-501 prior to an
38376 administrative finding of a violation of the same section, the licensee may not be assessed an
38377 administrative fine under this chapter for the same offense for which the conviction was
38378 obtained.
38379 (5) (a) If upon inspection or investigation, the division concludes that a person has
38380 violated the provisions of Section 58-17b-501 or 58-17b-502, Chapter 37, Utah Controlled
38381 Substances Act, Chapter 1, Division of Occupational and Professional Licensing Act, or any
38382 rule or order issued with respect to these provisions, and that disciplinary action is appropriate,
38383 the director or the director's designee from within the division shall promptly issue a citation to
38384 the person according to this chapter and any pertinent rules, attempt to negotiate a stipulated
38385 settlement, or notify the person to appear before an adjudicative proceeding conducted under
38386 [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
38387 (b) Any person who is in violation of the provisions of Section 58-17b-501 or
38388 58-17b-502, Chapter 37, Utah Controlled Substances Act, Chapter 1, Division of Occupational
38389 and Professional Licensing Act, or any rule or order issued with respect to these provisions, as
38390 evidenced by an uncontested citation, a stipulated settlement, or a finding of violation in an
38391 adjudicative proceeding, may be assessed a fine pursuant to this Subsection (5) of up to
38392 $10,000 per single violation or up to $2,000 per day of ongoing violation, whichever is greater,
38393 in accordance with a fine schedule established by rule, and may, in addition to or in lieu of, be
38394 ordered to cease and desist from violating the provisions of Section 58-17b-501 or 58-17b-502,
38395 Chapter 37, Utah Controlled Substances Act, Chapter 1, Division of Occupational and
38396 Professional Licensing Act, or any rule or order issued with respect to these provisions.
38397 (c) Except for an administrative fine and a cease and desist order, the licensure
38398 sanctions cited in Section 58-17b-401 may not be assessed through a citation.
38399 (d) Each citation shall be in writing and specifically describe with particularity the
38400 nature of the violation, including a reference to the provision of the chapter, rule, or order
38401 alleged to have been violated. The citation shall clearly state that the recipient must notify the
38402 division in writing within 20 calendar days of service of the citation in order to contest the
38403 citation at a hearing conducted under [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
38404 Administrative Procedures Act. The citation shall clearly explain the consequences of failure
38405 to timely contest the citation or to make payment of any fines assessed by the citation within

38406 the time specified in the citation.
38407 (e) Each citation issued under this section, or a copy of each citation, may be served
38408 upon any person upon whom a summons may be served:
38409 (i) in accordance with the Utah Rules of Civil Procedure;
38410 (ii) personally or upon the person's agent by a division investigator or by any person
38411 specially designated by the director; or
38412 (iii) by mail.
38413 (f) If within 20 calendar days from the service of a citation, the person to whom the
38414 citation was issued fails to request a hearing to contest the citation, the citation becomes the
38415 final order of the division and is not subject to further agency review. The period to contest the
38416 citation may be extended by the division for cause.
38417 (g) The division may refuse to issue or renew, suspend, revoke, or place on probation
38418 the license of a licensee who fails to comply with the citation after it becomes final.
38419 (h) The failure of an applicant for licensure to comply with a citation after it becomes
38420 final is a ground for denial of license.
38421 (i) No citation may be issued under this section after the expiration of six months
38422 following the occurrence of any violation.
38423 Section 853. Section **58-17b-701** is amended to read:
38424 **58-17b-701. Mentally incompetent or incapacitated pharmacist -- Division action**
38425 **and procedures.**
38426 (1) As used in this section:
38427 (a) "Incapacitated person" has the same definition as in Section 75-1-201.
38428 (b) "Mentally ill" has the same definition as in Section 62A-15-602.
38429 (2) If a court of competent jurisdiction determines a pharmacist is an incapacitated
38430 person, or that [~~he~~] the pharmacist is mentally ill and unable to safely engage in the practice of
38431 pharmacy, the director shall immediately suspend the license of the pharmacist upon the entry
38432 of the judgment of the court, without further proceedings under [~~Title 63, Chapter 46b~~] Title
38433 63G, Chapter 4, Administrative Procedures Act, regardless of whether an appeal from the
38434 court's ruling is pending. The director shall promptly notify the pharmacist, in writing, of the
38435 suspension.
38436 (3) (a) If the division and a majority of the board find reasonable cause to believe a

38437 pharmacist, who is not determined judicially to be an incapacitated person or to be mentally ill,
38438 is incapable of practicing pharmacy with reasonable skill regarding the safety of patients,
38439 because of illness, excessive use of drugs or alcohol, or as a result of any mental or physical
38440 condition, the board shall recommend that the director file a petition with the division, and
38441 cause the petition to be served upon the pharmacist with a notice of hearing on the sole issue of
38442 the capacity of the pharmacist to competently and safely engage in the practice of pharmacy.
38443 (b) The hearing shall be conducted under Section 58-1-109 and [~~Title 63, Chapter 46b~~]
38444 Title 63G, Chapter 4, Administrative Procedures Act, except as provided in Subsection (4).
38445 (4) (a) Every pharmacist who accepts the privilege of being licensed under this chapter
38446 gives consent to:
38447 (i) submitting at [~~his~~] the pharmacist's own expense to an immediate mental or
38448 physical examination when directed in writing by the division, with the consent of a majority of
38449 the board, to do so; and
38450 (ii) the admissibility of the reports of the examining practitioner's testimony or
38451 examination in any proceeding regarding the license of the pharmacist, and waives all
38452 objections on the ground the reports constitute a privileged communication.
38453 (b) The examination may be ordered by the division, with the consent of a majority of
38454 the board, only upon a finding of reasonable cause to believe:
38455 (i) the pharmacist is mentally ill or incapacitated or otherwise unable to practice
38456 pharmacy with reasonable skill and safety; and
38457 (ii) immediate action by the division and the board is necessary to prevent harm to the
38458 pharmacist's patients or the general public.
38459 (c) (i) Failure of a pharmacist to submit to the examination ordered under this section
38460 is a ground for the division's immediate suspension of the pharmacist's license by written order
38461 of the director.
38462 (ii) The division may enter the order of suspension without further compliance with
38463 [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, unless the
38464 division finds the failure to submit to the examination ordered under this section was due to
38465 circumstances beyond the control of the pharmacist and was not related directly to the illness or
38466 incapacity of the pharmacist.
38467 (5) (a) A pharmacist whose license is suspended under Subsection (2) or (4) has the

38468 right to a hearing to appeal the suspension within ten days after the license is suspended.
38469 (b) The hearing held under this Subsection (5) shall be conducted in accordance with
38470 Sections 58-1-108 and 58-1-109 for the sole purpose of determining if sufficient basis exists
38471 for the continuance of the order of suspension in order to prevent harm to the pharmacist's
38472 patients or the general public.
38473 (6) A pharmacist whose license is revoked, suspended, or in any way restricted under
38474 this section may request the division and the board to consider, at reasonable intervals,
38475 evidence presented by the pharmacist, under procedures established by division rule, regarding
38476 any change in the pharmacist's condition, to determine whether:
38477 (a) [~~he~~] the pharmacist is or is not able to safely and competently engage in the practice
38478 of pharmacy; and
38479 (b) [~~he~~] the pharmacist is qualified to have [~~his~~] the pharmacist's licensure to practice
38480 under this chapter restored completely or in part.
38481 Section 854. Section **58-20a-302** is amended to read:
38482 **58-20a-302. Qualifications for licensure.**
38483 (1) Except as provided in Subsection (2), an applicant for licensure as an
38484 environmental health scientist shall:
38485 (a) submit an application in a form prescribed by the division;
38486 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
38487 (c) be of good moral character;
38488 (d) hold a bachelor's degree from an accredited program in a university or college,
38489 which degree includes completion of specific coursework as defined by rule;
38490 (e) pass an examination as determined by division rule in collaboration with the board;
38491 and
38492 (f) pass the Utah Law and Rules Examination for Environmental Health Scientists
38493 administered by the division.
38494 (2) An applicant for licensure who is currently actively engaged in the practice of
38495 environmental health science in Utah on July 1, 1995, and has been practicing in Utah for at
38496 least three consecutive months immediately prior to July 1, 1995, shall:
38497 (a) submit an application in a form prescribed by the division;
38498 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;

38499 (c) be of good moral character;
38500 (d) hold a bachelor's degree from an accredited program in a university or college,
38501 which degree includes completion of specific coursework as defined by rule;
38502 (e) pass the Utah Law and Rules Examination for Environmental Health Scientists
38503 administered by the division; and
38504 (f) submit an affidavit from the applicant's immediate supervisor in [~~his~~] the
38505 applicant's employment, attesting to the applicant's competence to practice environmental
38506 health science.
38507 (3) An applicant for licensure as an environmental health scientist-in-training shall:
38508 (a) submit an application in a form prescribed by the division;
38509 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
38510 (c) be of good moral character;
38511 (d) hold a bachelor's degree from an accredited program in a university or college,
38512 which degree includes completion of specific coursework as defined by rule;
38513 (e) pass the Utah Law and Rules Examination for Environmental Health Scientists
38514 administered by the division; and
38515 (f) present evidence acceptable to the division and the board that the applicant, when
38516 licensed, will practice as an environmental health scientist-in-training only under the general
38517 supervision of a supervising environmental health scientist licensed under this chapter.
38518 Section 855. Section **58-22-103** is amended to read:
38519 **58-22-103. Education and enforcement fund.**
38520 (1) There is created a restricted special revenue fund known as the "Professional
38521 Engineer, Professional Structural Engineer, and Professional Land Surveyor Education and
38522 Enforcement Fund."
38523 (2) The fund consists of monies from:
38524 (a) a surcharge fee placed on initial, renewal, and reinstatement licensure fees under
38525 this chapter in accordance with the following:
38526 (i) the surcharge fee shall be established by the department in accordance with Section
38527 [~~63-38-3.2~~] 63J-1-303; and
38528 (ii) the surcharge fee shall not exceed 50% of the respective initial, renewal, or
38529 reinstatement licensure fee; and

38530 (b) administrative penalties collected pursuant to this chapter.
38531 (3) The fund shall earn interest and all interest earned on fund monies shall be
38532 deposited into the fund.
38533 (4) The director may, with concurrence of the board, make distributions from the fund
38534 for the following purposes:
38535 (a) education and training of licensees under this chapter;
38536 (b) education and training of the public or other interested persons in matters
38537 concerning engineering, structural engineering, and land surveying laws and practices; and
38538 (c) enforcement of this chapter by:
38539 (i) investigating unprofessional or unlawful conduct; and
38540 (ii) providing legal representation to the division when the division takes legal action
38541 against a person engaging in unprofessional or unlawful conduct.
38542 (5) If the balance in the fund exceeds $100,000 at the close of any fiscal year, the
38543 excess shall be transferred to the General Fund.
38544 (6) The division shall report annually to the appropriate appropriations subcommittee of
38545 the Legislature concerning the fund.
38546 Section 856. Section **58-22-302** is amended to read:
38547 **58-22-302. Qualifications for licensure.**
38548 (1) Each applicant for licensure as a professional engineer shall:
38549 (a) submit an application in a form prescribed by the division;
38550 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
38551 (c) provide satisfactory evidence of good moral character;
38552 (d) (i) have graduated and received a bachelors or masters degree from an engineering
38553 program meeting criteria established by rule by the division in collaboration with the board; or
38554 (ii) have completed the Transportation Engineering Technology and Fundamental
38555 Engineering College Program prior to July 1, 1998, under the direction of the Utah Department
38556 of Transportation and as certified by the Utah Department of Transportation;
38557 (e) have successfully completed a program of qualifying experience established by rule
38558 by the division in collaboration with the board;
38559 (f) have successfully passed examinations established by rule by the division in
38560 collaboration with the board; and

38561 (g) meet with the board or representative of the division upon request for the purpose
38562 of evaluating the applicant's qualification for licensure.
38563 (2) Each applicant for licensure as a professional structural engineer shall:
38564 (a) submit an application in a form prescribed by the division;
38565 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
38566 (c) provide satisfactory evidence of good moral character;
38567 (d) have graduated and received an earned bachelors or masters degree from an
38568 engineering program meeting criteria established by rule by the division in collaboration with
38569 the board;
38570 (e) have successfully completed three years of licensed professional engineering
38571 experience established by rule by the division in collaboration with the board;
38572 (f) have successfully passed examinations established by rule by the division in
38573 collaboration with the board; and
38574 (g) meet with the board or representative of the division upon request for the purpose
38575 of evaluating the applicant's qualification for licensure.
38576 (3) Each applicant for licensure as a professional land surveyor shall:
38577 (a) submit an application in a form prescribed by the division;
38578 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
38579 (c) provide satisfactory evidence of good moral character;
38580 (d) (i) have graduated and received an associates, bachelors, or masters degree from a
38581 land surveying program, or an equivalent land surveying program, such as a program offered by
38582 the Utah College of Applied Technology as approved by the State Board of Regents,
38583 established by rule by the division in collaboration with the board, and have successfully
38584 completed a program of qualifying experience in land surveying established by rule by the
38585 division in collaboration with the board; or
38586 (ii) have successfully completed a program of qualifying experience in land surveying
38587 prior to January 1, 2007, in accordance with rules established by the division in collaboration
38588 with the board;
38589 (e) have successfully passed examinations established by rule by the division in
38590 collaboration with the board; and
38591 (f) meet with the board or representative of the division upon request for the purpose of

38592 evaluating the applicant's qualification for licensure.
38593 (4) Each applicant for licensure by endorsement shall:
38594 (a) submit an application in a form prescribed by the division;
38595 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
38596 (c) provide satisfactory evidence of good moral character;
38597 (d) submit satisfactory evidence of:
38598 (i) current licensure in good standing in a jurisdiction recognized by rule by the
38599 division in collaboration with the board;
38600 (ii) having successfully passed any examination established by rule by the division in
38601 collaboration with the board; and
38602 (iii) full-time employment as a licensed professional engineer, professional structural
38603 engineer, or professional land surveyor as a principal for at least five of the last seven years
38604 immediately preceding the date of the application; and
38605 (e) meet with the board or representative of the division upon request for the purpose
38606 of evaluating the applicant's qualifications for license.
38607 (5) The rules made to implement this section shall be in accordance with [~~Title 63,~~
38608 ~~Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
38609 Section 857. Section **58-22-503** is amended to read:
38610 **58-22-503. Penalty for unlawful conduct.**
38611 (1) (a) If upon inspection or investigation, the division concludes that a person has
38612 violated Subsections 58-1-501(1)(a) through (d) or Section 58-22-501 or any rule or order
38613 issued with respect to Section 58-22-501, and that disciplinary action is appropriate, the
38614 director or [~~his~~] the director's designee from within the division for each alternative
38615 respectively, shall promptly issue a citation to the person according to this chapter and any
38616 pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to appear
38617 before an adjudicative proceeding conducted under [~~Title 63, Chapter 46b~~] Title 63G, Chapter
38618 4, Administrative Procedures Act.
38619 (i) A person who violates Subsections 58-1-501(1)(a) through (d) or Section 58-22-501
38620 or any rule or order issued with respect to Section 58-22-501, as evidenced by an uncontested
38621 citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may
38622 be assessed a fine pursuant to this Subsection (1)and may, in addition to or in lieu of, be

38623 ordered to cease and desist from violating Subsections 58-1-501(1)(a) through (d) or Section
38624 58-22-501 or any rule or order issued with respect to this section.
38625 (ii) Except for a cease and desist order, the licensure sanctions cited in Section
38626 58-22-401 may not be assessed through a citation.
38627 (b) A citation shall:
38628 (i) be in writing;
38629 (ii) describe with particularity the nature of the violation, including a reference to the
38630 provision of the chapter, rule, or order alleged to have been violated;
38631 (iii) clearly state that the recipient must notify the division in writing within 20
38632 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing
38633 conducted under [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act;
38634 and
38635 (iv) clearly explain the consequences of failure to timely contest the citation or to make
38636 payment of any fines assessed by the citation within the time specified in the citation.
38637 (c) The division may issue a notice in lieu of a citation.
38638 (d) Each citation issued under this section, or a copy of each citation, may be served
38639 upon any person whom a summons may be served in accordance with the Utah Rules of Civil
38640 Procedure and may be made personally or upon [~~his~~] the person's agent by a division
38641 investigator or by any person specially designated by the director or by mail.
38642 (e) If within 20 calendar days from the service of the citation, the person to whom the
38643 citation was issued fails to request a hearing to contest the citation, the citation becomes the
38644 final order of the division and is not subject to further agency review. The period to contest a
38645 citation may be extended by the division for cause.
38646 (f) The division may refuse to issue or renew, suspend, revoke, or place on probation
38647 the license of a licensee who fails to comply with a citation after it becomes final.
38648 (g) The failure of an applicant for licensure to comply with a citation after it becomes
38649 final is a ground for denial of license.
38650 (h) No citation may be issued under this section after the expiration of six months
38651 following the occurrence of any violation.
38652 (i) The director or [~~his~~] the director's designee shall assess fines according to the
38653 following:

38654 (i) for a first offense handled pursuant to Subsection (1)(a), a fine of up to $1,000;
38655 (ii) for a second offense handled pursuant to Subsection (1)(a), a fine of up to $2,000;
38656 and
38657 (iii) for any subsequent offense handled pursuant to Subsection (1)(a), a fine of up to
38658 $2,000 for each day of continued offense.
38659 (2) An action initiated for a first or second offense which has not yet resulted in a final
38660 order of the division shall not preclude initiation of any subsequent action for a second or
38661 subsequent offense during the pendency of any preceding action. The final order on a
38662 subsequent action shall be considered a second or subsequent offense, respectively, provided
38663 the preceding action resulted in a first or second offense, respectively.
38664 (3) Any penalty which is not paid may be collected by the director by either referring
38665 the matter to a collection agency or bringing an action in the district court of the county in
38666 which the person against whom the penalty is imposed resides or in the county where the office
38667 of the director is located. Any county attorney or the attorney general of the state shall provide
38668 legal assistance and advice to the director in any action to collect the penalty. In any action
38669 brought to enforce the provisions of this section, reasonable attorney's fees and costs shall be
38670 awarded to the division.
38671 Section 858. Section **58-26a-102** is amended to read:
38672 **58-26a-102. Definitions.**
38673 In addition to the definitions in Section 58-1-102, as used in this chapter:
38674 (1) "Accounting experience" means applying accounting and auditing skills and
38675 principles that are taught as a part of the professional education qualifying a person for
38676 licensure under this chapter and generally accepted by the profession, under the supervision of
38677 a licensed certified public accountant.
38678 (2) "Board" means the Utah Board of Accountancy created in Section 58-26a-201.
38679 (3) "Certified Public Accountant" or "CPA" means an individual currently licensed by
38680 this state or any other state to practice public accountancy or who has been granted a certificate
38681 as a certified public accountant under prior law or this chapter.
38682 (4) "Certified Public Accountant firm" or "CPA firm" means a qualified business entity
38683 holding a valid registration as a Certified Public Accountant firm under this chapter.
38684 (5) "Client" means the person who retains a licensee for the performance of one or

38685 more of the services included in the definition of the practice of public accountancy. "Client"
38686 does not include a CPA's employer when the licensee works in a salaried or hourly rate
38687 position.
38688 (6) "Compilation of financial statements" means the presentation in the form of
38689 financial statements of information that is the representation of management or owners
38690 accompanied by a report stating the compilation has been performed in accordance with
38691 standards established by the American Institute of Certified Public Accountants.
38692 (7) "Experience" means:
38693 (a) accounting experience;
38694 (b) professional experience; or
38695 (c) qualifying experience.
38696 (8) "Licensee" means the holder of a current valid license issued under this chapter.
38697 (9) "Practice of public accounting" means the offer to perform or the performance by a
38698 person holding himself out as a certified public accountant of one or more kinds of services
38699 involving the use of auditing or accounting skills including the issuance of reports or opinions
38700 on financial statements, performing attestation engagements, the performance of one or more
38701 kinds of advisory or consulting services, or the preparation of tax returns or the furnishing of
38702 advice on tax matters for a client.
38703 (10) "Peer review" means a study, appraisal, or review of one or more aspects of the
38704 professional work of a person or qualified business entity in the practice of public accountancy,
38705 by a licensee or any other qualified person in accordance with rules adopted pursuant to this
38706 chapter and who is not affiliated with the person or qualified business entity being reviewed.
38707 (11) "Professional experience" means experience lawfully obtained while licensed as a
38708 certified public accountant in another jurisdiction, recognized by rule, in the practice of public
38709 accountancy performed for a client, which includes expression of assurance or opinion, for at
38710 least 300 hours collectively in the following areas:
38711 (a) applying Generally Accepted Auditing Standards (GAAS) to the usual and
38712 customary financial transactions recorded in the accounting records;
38713 (b) preparing audit working papers in accordance with GAAS covering the
38714 examination of the accounts usually found in accounting records;
38715 (c) planning the audit scope in accordance with GAAS, including the audit program to

38716 be followed;
38717 (d) preparing written explanations and comments on the findings of the examination
38718 and on the content of the accounting records; and
38719 (e) preparing and analyzing financial statements in accordance with GAAS.
38720 (12) "Qualified business entity" means a sole proprietorship, corporation, limited
38721 liability company, or partnership engaged in the practice of public accountancy.
38722 (13) "Qualified continuing professional education" means a formal program of
38723 education that contributes directly to the professional competence of a certified public
38724 accountant.
38725 (14) "Qualifying examinations" means:
38726 (a) the AICPA Uniform CPA Examination;
38727 (b) the AICPA Examination of Professional Ethics for CPAs;
38728 (c) the Utah Laws and Rules Examination; and
38729 (d) any other examination approved by the board and adopted by the division by rule in
38730 accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
38731 Rulemaking Act.
38732 (15) "Qualifying experience" means experience in the practice of public accountancy
38733 under the direction and supervision of a licensed certified public accountant performed for a
38734 client, which includes expression of assurance or opinion, for at least 300 hours collectively in
38735 the following areas:
38736 (a) applying Generally Accepted Auditing Standards (GAAS) to the usual and
38737 customary financial transactions recorded in the accounting records;
38738 (b) preparing audit working papers in accordance with GAAS covering the
38739 examination of the accounts usually found in accounting records;
38740 (c) planning the audit scope in accordance with GAAS, including the audit program to
38741 be followed;
38742 (d) preparing written explanations and comments on the findings of the examination
38743 and on the content of the accounting records; and
38744 (e) preparing and analyzing financial statements in accordance with GAAS.
38745 (16) (a) "Report" means:
38746 (i) when used with reference to financial statements, an opinion, report or other form of

38747 language that:
38748 (A) states or implies assurance as to the reliability of any financial statements; or
38749 (B) implies that the person or firm issuing it has special knowledge or competence in
38750 accounting or auditing and specifically includes compilations and reviews; such an implication
38751 of special knowledge or competence may arise from use by the issuer of the report of names or
38752 titles indicating that the person or firm is a public accountant or auditor, or from the language
38753 of the report itself; or
38754 (ii) any disclaimer of opinion when it is conventionally understood to imply any
38755 positive assurance as to the reliability of the financial statements referred to or language
38756 suggesting special competence on the part of the person or firm issuing such language; and it
38757 includes any other form of language that is conventionally understood to imply such assurance
38758 or such special knowledge or competence.
38759 (b) "Report" does not include a financial statement prepared by an unlicensed person if:
38760 (i) that financial statement has a cover page which includes essentially the following
38761 language: "I (we) have prepared the accompanying financial statements of (name of entity) as
38762 of (time period) for the (period) then ended. This presentation is limited to preparing, in the
38763 form of financial statements, information that is the representation of management (owners). I
38764 (we) have not audited or reviewed the accompanying financial statements and accordingly do
38765 not express an opinion or any other form of assurance on them."; and
38766 (ii) the cover page and any related footnotes do not use the terms "compilation,"
38767 "review," "audit," "generally accepted auditing standards," "generally accepted accounting
38768 principles," or other similar terms.
38769 (17) "Review of financial statements" means performing inquiry and analytical
38770 procedures which provide a reasonable basis for expressing limited assurance that there are no
38771 material modifications that should be made to the statements in order for them to be in
38772 conformity with generally accepted accounting principles or, if applicable, with another
38773 comprehensive basis of accounting; and, the issuance of a report on the financial statements
38774 stating that a review was performed in accordance with the standards established by the
38775 American Institute of Certified Public Accountants.
38776 (18) (a) "Substantial equivalency" means that the education, examination, and
38777 experience required by another jurisdiction are comparable to or exceed the education,

38778 examination, and experience requirements of this chapter, or that an individual's education,
38779 examination, and experience qualifications are comparable to or exceed the education,
38780 examination, and experience requirements of this chapter.
38781 (b) "Substantial equivalency" is determined by the board in accordance with rules made
38782 by the division in collaboration with the board.
38783 (19) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-26a-501.
38784 (20) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-26a-502 and
38785 as may be further defined by rule.
38786 (21) "Year of experience" means 2,000 hours of cumulative experience.
38787 Section 859. Section **58-26a-302** is amended to read:
38788 **58-26a-302. Qualifications for licensure and registration -- Licensure by**
38789 **endorsement -- Transitional provisions.**
38790 (1) Each applicant for licensure under this chapter as a certified public accountant
38791 shall:
38792 (a) submit an application in a form prescribed by the division;
38793 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
38794 (c) show evidence of good moral character;
38795 (d) submit a certified transcript of credits from an accredited institution acceptable to
38796 the board showing:
38797 (i) successful completion of a total of 150 semester hours or 225 quarter hours of
38798 collegiate level education with a concentration in accounting, auditing, and business;
38799 (ii) a baccalaureate degree or its equivalent at a college or university approved by the
38800 board; and
38801 (iii) compliance with any other education requirements established by rule by the
38802 division in collaboration with the board in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
38803 Chapter 3, Utah Administrative Rulemaking Act;
38804 (e) submit evidence of one year of accounting experience in a form prescribed by the
38805 division;
38806 (f) submit evidence of having successfully completed the qualifying examinations in
38807 accordance with Section 58-26a-306; and
38808 (g) submit to an interview by the board, if requested, for the purpose of examining the

38809 applicant's competence and qualifications for licensure.
38810 (2) The division may issue a license under this chapter to a person who holds a license
38811 as a certified public accountant issued by any other jurisdiction of the United States if the
38812 applicant for licensure by endorsement:
38813 (a) submits an application in a form prescribed by the division;
38814 (b) pays a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
38815 (c) shows evidence of good moral character;
38816 (d) submits to an interview by the board, if requested, for the purpose of examining the
38817 applicant's competence and qualifications for licensure; and
38818 (e) (i) (A) shows evidence of having passed the qualifying examinations; and
38819 (B) (I) meets the requirements for licensure which were applicable in this state at the
38820 time of the issuance of the applicant's license by the jurisdiction from which the original
38821 licensure by satisfactorily passing the AICPA Uniform CPA Examination was issued; or
38822 (II) had five years of professional experience after passing the AICPA Uniform CPA
38823 Examination upon which the original license was based, within the ten years immediately
38824 preceding the application for licensure by endorsement; or
38825 (ii) shows evidence that the applicant's education, examination record, and experience
38826 are substantially equivalent to the requirements of Subsection (1), as provided by rule.
38827 (3) (a) Each applicant for registration as a Certified Public Accountant firm shall:
38828 (i) submit an application in a form prescribed by the division;
38829 (ii) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
38830 (iii) have a CPA license under this chapter held by:
38831 (A) its proprietor, in the case of a sole proprietorship;
38832 (B) one of its general partners, managers, or members, in the case of a partnership or
38833 limited liability company;
38834 (C) one of its officers or shareholders, in the case of a corporation; or
38835 (D) one of its owners, in the case of any other type of qualified business entity;
38836 (iv) designate a CPA licensee who is responsible for on site supervision of operations
38837 of the CPA firm; and
38838 (v) meet any other requirements established by rule by the division in collaboration
38839 with the board in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah

38840 Administrative Rulemaking Act;
38841 (b) Each separate location of a qualified business entity within the state seeking
38842 registration as a Certified Public Accountant firm shall register separately.
38843 (c) A Certified Public Accountant firm may include owners who are not licensed under
38844 this chapter provided that:
38845 (i) more than 50% of the ownership of the Certified Public Accountant firm, including
38846 financial interest and voting rights in the firm, is held by individuals who are Certified Public
38847 Accountants, licensed under this chapter or another jurisdiction of the United States; and
38848 (ii) all nonlicensed owners are active individual participants in the CPA firm.
38849 (4) An individual shall have until July 1, 2004, to obtain three years of qualifying
38850 experience for licensure without being required to complete the education requirement if that
38851 individual:
38852 (a) was approved to take the qualifying examinations prior to July 1, 1994, under prior
38853 law without completion of the education requirement; and
38854 (b) (i) passed the AICPA Uniform CPA Examination prior to July 1, 1994; or
38855 (ii) received conditional credits on the AICPA Uniform CPA Examination prior to July
38856 1, 1994, and subsequently passed all parts of the AICPA Uniform CPA Examination within six
38857 immediately successive examination administrations.
38858 Section 860. Section **58-26a-306** is amended to read:
38859 **58-26a-306. Examination requirements.**
38860 (1) Before taking the qualifying examinations, an applicant shall:
38861 (a) submit an application in a form approved by the division;
38862 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
38863 (c) demonstrate completion of the education requirement in Subsection
38864 58-26a-302(1)(d); and
38865 (d) be approved by the board to take the qualifying examinations.
38866 (2) A person must sit for and meet the conditioning requirements of the AICPA
38867 Uniform CPA Examination as established by the AICPA.
38868 Section 861. Section **58-26a-307** is amended to read:
38869 **58-26a-307. CPA emeritus status -- Renewal of license.**
38870 (1) A person currently licensed as a certified public accountant may, on any renewal

38871 date of that license, apply for and obtain a transfer of that license to a status of CPA emeritus
38872 registration if:
38873 (a) (i) the licensee is at least 60 years of age as of the date of renewal;
38874 (ii) the licensee is disabled; or
38875 (iii) the board finds other good cause for believing that the licensee will not return to
38876 the practice of public accountancy;
38877 (b) the licensee makes an application for transfer of status and registration and pays a
38878 registration fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
38879 (c) the licensee, on application for transfer, certifies that [~~he~~] the licensee will not
38880 engage in the practice of public accountancy while in the status of CPA emeritus registration;
38881 and
38882 (d) the licensee is in good standing as a CPA and not subject to any order of
38883 revocation, suspension, or probation.
38884 (2) Each CPA emeritus registration shall be issued in accordance with a two-year
38885 renewal cycle established by rule.
38886 (3) CPA emeritus registrants may not engage in the practice of public accountancy.
38887 (4) CPA emeritus registrants are not required to fulfill the continuing professional
38888 education or peer review provisions of this chapter.
38889 (5) Each CPA emeritus registrant is responsible for renewing [~~his~~] the registration,
38890 according to procedures that the division establishes by rule in collaboration with the board in
38891 accordance with Section 58-1-308.
38892 (6) A CPA emeritus registrant may reinstate [~~his~~] the CPA license by:
38893 (a) submitting an application in a form prescribed by the division;
38894 (b) paying a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
38895 and
38896 (c) showing evidence of having completed the continuing professional education
38897 requirement established by rule.
38898 Section 862. Section **58-28-302** is amended to read:
38899 **58-28-302. License qualifications.**
38900 (1) Every applicant for a license to practice veterinary medicine, surgery, and dentistry
38901 shall:

38902 (a) be of good moral character as it relates to the functions and duties of a licensed
38903 veterinarian;
38904 (b) pass an examination approved by the board on the theory and practice of the
38905 science of veterinary medicine, surgery, dentistry, and other subjects determined by the board,
38906 knowledge of which is generally required of veterinarians;
38907 (c) (i) graduate from a veterinary college accredited by the AVMA; or
38908 (ii) obtain a certificate issued by the Educational Commission for Foreign Veterinary
38909 Graduates issued by the AVMA;
38910 (d) (i) have practiced under the supervision of a veterinarian licensed to practice in this
38911 state for a period of at least six months;
38912 (ii) have participated in veterinary investigational, educational, or sanitary control work
38913 of a nature and duration as to be the equivalent of the experience of Subsection (1)(d)(i);
38914 (iii) have practiced as a licensed veterinarian outside Utah for a period of at least six
38915 months; or
38916 (iv) have practiced as a veterinarian while employed by the United States government,
38917 its agencies, or the state or its political subdivisions for a period of at least six months; and
38918 (e) pay a fee to the Department of Commerce determined by it pursuant to Section
38919 [~~63-38-3.2~~] 63J-1-303 for the examination, for an initial license, and for a renewal license.
38920 (2) (a) An applicant for licensure as a veterinary intern shall comply with the
38921 provisions of Subsections (1)(a) and (c).
38922 (b) An applicant's license as a veterinary intern is limited to the period of time
38923 necessary to complete clinical training as described in Subsection (1)(d) and extends not more
38924 than one year from the date the minimum requirement for training is completed, unless the
38925 individual presents satisfactory evidence to the division and the board that the individual is
38926 making reasonable progress toward passing the qualifying examination or is otherwise on a
38927 course reasonably expected to lead to licensure as a veterinarian, but the period of time under
38928 this Subsection (2)(b) may not exceed two years past the date the minimum supervised clinical
38929 training has been completed.
38930 Section 863. Section **58-28-503** is amended to read:
38931 **58-28-503. Penalty for unlawful or unprofessional conduct.**
38932 (1) Any person who violates the unlawful conduct provisions of Section 58-28-501 is

38933 guilty of a third degree felony.
38934 (2) After proceeding pursuant to [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
38935 Administrative Procedures Act, and Chapter 1, Division of Occupational and Professional
38936 Licensing Act, the division may impose administrative penalties of up to $10,000 for acts of
38937 unprofessional conduct or unlawful conduct under this chapter.
38938 (3) Assessment of a penalty under this section does not affect any other action the
38939 division is authorized to take regarding a license issued under this chapter.
38940 Section 864. Section **58-31b-102** is amended to read:
38941 **58-31b-102. Definitions.**
38942 In addition to the definitions in Section 58-1-102, as used in this chapter:
38943 (1) "Administrative penalty" means a monetary fine imposed by the division for acts or
38944 omissions determined to constitute unprofessional or unlawful conduct in accordance with a
38945 fine schedule established by rule and as a result of an adjudicative proceeding conducted in
38946 accordance with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
38947 (2) "Applicant" means a person who applies for licensure or certification under this
38948 chapter by submitting a completed application for licensure or certification and the required
38949 fees to the department.
38950 (3) "Approved education program" means a nursing education program that meets the
38951 minimum standards for educational programs established under this chapter and by division
38952 rule in collaboration with the board.
38953 (4) "Board" means the Board of Nursing created in Section 58-31b-201.
38954 (5) "Consultation and referral plan" means a written plan jointly developed by an
38955 advanced practice registered nurse and a consulting physician that permits the advanced
38956 practice registered nurse to prescribe schedule II-III controlled substances in consultation with
38957 the consulting physician.
38958 (6) "Consulting physician" means a physician and surgeon or osteopathic physician and
38959 surgeon licensed in accordance with this title who has agreed to consult with an advanced
38960 practice registered nurse with a controlled substance license, a DEA registration number, and
38961 who will be prescribing schedule II-III controlled substances.
38962 (7) "Diagnosis" means the identification of and discrimination between physical and
38963 psychosocial signs and symptoms essential to the effective execution and management of

38964 health care.
38965 (8) "Examinee" means a person who applies to take or does take any examination
38966 required under this chapter for licensure.
38967 (9) "Licensee" means a person who is licensed or certified under this chapter.
38968 (10) "Long-term care facility" means any of the following facilities licensed by the
38969 Department of Health pursuant to Title 26, Chapter 21, Health Care Facility Licensing and
38970 Inspection Act:
38971 (a) a nursing care facility;
38972 (b) a small health care facility;
38973 (c) an intermediate care facility for the mentally retarded;
38974 (d) an assisted living facility Type I or II; or
38975 (e) a designated swing bed unit in a general hospital.
38976 (11) "Medication aide certified" means a certified nurse aide who:
38977 (a) has a minimum of 2,000 hours experience working as a certified nurse aide;
38978 (b) has received a minimum of 40 hours of classroom and 20 hours of practical training
38979 that is approved by the division in collaboration with the board, in administering routine
38980 medications to patients or residents of long-term care facilities; and
38981 (c) is certified by the division as a medication aide certified.
38982 (12) (a) "Practice as a medication aide certified" means the limited practice of nursing
38983 under the supervision, as defined by the division by administrative rule, of a licensed nurse,
38984 involving routine patient care that requires minimal or limited specialized or general
38985 knowledge, judgment, and skill, to an individual who is ill, injured, infirm, developmentally or
38986 physically disabled, mentally disabled, or mentally retarded, and who is in a regulated
38987 long-term care facility.
38988 (b) "Practice as a medication aide certified" includes:
38989 (i) providing direct personal assistance or care; and
38990 (ii) administering routine medications to patients in accordance with a formulary and
38991 protocols to be defined by the division by rule.
38992 (13) "Practice of advanced practice registered nursing" means the practice of nursing
38993 within the generally recognized scope and standards of advanced practice registered nursing as
38994 defined by rule and consistent with professionally recognized preparation and education

38995 standards of an advanced practice registered nurse by a person licensed under this chapter as an
38996 advanced practice registered nurse. Advanced practice registered nursing includes:
38997 (a) maintenance and promotion of health and prevention of disease;
38998 (b) diagnosis, treatment, correction, consultation, and referral for common health
38999 problems;
39000 (c) prescription or administration of prescription drugs or devices including:
39001 (i) local anesthesia;
39002 (ii) schedule IV-V controlled substances; and
39003 (iii) schedule II-III controlled substances in accordance with a consultation and referral
39004 plan; or
39005 (d) the provision of preoperative, intraoperative, and postoperative anesthesia care and
39006 related services upon the request of a licensed health care professional by an advanced practice
39007 registered nurse specializing as a certified registered nurse anesthetist, including:
39008 (i) preanesthesia preparation and evaluation including:
39009 (A) performing a preanesthetic assessment of the patient;
39010 (B) ordering and evaluating appropriate lab and other studies to determine the health of
39011 the patient; and
39012 (C) selecting, ordering, or administering appropriate medications;
39013 (ii) anesthesia induction, maintenance, and emergence, including:
39014 (A) selecting and initiating the planned anesthetic technique;
39015 (B) selecting and administering anesthetics and adjunct drugs and fluids; and
39016 (C) administering general, regional, and local anesthesia;
39017 (iii) postanesthesia follow-up care, including:
39018 (A) evaluating the patient's response to anesthesia and implementing corrective
39019 actions; and
39020 (B) selecting, ordering, or administering the medications and studies listed in
39021 Subsection (13)(d); and
39022 (iv) other related services within the scope of practice of a certified registered nurse
39023 anesthetist, including:
39024 (A) emergency airway management;
39025 (B) advanced cardiac life support; and

39026 (C) the establishment of peripheral, central, and arterial invasive lines; and
39027 (v) for purposes of Subsection (13)(d), "upon the request of a licensed health care
39028 professional":
39029 (A) means a health care professional practicing within the scope of the health care
39030 professional's license, requests anesthesia services for a specific patient; and
39031 (B) does not require an advanced practice registered nurse specializing as a certified
39032 registered nurse anesthetist to enter into a consultation and referral plan or obtain additional
39033 authority to select, administer, or provide preoperative, intraoperative, or postoperative
39034 anesthesia care and services.
39035 (14) "Practice of nursing" means assisting individuals or groups to maintain or attain
39036 optimal health, implementing a strategy of care to accomplish defined goals and evaluating
39037 responses to care and treatment. The practice of nursing requires substantial specialized or
39038 general knowledge, judgment, and skill based upon principles of the biological, physical,
39039 behavioral, and social sciences, and includes:
39040 (a) initiating and maintaining comfort measures;
39041 (b) promoting and supporting human functions and responses;
39042 (c) establishing an environment conducive to well-being;
39043 (d) providing health counseling and teaching;
39044 (e) collaborating with health care professionals on aspects of the health care regimen;
39045 (f) performing delegated procedures only within the education, knowledge, judgment,
39046 and skill of the licensee; and
39047 (g) delegating nurse interventions that may be performed by others and are not in
39048 conflict with this chapter.
39049 (15) "Practice of practical nursing" means the performance of nursing acts in the
39050 generally recognized scope of practice of licensed practical nurses as defined by rule and as
39051 provided in this Subsection (15) by a person licensed under this chapter as a licensed practical
39052 nurse and under the direction of a registered nurse, licensed physician, or other specified health
39053 care professional as defined by rule. Practical nursing acts include:
39054 (a) contributing to the assessment of the health status of individuals and groups;
39055 (b) participating in the development and modification of the strategy of care;
39056 (c) implementing appropriate aspects of the strategy of care;

39057 (d) maintaining safe and effective nursing care rendered to a patient directly or
39058 indirectly; and
39059 (e) participating in the evaluation of responses to interventions.
39060 (16) "Practice of registered nursing" means performing acts of nursing as provided in
39061 this Subsection (16) by a person licensed under this chapter as a registered nurse within the
39062 generally recognized scope of practice of registered nurses as defined by rule. Registered
39063 nursing acts include:
39064 (a) assessing the health status of individuals and groups;
39065 (b) identifying health care needs;
39066 (c) establishing goals to meet identified health care needs;
39067 (d) planning a strategy of care;
39068 (e) prescribing nursing interventions to implement the strategy of care;
39069 (f) implementing the strategy of care;
39070 (g) maintaining safe and effective nursing care that is rendered to a patient directly or
39071 indirectly;
39072 (h) evaluating responses to interventions;
39073 (i) teaching the theory and practice of nursing; and
39074 (j) managing and supervising the practice of nursing.
39075 (17) "Routine medications":
39076 (a) means established medications administered to a medically stable individual as
39077 determined by a licensed health care practitioner or in consultation with a licensed medical
39078 practitioner; and
39079 (b) is limited to medications that are administered by the following routes:
39080 (i) oral;
39081 (ii) sublingual;
39082 (iii) buccal;
39083 (iv) eye;
39084 (v) ear;
39085 (vi) nasal;
39086 (vii) rectal;
39087 (viii) vaginal;

39088 (ix) skin ointments, topical including patches and transdermal;
39089 (x) gastronomy or jejunostomy tubes;
39090 (xi) premeasured medication delivered by aerosol/nebulizer; and
39091 (xii) medications delivered by metered hand-held inhalers.
39092 (18) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-31b-501.
39093 (19) "Unlicensed assistive personnel" means any unlicensed person, regardless of title,
39094 to whom tasks are delegated by a licensed nurse as permitted by rule and in accordance with
39095 the standards of the profession.
39096 (20) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-31b-502 and
39097 as may be further defined by rule.
39098 Section 865. Section **58-31b-301.6** is amended to read:
39099 **58-31b-301.6. Medication aide certified pilot program.**
39100 (1) (a) The division shall establish a medication aide certified pilot program, limited to
39101 adult patients only, to determine the safety and efficiency of regulating medication aides
39102 certified.
39103 (b) The pilot program begins on January 1, 2007, and sunsets in accordance with
39104 Section [~~63-55b-158~~] 63I-2-258.
39105 (c) The division shall collect data regarding the safety and efficiency of medication
39106 aides certified and shall make the data available to the public.
39107 (d) If the Legislature does not reauthorize the medication aides certified in accordance
39108 with Section [~~63-55b-158~~] 63I-2-258, all certifications will automatically expire on the sunset
39109 date.
39110 (2) If at any time the division determines the certification pilot program has become a
39111 threat, or potential threat to the public health, safety, or welfare, the division may authorize
39112 emergency rules to place the certification program in abeyance until the next legislative
39113 session.
39114 Section 866. Section **58-31b-302** is amended to read:
39115 **58-31b-302. Qualifications for licensure or certification -- Criminal background**
39116 **checks.**
39117 (1) An applicant for certification as a medication aide shall:
39118 (a) submit an application to the division on a form prescribed by the division;

39119 (b) pay a fee to the division as determined under Section [~~63-38-3.2~~] 63J-1-303;
39120 (c) have a high school diploma or its equivalent;
39121 (d) have a current certification as a nurse aide, in good standing, from the Department
39122 of Health;
39123 (e) have a minimum of 2,000 hours of experience within the two years prior to
39124 application, working as a certified nurse aide in a long-term care facility;
39125 (f) obtain letters of recommendation from a long-term care facility administrator and
39126 one licensed nurse familiar with the applicant's work practices as a certified nurse aide;
39127 (g) be in a condition of physical and mental health that will permit the applicant to
39128 practice safely as a medication aide certified;
39129 (h) have completed an approved education program or an equivalent as determined by
39130 the division in collaboration with the board;
39131 (i) have passed the examinations as required by division rule made in collaboration
39132 with the board; and
39133 (j) meet with the board, if requested, to determine the applicant's qualifications for
39134 certification.
39135 (2) An applicant for licensure as a licensed practical nurse shall:
39136 (a) submit to the division an application in a form prescribed by the division;
39137 (b) pay to the division a fee determined under Section [~~63-38-3.2~~] 63J-1-303;
39138 (c) have a high school diploma or its equivalent;
39139 (d) be in a condition of physical and mental health that will permit the applicant to
39140 practice safely as a licensed practical nurse;
39141 (e) have completed an approved practical nursing education program or an equivalent
39142 as determined by the board;
39143 (f) have passed the examinations as required by division rule made in collaboration
39144 with the board; and
39145 (g) meet with the board, if requested, to determine the applicant's qualifications for
39146 licensure.
39147 (3) An applicant for licensure as a registered nurse shall:
39148 (a) submit to the division an application form prescribed by the division;
39149 (b) pay to the division a fee determined under Section [~~63-38-3.2~~] 63J-1-303;

39150 (c) have a high school diploma or its equivalent;
39151 (d) be in a condition of physical and mental health that will allow the applicant to
39152 practice safely as a registered nurse;
39153 (e) have completed an approved registered nursing education program;
39154 (f) have passed the examinations as required by division rule made in collaboration
39155 with the board; and
39156 (g) meet with the board, if requested, to determine the applicant's qualifications for
39157 licensure.
39158 (4) Applicants for licensure as an advanced practice registered nurse shall:
39159 (a) submit to the division an application on a form prescribed by the division;
39160 (b) pay to the division a fee determined under Section [~~63-38-3.2~~] 63J-1-303;
39161 (c) be in a condition of physical and mental health which will allow the applicant to
39162 practice safely as an advanced practice registered nurse;
39163 (d) hold a current registered nurse license in good standing issued by the state or be
39164 qualified at the time for licensure as a registered nurse;
39165 (e) (i) have earned a graduate degree in:
39166 (A) an advanced practice registered nurse nursing education program; or
39167 (B) a related area of specialized knowledge as determined appropriate by the division
39168 in collaboration with the board; or
39169 (ii) have completed a nurse anesthesia program in accordance with Subsection
39170 (4)(f)(ii);
39171 (f) have completed:
39172 (i) course work in patient assessment, diagnosis and treatment, and
39173 pharmacotherapeutics from an education program approved by the division in collaboration
39174 with the board; or
39175 (ii) a nurse anesthesia program which is approved by the Council on Accreditation of
39176 Nurse Anesthesia Educational Programs;
39177 (g) have successfully completed clinical practice in psychiatric and mental health
39178 nursing, including psychotherapy as defined by division rule, after completion of the masters
39179 degree required for licensure, to practice within the psychiatric and mental health nursing
39180 specialty;

39181 (h) have passed the examinations as required by division rule made in collaboration
39182 with the board;
39183 (i) be currently certified by a program approved by the division in collaboration with
39184 the board and submit evidence satisfactory to the division of the certification; and
39185 (j) meet with the board, if requested, to determine the applicant's qualifications for
39186 licensure.
39187 (5) For each applicant for licensure or certification under this chapter:
39188 (a) the applicant shall:
39189 (i) submit fingerprint cards in a form acceptable to the division at the time the
39190 application is filed; and
39191 (ii) consent to a fingerprint background check by the Utah Bureau of Criminal
39192 Identification and the Federal Bureau of Investigation regarding the application; and
39193 (b) the division shall request the Department of Public Safety to complete a Federal
39194 Bureau of Investigation criminal background check through the national criminal history
39195 system (NCIC) or any successor system.
39196 (6) For purposes of conducting the criminal background checks required in Subsection
39197 (5), the division shall have direct access to criminal background information maintained
39198 pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.
39199 (7) (a) (i) Any new nurse license or certification issued under this section shall be
39200 conditional, pending completion of the criminal background check.
39201 (ii) If the criminal background check discloses the applicant has failed to accurately
39202 disclose a criminal history, the license or certification shall be immediately and automatically
39203 revoked.
39204 (b) (i) Any person whose conditional license or certification has been revoked under
39205 Subsection (7)(a) shall be entitled to a postrevocation hearing to challenge the revocation.
39206 (ii) The hearing shall be conducted in accordance with [~~Title 63, Chapter 46b~~] Title
39207 63G, Chapter 4, Administrative Procedures Act.
39208 (8) (a) If a person has been charged with a violent felony, as defined in Subsection
39209 76-3-203.5(1)(c), and, as a result, the person has been convicted, entered a plea of guilty or
39210 nolo contendere, or entered a plea of guilty or nolo contendere held in abeyance pending the
39211 successful completion of probation:

39212 (i) the person is disqualified for licensure under this chapter; and
39213 (ii) (A) if the person is licensed under this chapter, the division:
39214 (I) shall act upon the license as required under Section 58-1-401; and
39215 (II) may not renew or subsequently issue a license to the person under this chapter; and
39216 (B) if the person is not licensed under this chapter, the division may not issue a license
39217 to the person under this chapter.
39218 (b) If a person has been charged with a felony other than a violent felony, as defined in
39219 Subsection 76-3-203.5(1)(c), and, as a result, the person has been convicted, entered a plea of
39220 guilty or nolo contendere, or entered a plea of guilty or nolo contendere held in abeyance
39221 pending the successful completion of probation:
39222 (i) if the person is licensed under this chapter, the division shall determine whether the
39223 felony disqualifies the person for licensure under this chapter and act upon the license, as
39224 required, in accordance with Section 58-1-401; and
39225 (ii) if the person is not licensed under this chapter, the person may not file an
39226 application for licensure under this chapter any sooner than five years after having completed
39227 the conditions of the sentence or plea agreement.
39228 Section 867. Section **58-31b-304** is amended to read:
39229 **58-31b-304. Qualifications for admission to the examinations.**
39230 (1) To be admitted to the examinations required for certification as a medication aide
39231 certified, a person shall:
39232 (a) submit an application on a form prescribed by the division;
39233 (b) pay a fee as determined by the division under Section [~~63-38-3.2~~] 63J-1-303; and
39234 (c) meet all requirements of Subsection 58-31b-302(1), except the passing of the
39235 examination.
39236 (2) To be admitted to the examinations required for licensure as a practical nurse, a
39237 person shall:
39238 (a) submit an application form prescribed by the division;
39239 (b) pay a fee as determined by the division under Section [~~63-38-3.2~~] 63J-1-303; and
39240 (c) meet all requirements of Subsection 58-31b-302(2), except Subsection (2)(f).
39241 (3) To be admitted to the examinations required for licensure as a registered nurse, a
39242 person shall:

39243 (a) submit an application form prescribed by the division;
39244 (b) pay a fee as determined by the division under Section [~~63-38-3.2~~] 63J-1-303; and
39245 (c) meet all the requirements of Subsection 58-31b-302(3), except Subsection (3)(f).
39246 Section 868. Section **58-31b-305** is amended to read:
39247 **58-31b-305. Term of license -- Expiration -- Renewal.**
39248 (1) The division shall issue each license or certification under this chapter in
39249 accordance with a two-year renewal cycle established by rule. The division may by rule extend
39250 or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.
39251 (2) At the time of renewal, the licensee or person certified under this chapter shall
39252 show satisfactory evidence of each of the following renewal requirements:
39253 (a) complete and submit an application for renewal in a form prescribed by the division
39254 and pay the renewal fee determined under Section [~~63-38-3.2~~] 63J-1-303; and
39255 (b) meet continuing competency requirements as established by rule, which shall
39256 include continuing education requirements for medication aide certified established by the
39257 board and adopted by the division by rule.
39258 (3) In addition to the renewal requirements under Subsection (2), a person licensed as a
39259 advanced practice registered nurse shall be currently certified by a program approved by the
39260 division in collaboration with the board and submit evidence satisfactory to the division of that
39261 qualification or if licensed prior to July 1, 1992, meet the requirements established by rule.
39262 (4) Each license or certification automatically expires on the expiration date shown on
39263 the license or certification unless renewed in accordance with Section 58-1-308.
39264 Section 869. Section **58-31b-401** is amended to read:
39265 **58-31b-401. Grounds for denial of licensure or certification and disciplinary**
39266 **proceedings.**
39267 (1) Grounds for refusal to issue a license to an applicant, for refusal to renew the
39268 license of a licensee, to revoke, suspend, restrict, or place on probation the license of a licensee,
39269 to issue a public or private reprimand to a licensee, and to issue cease and desist orders shall be
39270 in accordance with Section 58-1-401.
39271 (2) If a court of competent jurisdiction determines a nurse is an incapacitated person as
39272 defined in Section 75-1-201 or that [~~he~~] the nurse is mentally ill as defined in Section
39273 62A-15-602, and unable to safely engage in the practice of nursing, the director shall

39274 immediately suspend the license of the nurse upon the entry of the judgment of the court,
39275 without further proceedings under [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
39276 Procedures Act, regardless of whether an appeal from the court's ruling is pending. The
39277 director shall promptly notify the nurse in writing of the suspension.
39278 (3) (a) If the division and the majority of the board find reasonable cause to believe a
39279 nurse who is not determined judicially to be an incapacitated person or to be mentally ill, is
39280 incapable of practicing nursing with reasonable skill regarding the safety of patients, because of
39281 illness, excessive use of drugs or alcohol, or as a result of any mental or physical condition, the
39282 board shall recommend that the director file a petition with the division, and cause the petition
39283 to be served upon the nurse with a notice of hearing on the sole issue of the capacity of the
39284 nurse to competently, safely engage in the practice of nursing.
39285 (b) The hearing shall be conducted under Section 58-1-109 and [~~Title 63, Chapter 46b~~]
39286 Title 63G, Chapter 4, Administrative Procedures Act, except as provided in Subsection (4).
39287 (4) (a) Every nurse who accepts the privilege of being licensed under this chapter gives
39288 consent to:
39289 (i) submitting to an immediate mental or physical examination, at the nurse's expense
39290 and by a division-approved practitioner selected by the nurse when directed in writing by the
39291 division and a majority of the board to do so; and
39292 (ii) the admissibility of the reports of the examining practitioner's testimony or
39293 examination, and waives all objections on the ground the reports constitute a privileged
39294 communication.
39295 (b) The examination may be ordered by the division, with the consent of a majority of
39296 the board, only upon a finding of reasonable cause to believe:
39297 (i) the nurse is mentally ill or incapacitated or otherwise unable to practice nursing with
39298 reasonable skill and safety; and
39299 (ii) immediate action by the division and the board is necessary to prevent harm to the
39300 nurse's patients or the general public.
39301 (c) (i) Failure of a nurse to submit to the examination ordered under this section is a
39302 ground for the division's immediate suspension of the nurse's license by written order of the
39303 director.
39304 (ii) The division may enter the order of suspension without further compliance with

39305 [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, unless the
39306 division finds the failure to submit to the examination ordered under this section was due to
39307 circumstances beyond the control of the nurse and was not related directly to the illness or
39308 incapacity of the nurse.
39309 (5) (a) A nurse whose license is suspended under Subsection (2), (3), or (4)(c) has the
39310 right to a hearing to appeal the suspension within ten days after the license is suspended.
39311 (b) The hearing held under this Subsection (5) shall be conducted in accordance with
39312 Sections 58-1-108 and 58-1-109 for the sole purpose of determining if sufficient basis exists
39313 for the continuance of the order of suspension in order to prevent harm to the nurse's patients or
39314 the general public.
39315 (6) A nurse whose license is revoked, suspended, or in any way restricted under this
39316 section may request the division and the board to consider, at reasonable intervals, evidence
39317 presented by the nurse, under procedures established by division rule, regarding any change in
39318 the nurse's condition, to determine whether:
39319 (a) [~~he~~] the nurse is or is not able to safely and competently engage in the practice of
39320 nursing; and
39321 (b) [~~he~~] the nurse is qualified to have [~~his~~] the nurse's license to practice under this
39322 chapter restored completely or in part.
39323 (7) Nothing in Section [~~63-2-206~~] 63G-2-206 may be construed as limiting the
39324 authority of the division to report current significant investigative information to the
39325 coordinated licensure information system for transmission to party states as required of the
39326 division by Article VII of the Nurse Licensure Compact in Section 58-31c-102.
39327 (8) For purposes of this section and Section 58-31b-402:
39328 (a) "licensed" or "license" includes "certified" or "certification" under this chapter; and
39329 (b) any terms or conditions applied to the word "nurse" in this section or Section
39330 58-31b-402 also apply to a medication aide certified.
39331 Section 870. Section **58-31b-402** is amended to read:
39332 **58-31b-402. Authority to assess penalty.**
39333 (1) After a proceeding pursuant to [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
39334 Administrative Procedures Act, and Title 58, Chapter 1, Division of Occupational and
39335 Professional Licensing Act, the division may impose an administrative penalty of up to

39336 $10,000 for unprofessional or unlawful conduct under this chapter in accordance with a fine
39337 schedule established by rule.
39338 (2) The assessment of a penalty under this section does not affect any other action the
39339 division is authorized to take regarding a license issued under this chapter.
39340 (3) The division may impose an administrative penalty of up to $500 for any violation
39341 of Subsection 58-31b-501(1)(a) or (b), consistent with Section 58-31b-503.
39342 Section 871. Section **58-31b-601** is amended to read:
39343 **58-31b-601. Minimum standards for nursing programs -- Medication aide**
39344 **training.**
39345 (1) A nursing education program shall be affiliated with an accredited institution of
39346 higher education in order to be approved by the division.
39347 (2) The minimum standards a nursing program shall meet to qualify graduates for
39348 licensure under this chapter shall be defined by division rule.
39349 (3) (a) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
39350 Administrative Rulemaking Act, the division shall make rules defining the minimum standards
39351 for a medication aide certified training program to qualify a person for certification under this
39352 chapter as a medication aide certified.
39353 (b) A medication aide certified training program shall include a minimum of 40 hours
39354 of classroom and 20 hours of practical training.
39355 Section 872. Section **58-37-2** is amended to read:
39356 **58-37-2. Definitions.**
39357 (1) As used in this chapter:
39358 (a) "Administer" means the direct application of a controlled substance, whether by
39359 injection, inhalation, ingestion, or any other means, to the body of a patient or research subject
39360 by:
39361 (i) a practitioner or, in [~~his~~] the practitioner's presence, by [~~his~~] the practitioner's
39362 authorized agent; or
39363 (ii) the patient or research subject at the direction and in the presence of the
39364 practitioner.
39365 (b) "Agent" means an authorized person who acts on behalf of or at the direction of a
39366 manufacturer, distributor, or practitioner but does not include a motor carrier, public

39367 warehouseman, or employee of any of them.
39368 (c) "Consumption" means ingesting or having any measurable amount of a controlled
39369 substance in a person's body, but this Subsection (1)(c) does not include the metabolite of a
39370 controlled substance.
39371 (d) "Continuing criminal enterprise" means any individual, sole proprietorship,
39372 partnership, corporation, business trust, association, or other legal entity, and any union or
39373 groups of individuals associated in fact although not a legal entity, and includes illicit as well
39374 as licit entities created or maintained for the purpose of engaging in conduct which constitutes
39375 the commission of episodes of activity made unlawful by Title 58, Chapters 37, 37a, 37b, 37c,
39376 or 37d, which episodes are not isolated, but have the same or similar purposes, results,
39377 participants, victims, methods of commission, or otherwise are interrelated by distinguishing
39378 characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct
39379 and be related either to each other or to the enterprise.
39380 (e) "Control" means to add, remove, or change the placement of a drug, substance, or
39381 immediate precursor under Section 58-37-3.
39382 (f) (i) "Controlled substance" means a drug or substance included in Schedules I, II, III,
39383 IV, or V of Section 58-37-4, and also includes a drug or substance included in Schedules I, II,
39384 III, IV, or V of the federal Controlled Substances Act, Title II, P.L. 91-513, or any controlled
39385 substance analog.
39386 (ii) "Controlled substance" does not include:
39387 (A) distilled spirits, wine, or malt beverages, as those terms are defined or used in Title
39388 32A, Alcoholic Beverage Control Act, regarding tobacco or food;
39389 (B) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or
39390 prevention of disease in man or other animals, which contains ephedrine, pseudoephedrine,
39391 norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold,
39392 transferred, or furnished as an over-the-counter medication without prescription; or
39393 (C) dietary supplements, vitamins, minerals, herbs, or other similar substances
39394 including concentrates or extracts, which are not otherwise regulated by law, which may
39395 contain naturally occurring amounts of chemical or substances listed in this chapter, or in rules
39396 adopted pursuant to [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
39397 Rulemaking Act.

39398 (g) (i) "Controlled substance analog" means a substance the chemical structure of
39399 which is substantially similar to the chemical structure of a controlled substance listed in
39400 Schedules I and II of Section 58-37-4, or in Schedules I and II of the federal Controlled
39401 Substances Act, Title II, P.L. 91-513:
39402 (A) which has a stimulant, depressant, or hallucinogenic effect on the central nervous
39403 system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central
39404 nervous system of controlled substances in the schedules set forth in Subsection (1)(f); or
39405 (B) which, with respect to a particular individual, is represented or intended to have a
39406 stimulant, depressant, or hallucinogenic effect on the central nervous system substantially
39407 similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of
39408 controlled substances in the schedules set forth in this Subsection (1).
39409 (ii) "Controlled substance analog" does not include:
39410 (A) a controlled substance currently scheduled in Schedules I through V of Section
39411 58-37-4;
39412 (B) a substance for which there is an approved new drug application;
39413 (C) a substance with respect to which an exemption is in effect for investigational use
39414 by a particular person under Section 505 of the Food, Drug, and Cosmetic Act, 21 U.S.C. 366,
39415 to the extent the conduct with respect to the substance is permitted by the exemption;
39416 (D) any substance to the extent not intended for human consumption before an
39417 exemption takes effect with respect to the substance;
39418 (E) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or
39419 prevention of disease in man or other animals, which contains ephedrine, pseudoephedrine,
39420 norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold,
39421 transferred, or furnished as an over-the-counter medication without prescription; or
39422 (F) dietary supplements, vitamins, minerals, herbs, or other similar substances
39423 including concentrates or extracts, which are not otherwise regulated by law, which may
39424 contain naturally occurring amounts of chemical or substances listed in this chapter, or in rules
39425 adopted pursuant to [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
39426 Rulemaking Act.
39427 (h) "Conviction" means a determination of guilt by verdict, whether jury or bench, or
39428 plea, whether guilty or no contest, for any offense proscribed by Title 58, Chapters 37, 37a,

39429 37b, 37c, or 37d, or for any offense under the laws of the United States and any other state
39430 which, if committed in this state, would be an offense under Title 58, Chapters 37, 37a, 37b,
39431 37c, or 37d.
39432 (i) "Counterfeit substance" means:
39433 (i) any substance or container or labeling of any substance that without authorization
39434 bears the trademark, trade name, or other identifying mark, imprint, number, device, or any
39435 likeness of them, of a manufacturer, distributor, or dispenser other than the person or persons
39436 who in fact manufactured, distributed, or dispensed the substance which falsely purports to be a
39437 controlled substance distributed by, any other manufacturer, distributor, or dispenser; or
39438 (ii) any substance that is represented to be a controlled substance.
39439 (j) "Deliver" or "delivery" means the actual, constructive, or attempted transfer of a
39440 controlled substance or a listed chemical, whether or not an agency relationship exists.
39441 (k) "Department" means the Department of Commerce.
39442 (l) "Depressant or stimulant substance" means:
39443 (i) a drug which contains any quantity of barbituric acid or any of the salts of barbituric
39444 acid;
39445 (ii) a drug which contains any quantity of:
39446 (A) amphetamine or any of its optical isomers;
39447 (B) any salt of amphetamine or any salt of an optical isomer of amphetamine; or
39448 (C) any substance which the Secretary of Health and Human Services or the Attorney
39449 General of the United States after investigation has found and by regulation designated
39450 habit-forming because of its stimulant effect on the central nervous system;
39451 (iii) lysergic acid diethylamide; or
39452 (iv) any drug which contains any quantity of a substance which the Secretary of Health
39453 and Human Services or the Attorney General of the United States after investigation has found
39454 to have, and by regulation designated as having, a potential for abuse because of its depressant
39455 or stimulant effect on the central nervous system or its hallucinogenic effect.
39456 (m) "Dispense" means the delivery of a controlled substance by a pharmacist to an
39457 ultimate user pursuant to the lawful order or prescription of a practitioner, and includes
39458 distributing to, leaving with, giving away, or disposing of that substance as well as the
39459 packaging, labeling, or compounding necessary to prepare the substance for delivery.

39460 (n) "Dispenser" means a pharmacist who dispenses a controlled substance.
39461 (o) "Distribute" means to deliver other than by administering or dispensing a controlled
39462 substance or a listed chemical.
39463 (p) "Distributor" means a person who distributes controlled substances.
39464 (q) "Division" means the Division of Occupational and Professional Licensing created
39465 in Section 58-1-103.
39466 (r) "Drug" means:
39467 (i) articles recognized in the official United States Pharmacopoeia, Official
39468 Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any
39469 supplement to any of them;
39470 (ii) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention
39471 of disease in man or other animals;
39472 (iii) articles, other than food, intended to affect the structure or function of man or
39473 other animals; and
39474 (iv) articles intended for use as a component of any articles specified in Subsection
39475 (1)(r)(i), (ii), or (iii); but does not include devices or their components, parts, or accessories.
39476 (s) "Drug dependent person" means any individual who unlawfully and habitually uses
39477 any controlled substance to endanger the public morals, health, safety, or welfare, or who is so
39478 dependent upon the use of controlled substances as to have lost the power of self-control with
39479 reference to [~~his~~] the individual's dependency.
39480 (t) "Food" means:
39481 (i) any nutrient or substance of plant, mineral, or animal origin other than a drug as
39482 specified in this chapter, and normally ingested by human beings; and
39483 (ii) foods for special dietary uses as exist by reason of a physical, physiological,
39484 pathological, or other condition including but not limited to the conditions of disease,
39485 convalescence, pregnancy, lactation, allergy, hypersensitivity to food, underweight, and
39486 overweight; uses for supplying a particular dietary need which exist by reason of age including
39487 but not limited to the ages of infancy and childbirth, and also uses for supplementing and for
39488 fortifying the ordinary or unusual diet with any vitamin, mineral, or other dietary property for
39489 use of a food. Any particular use of a food is a special dietary use regardless of the nutritional
39490 purposes.

39491 (u) "Immediate precursor" means a substance which the Attorney General of the United
39492 States has found to be, and by regulation designated as being, the principal compound used or
39493 produced primarily for use in the manufacture of a controlled substance, or which is an
39494 immediate chemical intermediary used or likely to be used in the manufacture of a controlled
39495 substance, the control of which is necessary to prevent, curtail, or limit the manufacture of the
39496 controlled substance.
39497 (v) "Indian" means a member of an Indian tribe.
39498 (w) "Indian religion" means any religion:
39499 (i) the origin and interpretation of which is from within a traditional Indian culture or
39500 community; and
39501 (ii) which is practiced by Indians.
39502 (x) "Indian tribe" means any tribe, band, nation, pueblo, or other organized group or
39503 community of Indians, including any Alaska Native village, which is legally recognized as
39504 eligible for and is consistent with the special programs, services, and entitlements provided by
39505 the United States to Indians because of their status as Indians.
39506 (y) "Manufacture" means the production, preparation, propagation, compounding, or
39507 processing of a controlled substance, either directly or indirectly by extraction from substances
39508 of natural origin, or independently by means of chemical synthesis or by a combination of
39509 extraction and chemical synthesis.
39510 (z) "Manufacturer" includes any person who packages, repackages, or labels any
39511 container of any controlled substance, except pharmacists who dispense or compound
39512 prescription orders for delivery to the ultimate consumer.
39513 (aa) "Marijuana" means all species of the genus cannabis and all parts of the genus,
39514 whether growing or not; the seeds of it; the resin extracted from any part of the plant; and every
39515 compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or
39516 resin. The term does not include the mature stalks of the plant, fiber produced from the stalks,
39517 oil or cake made from the seeds of the plant, any other compound, manufacture, salt,
39518 derivative, mixture, or preparation of the mature stalks, except the resin extracted from them,
39519 fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination. Any
39520 synthetic equivalents of the substances contained in the plant cannabis sativa or any other
39521 species of the genus cannabis which are chemically indistinguishable and pharmacologically

39522 active are also included.
39523 (bb) "Money" means officially issued coin and currency of the United States or any
39524 foreign country.
39525 (cc) "Narcotic drug" means any of the following, whether produced directly or
39526 indirectly by extraction from substances of vegetable origin, or independently by means of
39527 chemical synthesis, or by a combination of extraction and chemical synthesis:
39528 (i) opium, coca leaves, and opiates;
39529 (ii) a compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or
39530 opiates;
39531 (iii) opium poppy and poppy straw; or
39532 (iv) a substance, and any compound, manufacture, salt, derivative, or preparation of the
39533 substance, which is chemically identical with any of the substances referred to in Subsection
39534 (1)(cc)(i), (ii), or (iii), except narcotic drug does not include decocainized coca leaves or
39535 extracts of coca leaves which do not contain cocaine or ecgonine.
39536 (dd) "Negotiable instrument" means documents, containing an unconditional promise
39537 to pay a sum of money, which are legally transferable to another party by endorsement or
39538 delivery.
39539 (ee) "Opiate" means any drug or other substance having an addiction-forming or
39540 addiction-sustaining liability similar to morphine or being capable of conversion into a drug
39541 having addiction-forming or addiction-sustaining liability.
39542 (ff) "Opium poppy" means the plant of the species papaver somniferum L., except the
39543 seeds of the plant.
39544 (gg) "Person" means any corporation, association, partnership, trust, other institution or
39545 entity or one or more individuals.
39546 (hh) "Poppy straw" means all parts, except the seeds, of the opium poppy, after
39547 mowing.
39548 (ii) "Possession" or "use" means the joint or individual ownership, control, occupancy,
39549 holding, retaining, belonging, maintaining, or the application, inhalation, swallowing, injection,
39550 or consumption, as distinguished from distribution, of controlled substances and includes
39551 individual, joint, or group possession or use of controlled substances. For a person to be a
39552 possessor or user of a controlled substance, it is not required that [~~he~~] the person be shown to

39553 have individually possessed, used, or controlled the substance, but it is sufficient if it is shown
39554 that the person jointly participated with one or more persons in the use, possession, or control
39555 of any substances with knowledge that the activity was occurring, or the controlled substance is
39556 found in a place or under circumstances indicating that the person had the ability and the intent
39557 to exercise dominion and control over it.
39558 (jj) "Practitioner" means a physician, dentist, veterinarian, pharmacist, scientific
39559 investigator, pharmacy, hospital, or other person licensed, registered, or otherwise permitted to
39560 distribute, dispense, conduct research with respect to, administer, or use in teaching or
39561 chemical analysis a controlled substance in the course of professional practice or research in
39562 this state.
39563 (kk) "Prescribe" means to issue a prescription orally or in writing.
39564 (ll) "Prescription" means an order issued by a licensed practitioner, in the course of that
39565 practitioner's professional practice, for a controlled substance, other drug, or device which it
39566 dispenses or administers for use by a patient or an animal. The order may be issued by word of
39567 mouth, written document, telephone, facsimile transmission, computer, or other electronic
39568 means of communication as defined by rule.
39569 (mm) "Production" means the manufacture, planting, cultivation, growing, or
39570 harvesting of a controlled substance.
39571 (nn) "Securities" means any stocks, bonds, notes, or other evidences of debt or of
39572 property.
39573 (oo) "State" means the state of Utah.
39574 (pp) "Ultimate user" means any person who lawfully possesses a controlled substance
39575 for [~~his~~] the person's own use, for the use of a member of [~~his~~] the person's household, or for
39576 administration to an animal owned by [~~him~~] the person or a member of [~~his~~] the person's
39577 household.
39578 (2) If a term used in this chapter is not defined, the definition and terms of Title 76,
39579 Utah Criminal Code, shall apply.
39580 Section 873. Section **58-37-6** is amended to read:
39581 **58-37-6. License to manufacture, produce, distribute, dispense, administer, or**
39582 **conduct research -- Issuance by division -- Denial, suspension, or revocation -- Records**
39583 **required -- Prescriptions.**

39584 (1) (a) The division may adopt rules relating to the licensing and control of the
39585 manufacture, distribution, production, prescription, administration, dispensing, conducting of
39586 research with, and performing of laboratory analysis upon controlled substances within this
39587 state.
39588 (b) The division may assess reasonable fees to defray the cost of issuing original and
39589 renewal licenses under this chapter pursuant to Section [~~63-38-3.2~~] 63J-1-303.
39590 (2) (a) (i) Every person who manufactures, produces, distributes, prescribes, dispenses,
39591 administers, conducts research with, or performs laboratory analysis upon any controlled
39592 substance in Schedules II through V within this state, or who proposes to engage in
39593 manufacturing, producing, distributing, prescribing, dispensing, administering, conducting
39594 research with, or performing laboratory analysis upon controlled substances included in
39595 Schedules II through V within this state shall obtain a license issued by the division.
39596 (ii) The division shall issue each license under this chapter in accordance with a
39597 two-year renewal cycle established by rule. The division may by rule extend or shorten a
39598 renewal period by as much as one year to stagger the renewal cycles it administers.
39599 (b) Persons licensed to manufacture, produce, distribute, prescribe, dispense,
39600 administer, conduct research with, or perform laboratory analysis upon controlled substances in
39601 Schedules II through V within this state may possess, manufacture, produce, distribute,
39602 prescribe, dispense, administer, conduct research with, or perform laboratory analysis upon
39603 those substances to the extent authorized by their license and in conformity with this chapter.
39604 (c) The following persons are not required to obtain a license and may lawfully possess
39605 controlled substances under this section:
39606 (i) an agent or employee, except a sales representative, of any registered manufacturer,
39607 distributor, or dispenser of any controlled substance, if the agent or employee is acting in the
39608 usual course of [~~his~~] the person's business or employment; however, nothing in this subsection
39609 shall be interpreted to permit an agent, employee, sales representative, or detail man to
39610 maintain an inventory of controlled substances separate from the location of [~~his~~] the person's
39611 employer's registered and licensed place of business;
39612 (ii) a motor carrier or warehouseman, or an employee of a motor carrier or
39613 warehouseman, who possesses any controlled substance in the usual course of [~~his~~] the person's
39614 business or employment; and

39615 (iii) an ultimate user, or any person who possesses any controlled substance pursuant to
39616 a lawful order of a practitioner.
39617 (d) The division may enact rules waiving the license requirement for certain
39618 manufacturers, producers, distributors, prescribers, dispensers, administrators, research
39619 practitioners, or laboratories performing analysis if consistent with the public health and safety.
39620 (e) A separate license is required at each principal place of business or professional
39621 practice where the applicant manufactures, produces, distributes, dispenses, conducts research
39622 with, or performs laboratory analysis upon controlled substances.
39623 (f) The division may enact rules providing for the inspection of a licensee or applicant's
39624 establishment, and may inspect the establishment according to those rules.
39625 (3) (a) Upon proper application, the division shall license a qualified applicant to
39626 manufacture, produce, distribute, conduct research with, or perform laboratory analysis upon
39627 controlled substances included in Schedules I through V, unless it determines that issuance of a
39628 license is inconsistent with the public interest. The division shall not issue a license to any
39629 person to prescribe, dispense, or administer a Schedule I controlled substance. In determining
39630 public interest, the division shall consider whether or not the applicant has:
39631 (i) maintained effective controls against diversion of controlled substances and any
39632 Schedule I or II substance compounded from any controlled substance into other than
39633 legitimate medical, scientific, or industrial channels;
39634 (ii) complied with applicable state and local law;
39635 (iii) been convicted under federal or state laws relating to the manufacture, distribution,
39636 or dispensing of substances;
39637 (iv) past experience in the manufacture of controlled dangerous substances;
39638 (v) established effective controls against diversion; and
39639 (vi) complied with any other factors that the division establishes that promote the
39640 public health and safety.
39641 (b) Licenses granted under Subsection (3)(a) do not entitle a licensee to manufacture,
39642 produce, distribute, conduct research with, or perform laboratory analysis upon controlled
39643 substances in Schedule I other than those specified in the license.
39644 (c) (i) Practitioners shall be licensed to administer, dispense, or conduct research with
39645 substances in Schedules II through V if they are authorized to administer, dispense, or conduct

39646 research under the laws of this state.
39647 (ii) The division need not require a separate license for practitioners engaging in
39648 research with nonnarcotic controlled substances in Schedules II through V where the licensee is
39649 already licensed under this act in another capacity.
39650 (iii) With respect to research involving narcotic substances in Schedules II through V,
39651 or where the division by rule requires a separate license for research of nonnarcotic substances
39652 in Schedules II through V, a practitioner shall apply to the division prior to conducting
39653 research.
39654 (iv) Licensing for purposes of bona fide research with controlled substances by a
39655 practitioner considered qualified may be denied only on a ground specified in Subsection (4),
39656 or upon evidence that the applicant will abuse or unlawfully transfer or fail to safeguard
39657 adequately [~~his~~] the practitioner's supply of substances against diversion from medical or
39658 scientific use.
39659 (v) Practitioners registered under federal law to conduct research in Schedule I
39660 substances may conduct research in Schedule I substances within this state upon furnishing the
39661 division evidence of federal registration.
39662 (d) Compliance by manufacturers, producers, and distributors with the provisions of
39663 federal law respecting registration, excluding fees, entitles them to be licensed under this
39664 chapter.
39665 (e) The division shall initially license those persons who own or operate an
39666 establishment engaged in the manufacture, production, distribution, dispensation, or
39667 administration of controlled substances prior to April 3, 1980, and who are licensed by the
39668 state.
39669 (4) (a) Any license pursuant to Subsection (2) or (3) may be denied, suspended, placed
39670 on probation, or revoked by the division upon finding that the applicant or licensee has:
39671 (i) materially falsified any application filed or required pursuant to this chapter;
39672 (ii) been convicted of an offense under this chapter or any law of the United States, or
39673 any state, relating to any substance defined as a controlled substance;
39674 (iii) been convicted of a felony under any other law of the United States or any state
39675 within five years of the date of the issuance of the license;
39676 (iv) had a federal license denied, suspended, or revoked by competent federal authority

39677 and is no longer authorized to engage in the manufacturing, distribution, or dispensing of
39678 controlled substances;
39679 (v) had [~~his~~] the licensee's license suspended or revoked by competent authority of
39680 another state for violation of laws or regulations comparable to those of this state relating to the
39681 manufacture, distribution, or dispensing of controlled substances;
39682 (vi) violated any division rule that reflects adversely on the licensee's reliability and
39683 integrity with respect to controlled substances;
39684 (vii) refused inspection of records required to be maintained under this chapter by a
39685 person authorized to inspect them; or
39686 (viii) prescribed, dispensed, administered, or injected an anabolic steroid for the
39687 purpose of manipulating human hormonal structure so as to:
39688 (A) increase muscle mass, strength, or weight without medical necessity and without a
39689 written prescription by any practitioner in the course of [~~his~~] the practitioner's professional
39690 practice; or
39691 (B) improve performance in any form of human exercise, sport, or game.
39692 (b) The division may limit revocation or suspension of a license to a particular
39693 controlled substance with respect to which grounds for revocation or suspension exist.
39694 (c) (i) Proceedings to deny, revoke, or suspend a license shall be conducted pursuant to
39695 this section and in accordance with the procedures set forth in Title 58, Chapter 1, Division of
39696 Occupational and Professional Licensing Act, and conducted in conjunction with the
39697 appropriate representative committee designated by the director of the department.
39698 (ii) Nothing in this Subsection (4)(c) gives the Division of Occupational and
39699 Professional Licensing exclusive authority in proceedings to deny, revoke, or suspend licenses,
39700 except where the division is designated by law to perform those functions, or, when not
39701 designated by law, is designated by the executive director of the Department of Commerce to
39702 conduct the proceedings.
39703 (d) (i) The division may suspend any license simultaneously with the institution of
39704 proceedings under this section if it finds there is an imminent danger to the public health or
39705 safety.
39706 (ii) Suspension shall continue in effect until the conclusion of proceedings, including
39707 judicial review, unless withdrawn by the division or dissolved by a court of competent

39708 jurisdiction.
39709 (e) (i) If a license is suspended or revoked under this Subsection (4), all controlled
39710 substances owned or possessed by the licensee may be placed under seal in the discretion of the
39711 division.
39712 (ii) Disposition may not be made of substances under seal until the time for taking an
39713 appeal has lapsed, or until all appeals have been concluded, unless a court, upon application,
39714 orders the sale of perishable substances and the proceeds deposited with the court.
39715 (iii) If a revocation order becomes final, all controlled substances shall be forfeited.
39716 (f) The division shall notify promptly the Drug Enforcement Administration of all
39717 orders suspending or revoking a license and all forfeitures of controlled substances.
39718 (5) (a) Persons licensed under Subsection (2) or (3) shall maintain records and
39719 inventories in conformance with the record keeping and inventory requirements of federal and
39720 state law and any additional rules issued by the division.
39721 (b) (i) Every physician, dentist, veterinarian, practitioner, or other person who is
39722 authorized to administer or professionally use a controlled substance shall keep a record of the
39723 drugs received by him and a record of all drugs administered, dispensed, or professionally used
39724 by him otherwise than by a prescription.
39725 (ii) A person using small quantities or solutions or other preparations of those drugs for
39726 local application has complied with this Subsection (5)(b) if [~~he~~] the person keeps a record of
39727 the quantity, character, and potency of those solutions or preparations purchased or prepared by
39728 him, and of the dates when purchased or prepared.
39729 (6) Controlled substances in Schedules I through V may be distributed only by a
39730 licensee and pursuant to an order form prepared in compliance with division rules or a lawful
39731 order under the rules and regulations of the United States.
39732 (7) (a) A person may not write or authorize a prescription for a controlled substance
39733 unless [~~he~~] the person is:
39734 (i) a practitioner authorized to prescribe drugs and medicine under the laws of this state
39735 or under the laws of another state having similar standards; and
39736 (ii) licensed under this chapter or under the laws of another state having similar
39737 standards.
39738 (b) A person other than a pharmacist licensed under the laws of this state, or [~~his~~] the

39739 pharmacist's licensed intern, as required by Sections 58-17b-303 and 58-17b-304, may not
39740 dispense a controlled substance.
39741 (c) (i) A controlled substance may not be dispensed without the written prescription of
39742 a practitioner, if the written prescription is required by the federal Controlled Substances Act.
39743 (ii) That written prescription shall be made in accordance with Subsection (7)(a) and in
39744 conformity with Subsection (7)(d).
39745 (iii) In emergency situations, as defined by division rule, controlled substances may be
39746 dispensed upon oral prescription of a practitioner, if reduced promptly to writing on forms
39747 designated by the division and filed by the pharmacy.
39748 (iv) Prescriptions reduced to writing by a pharmacist shall be in conformity with
39749 Subsection (7)(d).
39750 (d) Except for emergency situations designated by the division, a person may not issue,
39751 fill, compound, or dispense a prescription for a controlled substance unless the prescription is
39752 signed by the prescriber in ink or indelible pencil or is signed with an electronic signature of
39753 the prescriber as authorized by division rule, and contains the following information:
39754 (i) the name, address, and registry number of the prescriber;
39755 (ii) the name, address, and age of the person to whom or for whom the prescription is
39756 issued;
39757 (iii) the date of issuance of the prescription; and
39758 (iv) the name, quantity, and specific directions for use by the ultimate user of the
39759 controlled substance.
39760 (e) A prescription may not be written, issued, filled, or dispensed for a Schedule I
39761 controlled substance.
39762 (f) Except when administered directly to an ultimate user by a licensed practitioner,
39763 controlled substances are subject to the following restrictions:
39764 (i) (A) A prescription for a Schedule II substance may not be refilled.
39765 (B) A Schedule II controlled substance may not be filled in a quantity to exceed a
39766 one-month's supply, as directed on the daily dosage rate of the prescriptions.
39767 (ii) A Schedule III or IV controlled substance may be filled only within six months of
39768 issuance, and may not be refilled more than six months after the date of its original issuance or
39769 be refilled more than five times after the date of the prescription unless renewed by the

39770 practitioner.
39771 (iii) All other controlled substances in Schedule V may be refilled as the prescriber's
39772 prescription directs, but they may not be refilled one year after the date the prescription was
39773 issued unless renewed by the practitioner.
39774 (iv) Any prescription for a Schedule II substance may not be dispensed if it is not
39775 presented to a pharmacist for dispensing by a pharmacist or a pharmacy intern within 30 days
39776 after the date the prescription was issued, or 30 days after the dispensing date, if that date is
39777 specified separately from the date of issue.
39778 (v) A practitioner may issue more than one prescription at the same time for the same
39779 Schedule II controlled substance, but only under the following conditions:
39780 (A) no more than three prescriptions for the same Schedule II controlled substance may
39781 be issued at the same time;
39782 (B) no one prescription may exceed a 30-day supply;
39783 (C) a second or third prescription shall include the date of issuance and the date for
39784 dispensing; and
39785 (D) unless the practitioner determines there is a valid medical reason to the contrary,
39786 the date for dispensing a second or third prescription may not be fewer than 30 days from the
39787 dispensing date of the previous prescription.
39788 (vi) Each prescription for a controlled substance may contain only one controlled
39789 substance per prescription form and may not contain any other legend drug or prescription
39790 item.
39791 (g) An order for a controlled substance in Schedules II through V for use by an
39792 inpatient or an outpatient of a licensed hospital is exempt from all requirements of this
39793 Subsection (7) if the order is:
39794 (i) issued or made by a prescribing practitioner who holds an unrestricted registration
39795 with the federal Drug Enforcement Administration, and an active Utah controlled substance
39796 license in good standing issued by the division under this section, or a medical resident who is
39797 exempted from licensure under Subsection 58-1-307(1)(c);
39798 (ii) authorized by the prescribing practitioner treating the patient and the prescribing
39799 practitioner designates the quantity ordered;
39800 (iii) entered upon the record of the patient, the record is signed by the prescriber

39801 affirming [~~his~~] the prescriber's authorization of the order within 48 hours after filling or
39802 administering the order, and the patient's record reflects the quantity actually administered; and
39803 (iv) filled and dispensed by a pharmacist practicing [~~his~~] the pharmacist's profession
39804 within the physical structure of the hospital, or the order is taken from a supply lawfully
39805 maintained by the hospital and the amount taken from the supply is administered directly to the
39806 patient authorized to receive it.
39807 (h) A practitioner licensed under this chapter may not prescribe, administer, or
39808 dispense a controlled substance to a child, without first obtaining the consent required in
39809 Section 78-14-5 of a parent, guardian, or person standing in loco parentis of the child except in
39810 cases of an emergency. For purposes of this Subsection (7)(h), "child" has the same meaning
39811 as defined in Section 78-3a-103, and "emergency" means any physical condition requiring the
39812 administration of a controlled substance for immediate relief of pain or suffering.
39813 (i) A practitioner licensed under this chapter may not prescribe or administer dosages
39814 of a controlled substance in excess of medically recognized quantities necessary to treat the
39815 ailment, malady, or condition of the ultimate user.
39816 (j) A practitioner licensed under this chapter may not prescribe, administer, or dispense
39817 any controlled substance to another person knowing that the other person is using a false name,
39818 address, or other personal information for the purpose of securing the controlled substance.
39819 (k) A person who is licensed under this chapter to manufacture, distribute, or dispense
39820 a controlled substance may not manufacture, distribute, or dispense a controlled substance to
39821 another licensee or any other authorized person not authorized by this license.
39822 (l) A person licensed under this chapter may not omit, remove, alter, or obliterate a
39823 symbol required by this chapter or by a rule issued under this chapter.
39824 (m) A person licensed under this chapter may not refuse or fail to make, keep, or
39825 furnish any record notification, order form, statement, invoice, or information required under
39826 this chapter.
39827 (n) A person licensed under this chapter may not refuse entry into any premises for
39828 inspection as authorized by this chapter.
39829 (o) A person licensed under this chapter may not furnish false or fraudulent material
39830 information in any application, report, or other document required to be kept by this chapter or
39831 willfully make any false statement in any prescription, order, report, or record required by this

39832 chapter.
39833 (8) (a) (i) Any person licensed under this chapter who is found by the division to have
39834 violated any of the provisions of Subsections (7)(k) through (7)(o) is subject to a penalty not to
39835 exceed $5,000. The division shall determine the procedure for adjudication of any violations in
39836 accordance with Sections 58-1-106 and 58-1-108.
39837 (ii) The division shall deposit all penalties collected under Subsection (8)(a)(i) in the
39838 General Fund as a dedicated credit to be used by the division under Subsection 58-37-7.7(1).
39839 (b) Any person who knowingly and intentionally violates Subsections (7)(h) through
39840 (7)(j) is:
39841 (i) upon first conviction, guilty of a class B misdemeanor;
39842 (ii) upon second conviction, guilty of a class A misdemeanor; and
39843 (iii) on third or subsequent conviction, guilty of a third degree felony.
39844 (c) Any person who knowingly and intentionally violates Subsections (7)(k) through
39845 (7)(o) shall upon conviction be guilty of a third degree felony.
39846 (9) Any information communicated to any licensed practitioner in an attempt to
39847 unlawfully procure, or to procure the administration of, a controlled substance is not considered
39848 to be a privileged communication.
39849 Section 874. Section **58-37-21** is amended to read:
39850 **58-37-21. Admissibility of Utah State Crime Laboratory documents -- Drug**
39851 **analysis in criminal pretrial proceedings.**
39852 The commissioner of the Department of Public Safety shall establish standards for
39853 administration and interpretation of chemical and forensic analysis in accordance with [~~Title~~
39854 ~~63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, of:
39855 (1) controlled substances as provided in Title 58, Chapter 37;
39856 (2) drug paraphernalia as provided in Title 58, Chapter 37a;
39857 (3) imitation controlled substances as provided in Title 58, Chapter 37b; and
39858 (4) controlled substance precursors as provided in Title 58, Chapter 37d.
39859 Section 875. Section **58-37c-3** is amended to read:
39860 **58-37c-3. Definitions.**
39861 In addition to the definitions in Section 58-1-102, as used in this chapter:
39862 (1) "Board" means the Controlled Substance Precursor Advisory Board created in

39863 Section 58-37c-4.
39864 (2) "Controlled substance precursor" includes a chemical reagent and means any of the
39865 following:
39866 (a) Phenyl-2-propanone;
39867 (b) Methylamine;
39868 (c) Ethylamine;
39869 (d) D-lysergic acid;
39870 (e) Ergotamine and its salts;
39871 (f) Diethyl malonate;
39872 (g) Malonic acid;
39873 (h) Ethyl malonate;
39874 (i) Barbituric acid;
39875 (j) Piperidine and its salts;
39876 (k) N-acetylanthranilic acid and its salts;
39877 (l) Pyrrolidine;
39878 (m) Phenylacetic acid and its salts;
39879 (n) Anthranilic acid and its salts;
39880 (o) Morpholine;
39881 (p) Ephedrine;
39882 (q) Pseudoephedrine;
39883 (r) Norpseudoephedrine;
39884 (s) Phenylpropanolamine;
39885 (t) Benzyl cyanide;
39886 (u) Ergonovine and its salts;
39887 (v) 3,4-Methylenedioxyphenyl-2-propanone;
39888 (w) propionic anhydride;
39889 (x) Insosafrole;
39890 (y) Safrole;
39891 (z) Piperonal;
39892 (aa) N-Methylephedrine;
39893 (bb) N-ethylephedrine;

39894 (cc) N-methylpseudoephedrine;
39895 (dd) N-ethylpseudoephedrine;
39896 (ee) Hydriotic acid;
39897 (ff) gamma butyrolactone (GBL), including butyrolactone, 1,2 butanolide,
39898 2-oxanolone, tetrahydro-2-furanone, dihydro-2(3H)-furanone, and tetramethylene glycol, but
39899 not including gamma aminobutric acid (GABA);
39900 (gg) 1,4 butanediol;
39901 (hh) any salt, isomer, or salt of an isomer of the chemicals listed in Subsections (2)(a)
39902 through (gg);
39903 (ii) Crystal iodine;
39904 (jj) Iodine at concentrations greater than 1.5% by weight in a solution or matrix;
39905 (kk) Red phosphorous, except as provided in Section 58-37c-19.7;
39906 (ll) anhydrous ammonia, except as provided in Section 58-37c-19.9;
39907 (mm) any controlled substance precursor listed under the provisions of the Federal
39908 Controlled Substances Act which is designated by the director under the emergency listing
39909 provisions set forth in Section 58-37c-14; and
39910 (nn) any chemical which is designated by the director under the emergency listing
39911 provisions set forth in Section 58-37c-14.
39912 (3) "Deliver," "delivery," "transfer," or "furnish" means the actual, constructive, or
39913 attempted transfer of a controlled substance precursor.
39914 (4) "Matrix" means something, as a substance, in which something else originates,
39915 develops, or is contained.
39916 (5) "Person" means any individual, group of individuals, proprietorship, partnership,
39917 joint venture, corporation, or organization of any type or kind.
39918 (6) "Practitioner" means a physician, dentist, podiatric physician, veterinarian,
39919 pharmacist, scientific investigator, pharmacy, hospital, pharmaceutical manufacturer, or other
39920 person licensed, registered, or otherwise permitted to distribute, dispense, conduct research
39921 with respect to, administer, or use in teaching, or chemical analysis a controlled substance in
39922 the course of professional practice or research in this state.
39923 (7) (a) "Regulated distributor" means a person within the state who provides, sells,
39924 furnishes, transfers, or otherwise supplies a listed controlled substance precursor chemical in a

39925 regulated transaction.
39926 (b) "Regulated distributor" does not include any person excluded from regulation under
39927 this chapter.
39928 (8) (a) "Regulated purchaser" means any person within the state who receives a listed
39929 controlled substance precursor chemical in a regulated transaction.
39930 (b) "Regulated purchaser" does not include any person excluded from regulation under
39931 this chapter.
39932 (9) "Regulated transaction" means any actual, constructive or attempted:
39933 (a) transfer, distribution, delivery, or furnishing by a person within the state to another
39934 person within or outside of the state of a threshold amount of a listed precursor chemical; or
39935 (b) purchase or acquisition by any means by a person within the state from another
39936 person within or outside the state of a threshold amount of a listed precursor chemical.
39937 (10) "Retail distributor" means a grocery store, general merchandise store, drug store,
39938 or other entity or person whose activities as a distributor are limited almost exclusively to sales
39939 for personal use:
39940 (a) in both number of sales and volume of sales; and
39941 (b) either directly to walk-in customers or in face-to-face transactions by direct sales.
39942 (11) "Threshold amount of a listed precursor chemical" means any amount of a
39943 controlled substance precursor or a specified amount of a controlled substance precursor in a
39944 matrix; however, the division may exempt from the provisions of this chapter a specific
39945 controlled substance precursor in a specific amount and in certain types of transactions which
39946 provisions for exemption shall be defined by the division by rule adopted pursuant to [~~Title 63,~~
39947 ~~Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
39948 (12) "Unlawful conduct" as defined in Section 58-1-501 includes knowingly and
39949 intentionally:
39950 (a) engaging in a regulated transaction without first being appropriately licensed or
39951 exempted from licensure under this chapter;
39952 (b) acting as a regulated distributor and selling, transferring, or in any other way
39953 conveying a controlled substance precursor to a person within the state who is not appropriately
39954 licensed or exempted from licensure as a regulated purchaser, or selling, transferring, or
39955 otherwise conveying a controlled substance precursor to a person outside of the state and

39956 failing to report the transaction as required;
39957 (c) acting as a regulated purchaser and purchasing or in any other way obtaining a
39958 controlled substance precursor from a person within the state who is not a licensed regulated
39959 distributor, or purchasing or otherwise obtaining a controlled substance precursor from a
39960 person outside of the state and failing to report the transaction as required;
39961 (d) engaging in a regulated transaction and failing to submit reports and keep required
39962 records of inventories required under the provisions of this chapter or rules adopted pursuant to
39963 this chapter;
39964 (e) making any false statement in any application for license, in any record to be kept,
39965 or on any report submitted as required under this chapter;
39966 (f) with the intent of causing the evasion of the recordkeeping or reporting
39967 requirements of this chapter and rules related to this chapter, receiving or distributing any listed
39968 controlled substance precursor chemical in any manner designed so that the making of records
39969 or filing of reports required under this chapter is not required;
39970 (g) failing to take immediate steps to comply with licensure, reporting, or
39971 recordkeeping requirements of this chapter because of lack of knowledge of those
39972 requirements, upon becoming informed of the requirements;
39973 (h) presenting false or fraudulent identification where or when receiving or purchasing
39974 a listed controlled substance precursor chemical;
39975 (i) creating a chemical mixture for the purpose of evading any licensure, reporting or
39976 recordkeeping requirement of this chapter or rules related to this chapter, or receiving a
39977 chemical mixture created for that purpose;
39978 (j) if the person is at least 18 years of age, employing, hiring, using, persuading,
39979 inducing, enticing, or coercing another person under 18 years of age to violate any provision of
39980 this chapter, or assisting in avoiding detection or apprehension for any violation of this chapter
39981 by any federal, state, or local law enforcement official; and
39982 (k) obtaining or attempting to obtain or to possess any controlled substance precursor
39983 or any combination of controlled substance precursors knowing or having a reasonable cause to
39984 believe that the controlled substance precursor is intended to be used in the unlawful
39985 manufacture of any controlled substance.
39986 (13) "Unprofessional conduct" as defined in Section 58-1-102 and as may be further

39987 defined by rule includes the following:
39988 (a) violation of any provision of this chapter, the Controlled Substance Act of this state
39989 or any other state, or the Federal Controlled Substance Act; and
39990 (b) refusing to allow agents or representatives of the division or authorized law
39991 enforcement personnel to inspect inventories or controlled substance precursors or records or
39992 reports relating to purchases and sales or distribution of controlled substance precursors as such
39993 records and reports are required under this chapter.
39994 Section 876. Section **58-37c-6** is amended to read:
39995 **58-37c-6. Division duties.**
39996 The division shall be responsible for the licensing and reporting provisions of this
39997 chapter and those duties shall include:
39998 (1) providing for a system of licensure of regulated distributors and regulated
39999 purchasers;
40000 (2) refusing to renew a license or revoking, suspending, restricting, placing on
40001 probation, issuing a private or public letter of censure or reprimand, or imposing other
40002 appropriate action against a license;
40003 (3) with respect to the licensure and reporting provisions of this chapter, investigating
40004 or causing to be investigated any violation of this chapter by any person and to cause, when
40005 necessary, appropriate administrative action with respect to the license of that person;
40006 (4) presenting evidence obtained from investigations conducted by appropriate county
40007 attorneys and the Office of the Attorney General for civil or criminal prosecution or for
40008 administrative action against a licensee;
40009 (5) conducting hearings for the purpose of revoking, suspending, placing on probation,
40010 or imposing other appropriate administrative action against the license of regulated distributors
40011 or regulated purchasers in accordance with the provisions of Title 58, Chapter 1, Division of
40012 Occupational and Professional Licensing Act, and [~~Title 63, Chapter 46b~~] Title 63G, Chapter
40013 4, Administrative Procedures Act;
40014 (6) assisting all other law enforcement agencies of the state in enforcing all laws
40015 regarding controlled substance precursors;
40016 (7) specifying reports, frequency of reports, and conditions under which reports are to
40017 be submitted and to whom reports are to be submitted by regulated distributors and regulated

40018 purchasers with respect to transactions involving threshold amounts of controlled substance
40019 precursors; and
40020 (8) performing all other functions necessary to fulfill division duties and
40021 responsibilities as outlined under this chapter or rules adopted pursuant to this chapter.
40022 Section 877. Section **58-37c-8** is amended to read:
40023 **58-37c-8. License -- Exceptions from licensure or regulation.**
40024 (1) Any person engaged in a regulated transaction must be appropriately licensed under
40025 this chapter as a regulated distributor and regulated purchaser unless excepted from licensure
40026 under this chapter.
40027 (2) The division shall:
40028 (a) establish the form of application for a license, the requirements for licensure, and
40029 fees for initial licensure and renewal; and
40030 (b) identify required information to be contained in the application as a condition of
40031 licensure.
40032 (3) A practitioner who holds a Utah Controlled Substance License and a Controlled
40033 Substance Registration issued by the Drug Enforcement Administration of the U.S.
40034 Government is excepted from licensure under this chapter.
40035 (4) Any purchase, sale, transfer, furnishing, or receipt of any drug intended for lawful
40036 use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other
40037 animals, which contains ephedrine, pseudoephedrine, norpseudoephedrine, or
40038 phenylpropanolamine, if the drug is lawfully purchased, sold, transferred, or furnished as an
40039 over-the-counter medication without prescription pursuant to the federal Food, Drug and
40040 Cosmetic Act, 21 USC, Sec. 301 et seq., or regulations adopted under that act, are excepted
40041 from licensure, reporting, and recordkeeping under this chapter, except that products
40042 containing ephedrine, pseudoephedrine, or phenylpropanolamine are subject to Section
40043 58-37c-20.5.
40044 (5) Any purchase, sale, transfer, receipt, or manufacture of any dietary supplement,
40045 vitamins, minerals, herbs, or other similar substances, including concentrates or extracts, which
40046 are not otherwise prohibited by law, and which may contain naturally occurring amounts of
40047 chemicals or substances listed in this chapter, or in rules adopted pursuant to [~~Title 63, Chapter~~
40048 ~~46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, are exempt from licensure

40049 under this chapter.
40050 (6) A purchaser of two ounces or less of crystal iodine in a single transaction is not
40051 required to be licensed as a regulated purchaser if the transaction complies with Section
40052 58-37c-18.
40053 (7) Any purchase, sale, transfer, receipt, or manufacture of any product that contains
40054 any precursor chemical listed in Subsection 58-37c-3(2)(ff) or (gg) and that is not intended for
40055 human consumption is exempt from licensure or regulation and is not subject to criminal
40056 penalties under this chapter.
40057 Section 878. Section **58-37c-14** is amended to read:
40058 **58-37c-14. Emergency listing provision.**
40059 (1) Upon a written finding of cause by the director that the listing of a chemical as a
40060 controlled substance precursor is necessary to protect the public health, safety, or welfare, the
40061 director may make an emergency listing of that chemical as a controlled substance precursor by
40062 adopting a rule pursuant to the provisions of [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
40063 Administrative Rulemaking Act.
40064 (2) Such listing shall have effect until the close of the next immediately succeeding
40065 regular session of the Legislature. In the event the Legislature adopts the chemical as a
40066 controlled precursor by amendment to this chapter, the chemical shall remain listed under
40067 emergency provisions until the effective date of the amendment.
40068 (3) Any violation of this chapter dealing with a controlled substance precursor listed
40069 under the emergency listing provisions of this section shall constitute a violation subject only
40070 to civil or administrative penalties.
40071 Section 879. Section **58-39a-5** is amended to read:
40072 **58-39a-5. Qualifications for certification.**
40073 Applicants for certification as an alternative dispute resolution provider shall:
40074 (1) submit an application in a form as prescribed by the division;
40075 (2) pay a fee as determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
40076 (3) be of good moral character; and
40077 (4) complete a program of education or training, or both, in ADR or have demonstrated
40078 sufficient experience in ADR, as determined by the division in collaboration with the board.
40079 Section 880. Section **58-40-5** is amended to read:

40080 **58-40-5. License requirements.**
40081 (1) The division shall issue a license to practice as a master therapeutic recreational
40082 specialist to any applicant who:
40083 (a) (i) has completed an approved graduate degree in therapeutic recreation or a
40084 graduate degree with an approved emphasis in therapeutic recreation; and
40085 (ii) has completed 4,000 hours of paid experience, as defined by division rule made in
40086 accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
40087 Rulemaking Act, as a licensed therapeutic recreational specialist or as a certified therapeutic
40088 recreational specialist certified by the National Council for Therapeutic Recreation
40089 Certification;
40090 (b) is of good moral character;
40091 (c) submits an application;
40092 (d) pays the required fee; and
40093 (e) passes an approved examination.
40094 (2) The division shall issue a license to practice as a therapeutic recreational specialist
40095 to any applicant who:
40096 (a) has completed an approved bachelor's or graduate degree in therapeutic recreation,
40097 a bachelor's or graduate degree with an approved emphasis in therapeutic recreation, or a
40098 bachelor's or graduate degree with approved additional course work in therapeutic recreation
40099 after graduation;
40100 (b) has completed an approved practicum;
40101 (c) is of good moral character;
40102 (d) submits an application;
40103 (e) pays the required fee; and
40104 (f) passes an approved examination.
40105 (3) The division shall issue a license to practice as a therapeutic recreational technician
40106 to any applicant who:
40107 (a) has received a high school diploma or GED equivalent;
40108 (b) has completed:
40109 (i) an approved educational course in therapeutic recreation taught by a licensed master
40110 therapeutic recreational specialist; or

40111 (ii) six semester hours or nine quarter hours in therapeutic recreation from an
40112 accredited college or university;
40113 (c) has completed an approved practicum under the supervision of a licensed master
40114 therapeutic recreational specialist or an on-site, full-time employed therapeutic recreational
40115 specialist;
40116 (d) is of good moral character;
40117 (e) submits an application;
40118 (f) pays the required fee; and
40119 (g) passes an approved examination.
40120 Section 881. Section **58-40a-302** is amended to read:
40121 **58-40a-302. Qualifications for licensure.**
40122 The division shall issue a license to practice as an athletic trainer to an applicant who:
40123 (1) has obtained a bachelor's or advanced degree from an accredited four-year college
40124 or university and meets the minimum athletic training curriculum requirement established by
40125 the board by rule;
40126 (2) has successfully completed the certification examination administered by the Board
40127 of Certification Inc. or equivalent examination approved or recognized by the board;
40128 (3) is in good standing with and provides documentation of current certification by the
40129 Board of Certification Inc. or a nationally recognized credentialing agency approved by the
40130 board;
40131 (4) submits an application to the division on a form prescribed by the division; and
40132 (5) pays the required licensing fee as determined by the department under Section
40133 [~~63-38-3.2~~] 63J-1-303.
40134 Section 882. Section **58-40a-304** is amended to read:
40135 **58-40a-304. Term of license -- Expiration -- Renewal.**
40136 (1) (a) The division shall issue each license for an athletic trainer in accordance with a
40137 two-year renewal cycle established by rule in accordance with [~~Title 63, Chapter 46a~~] Title
40138 63G, Chapter 3, Utah Administrative Rulemaking Act.
40139 (b) The division may, by rule, extend or shorten a renewal period by as much as one
40140 year to stagger the renewal cycles it administers.
40141 (2) Each license automatically expires on the expiration date shown on the license

40142 unless the licensee renews it in accordance with Section 58-1-308.
40143 Section 883. Section **58-41-5** is amended to read:
40144 **58-41-5. Licensure requirements.**
40145 To obtain and maintain a license as a speech-language pathologist or audiologist, the
40146 applicant must:
40147 (1) submit a completed application in the form and content prescribed by the division
40148 and pay a fee to the department in accordance with Section [~~63-38-3.2~~] 63J-1-303;
40149 (2) be of good moral character;
40150 (3) provide the committee with verification:
40151 (a) from the educational institutions involved, that the applicant is the legal holder of a
40152 doctor's or master's degree or its equivalent in the area of speech-language pathology, speech
40153 science, or audiology, from an accredited university or college, based on a program of studies
40154 primarily in the field of speech-language pathology, speech sciences, or audiology; and
40155 (b) that [~~he~~] the applicant has had training and experience in treating and managing the
40156 major communication disabilities identified in speech-language pathology or audiology;
40157 (4) be in compliance with the regulations of conduct and codes of ethics for the
40158 profession of speech-language pathology and audiology;
40159 (5) submit to the board certified evidence of having completed at least one year of
40160 professional experience (at least 30 hours per week for an academic year) of direct clinical
40161 experience in treatment and management of patients. That treatment and management shall be
40162 supervised and attested by one holding a license under this chapter, the CCC, or their full
40163 equivalent;
40164 (6) submit transcripts to the board from the educational institutions involved,
40165 indicating a doctor's or master's degree from an accredited program or satisfactory completion
40166 of at least 90 quarter hours in speech or hearing disorders, of which at least 50 shall be for
40167 graduate level credit. No less than nine and no more than 12 quarter hours shall be in basic and
40168 clinical audiology for persons applying for the license in speech-language pathology. No less
40169 than nine and no more than 12 quarter hours shall be in basic and functional speech-language
40170 pathology for persons applying for a license in audiology. No more than three-quarter hours
40171 shall be in thesis or student research; and
40172 (7) pass a nationally standardized examination in speech-language pathology or

40173 audiology which is the same as or equivalent to the examination required for the CCC and with
40174 pass-fail criteria equivalent to current ASHA standards. The board may, in its discretion,
40175 require an applicant to pass an acceptable practical demonstration of clinical skills to an
40176 examining committee of licensed speech-language pathologists appointed by the board.
40177 Section 884. Section **58-41-13** is amended to read:
40178 **58-41-13. Fees.**
40179 The department shall set fees in cooperation with the board and in accordance with
40180 Section [~~63-38-3.2~~] 63J-1-303 and shall collect all fees.
40181 Section 885. Section **58-42a-302** is amended to read:
40182 **58-42a-302. Qualifications for licensure.**
40183 (1) All applicants for licensure as an occupational therapist shall:
40184 (a) submit an application in a form as prescribed by the division;
40185 (b) pay a fee as determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
40186 (c) be of good moral character as it relates to the functions and responsibilities of the
40187 practice of occupational therapy;
40188 (d) graduate with a bachelors or graduate degree in occupational therapy from a
40189 program accredited by the Accreditation Council for Occupational Therapy Education; and
40190 (e) be certified by the National Board for Certification in Occupational Therapy as an
40191 occupational therapist registered.
40192 (2) All applicants for licensure as an occupational therapist assistant shall:
40193 (a) submit an application in a form as prescribed by the division;
40194 (b) pay a fee as determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
40195 (c) be of good moral character as it relates to the functions and responsibilities of the
40196 practice of occupational therapy;
40197 (d) graduate with a two-year associate degree in occupational therapy from a program
40198 accredited by the Accreditation Council for Occupational Therapy Education; and
40199 (e) be certified by the National Board for Certification in Occupational Therapy as a
40200 certified occupational therapist assistant.
40201 Section 886. Section **58-44a-102** is amended to read:
40202 **58-44a-102. Definitions.**
40203 In addition to the definitions in Section 58-1-102, as used in this chapter:

40204 (1) "Administrative penalty" means a monetary fine imposed by the division for acts or
40205 omissions determined to constitute unprofessional or unlawful conduct in accordance with a
40206 fine schedule established by rule and as a result of an adjudicative proceeding conducted in
40207 accordance with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
40208 (2) "Board" means the Certified Nurse Midwife Board created in Section 58-44a-201.
40209 (3) "Consultation and Referral Plan" means a written plan jointly developed by a
40210 certified nurse midwife, as defined in Subsection (6), and a consulting physician that permits
40211 the certified nurse midwife to prescribe schedule II-III controlled substances in consultation
40212 with the consulting physician.
40213 (4) "Consulting physician" means a physician and surgeon or osteopathic physician:
40214 (a) licensed as a physician;
40215 (b) qualified by education, training, and current practice in obstetrics, gynecology, or
40216 both to act as a consulting physician to a nurse midwife practicing under this chapter and
40217 providing intrapartum care or prescribing Schedule II-III controlled substances; and
40218 (c) who has agreed under a practice plan to be available to consult with a nurse
40219 midwife, which plan does not include the consulting physician's being present at the time or
40220 place the nurse midwife is engaged in practice.
40221 (5) "Individual" means a natural person.
40222 (6) "Nurse midwife" means a person licensed under this chapter to engage in practice
40223 as a certified nurse midwife.
40224 (7) "Physician" means a physician and surgeon or osteopathic surgeon licensed under
40225 Title 58, Chapter 67, Utah Medical Practice Act or Chapter 68, Utah Osteopathic Medical
40226 Practice Act.
40227 (8) "Practice as a certified nurse midwife" means:
40228 (a) practice as a registered nurse as defined in Section 58-31b-102, and as consistent
40229 with the education, training, experience, and current competency of the licensee; and
40230 (b) practice of nursing within the generally recognized scope and standards of nurse
40231 midwifery as defined by rule and consistent with professionally recognized preparations and
40232 educational standards of a certified nurse midwife by a person licensed under this chapter,
40233 which practice includes the authority to:
40234 (i) elicit and record a patient's complete health information, including physical

40235 examination, history, and laboratory findings commonly used in providing obstetrical,
40236 gynecological, and well infant services to a patient;
40237 (ii) assess findings and upon abnormal findings from the history, physical examination,
40238 or laboratory findings, manage the treatment of the patient, collaborate with the consulting
40239 physician or another qualified physician, or refer the patient to the consulting physician or to
40240 another qualified physician as appropriate;
40241 (iii) diagnose, plan, and implement appropriate patient care, including the
40242 administration and prescribing of:
40243 (A) prescription drugs;
40244 (B) schedule IV-V controlled substances; and
40245 (C) schedule II-III controlled substances in accordance with a consultation and referral
40246 plan;
40247 (iv) evaluate the results of patient care;
40248 (v) consult as is appropriate regarding patient care and the results of patient care;
40249 (vi) manage the intrapartum period according to accepted standards of nurse midwifery
40250 practice and a written practice and referral plan, including performance of routine episiotomy
40251 and repairs, and administration of anesthesia, including local, pudendal, or paracervical block
40252 anesthesia, but not including general anesthesia and major conduction anesthesia;
40253 (vii) manage the postpartum period;
40254 (viii) provide gynecological services;
40255 (ix) provide noncomplicated newborn and infant care to the age of one year; and
40256 (x) represent or hold oneself out as a certified nurse midwife, or nurse midwife, or use
40257 the title certified nurse midwife, nurse midwife, or the initials C.N.M., N.M., or R.N.
40258 (9) "Practice and referral plan" means a written plan entered into with a consulting
40259 physician and detailing guidelines by which a certified nurse midwife consults, collaborates,
40260 and refers patients.
40261 (10) "Unlawful conduct" is defined in Sections 58-1-501 and 58-44a-501.
40262 (11) "Unlicensed assistive personnel" means any unlicensed person, regardless of title,
40263 to whom tasks are delegated by a licensed certified nurse midwife in accordance with the
40264 standards of the profession as defined by rule.
40265 (12) "Unprofessional conduct" is defined in Sections 58-1-501 and 58-44a-502 and as

40266 may be further defined by rule.
40267 Section 887. Section **58-44a-302** is amended to read:
40268 **58-44a-302. Qualifications for licensure.**
40269 (1) An applicant for licensure as a nurse midwife shall:
40270 (a) submit an application in a form as prescribed by the division;
40271 (b) pay a fee as determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
40272 (c) be of good moral character;
40273 (d) at the time of application for licensure hold a license in good standing as a
40274 registered nurse in Utah, or be at that time qualified for a license as a registered nurse under
40275 Title 58, Chapter 31b, Nurse Practice Act;
40276 (e) have completed:
40277 (i) a certified nurse midwifery education program accredited by the American College
40278 of Nurse Midwives and approved by the division; or
40279 (ii) a nurse midwifery education program located outside of the United States which is
40280 approved by the division and is equivalent to a program accredited by the American College of
40281 Nurse Midwives, as demonstrated by a graduate's being accepted to sit for the national
40282 certifying examination administered by the American College of Nurse Midwives or its
40283 designee; and
40284 (f) have passed examinations established by the division rule in collaboration with the
40285 board within two years after completion of the approved education program required under
40286 Subsection (1)(e).
40287 (2) For purposes of Subsection (1)(e), as of January 1, 2010, the accredited education
40288 program or it's equivalent must grant a graduate degree, including post-master's certificate, in
40289 nurse midwifery.
40290 Section 888. Section **58-44a-402** is amended to read:
40291 **58-44a-402. Authority to assess penalty.**
40292 (1) After a proceeding pursuant to [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
40293 Administrative Procedures Act, and Title 58, Chapter 1, Division of Occupational and
40294 Professional Licensing Act, the division may impose an administrative penalty of up to
40295 $10,000 for unprofessional or unlawful conduct under this chapter in accordance with a fine
40296 schedule established by rule.

40297 (2) The assessment of a penalty under this section does not affect any other action the
40298 division is authorized to take regarding a license issued under this chapter.
40299 (3) The division may impose an administrative penalty of up to $500 for any violation
40300 of Subsection 58-44a-501(2), (3), or (4), consistent with Section 58-44a-503.
40301 Section 889. Section **58-46a-302** is amended to read:
40302 **58-46a-302. Qualifications for licensure.**
40303 (1) Each applicant for licensure as a hearing instrument specialist shall:
40304 (a) submit to the division an application in a form prescribed by the division;
40305 (b) pay a fee as determined by the division pursuant to Section [~~63-38-3.2~~] 63J-1-303;
40306 (c) be of good moral character;
40307 (d) (i) have successfully completed 4,000 hours of practice as a hearing instrument
40308 intern within the state under supervision by a supervising hearing instrument specialist in
40309 accordance with Section 58-46a-302.5 or an equivalent as approved by the division; or
40310 (ii) demonstrate successful practice for the equivalent of two years of full-time practice
40311 as a licensed hearing instrument specialist in another state requiring licensure and practice in
40312 conformity with defined lawful and professional standards of practice;
40313 (e) have qualified for and currently hold board certification by the National Board for
40314 Certification - Hearing Instrument Sciences, or an equivalent certification approved by the
40315 division in collaboration with the board;
40316 (f) have passed the Utah Law and Rules Examination for Hearing Instrument
40317 Specialists; and
40318 (g) if the applicant holds a hearing instrument intern license, surrender the hearing
40319 instrument intern license at the time of licensure as a hearing instrument specialist.
40320 (2) Each applicant for licensure as a hearing instrument intern shall:
40321 (a) submit to the division an application in a form prescribed by the division;
40322 (b) pay a fee as determined by the division pursuant to Section [~~63-38-3.2~~] 63J-1-303;
40323 (c) be of good moral character;
40324 (d) have passed the Utah Law and Rules Examination for Hearing Instrument
40325 Specialists; and
40326 (e) present evidence acceptable to the division and the board that the applicant, when
40327 licensed, will practice as a hearing instrument intern only under supervision of a supervising

40328 hearing instrument specialist as required under Subsection (1)(d).
40329 Section 890. Section **58-47b-302** is amended to read:
40330 **58-47b-302. License classifications -- Qualifications for licensure.**
40331 (1) The division shall issue licenses under this chapter in the classifications of:
40332 (a) massage therapist; and
40333 (b) massage apprentice.
40334 (2) Each applicant for licensure as a massage therapist shall:
40335 (a) submit an application in a form prescribed by the division;
40336 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
40337 (c) be of good moral character;
40338 (d) be 18 years of age or older;
40339 (e) have either:
40340 (i) (A) graduated from a school of massage having a curriculum which meets standards
40341 established by division rule made in collaboration with the board; or
40342 (B) completed equivalent education and training in compliance with division rule; or
40343 (ii) completed a massage apprenticeship program consisting of a minimum of 1,000
40344 hours of supervised training over a minimum of 12 months and in accordance with standards
40345 established by the division by rule made in collaboration with the board; and
40346 (f) pass examinations established by rule by the division in collaboration with the
40347 board.
40348 (3) Each applicant for licensure as a massage apprentice shall:
40349 (a) submit an application in a form prescribed by the division;
40350 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
40351 (c) be of good moral character;
40352 (d) be 18 years of age or older;
40353 (e) provide satisfactory evidence to the division that the individual will practice as a
40354 massage apprentice only under the direct supervision of a licensed massage therapist in good
40355 standing and who has engaged in the lawful practice of massage therapy as a licensed massage
40356 therapist for not less than 6,000 hours; and
40357 (f) successfully complete an examination as required by division rule.
40358 (4) (a) Any new massage therapist or massage apprentice applicant shall submit

40359 fingerprint cards in a form acceptable to the division at the time the license application is filed
40360 and shall consent to a fingerprint background check by the Utah Bureau of Criminal
40361 Identification and the Federal Bureau of Investigation regarding the application.
40362 (b) The division shall request the Department of Public Safety to complete a Federal
40363 Bureau of Investigation criminal background check for each new massage therapist or
40364 apprentice applicant through the national criminal history system (NCIC) or any successor
40365 system.
40366 (c) The cost of the background check and the fingerprinting shall be borne by the
40367 applicant.
40368 (5) (a) Any new massage therapist or massage apprentice license issued under this
40369 section shall be conditional, pending completion of the criminal background check. If the
40370 criminal background check discloses the applicant has failed to accurately disclose a criminal
40371 history, the license shall be immediately and automatically revoked.
40372 (b) Any person whose conditional license has been revoked under Subsection (5)(a)
40373 shall be entitled to a post-revocation hearing to challenge the revocation. The hearing shall be
40374 conducted in accordance with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
40375 Procedures Act.
40376 (6) An applicant who successfully completes a fingerprint background check under
40377 Subsection (4) may not be required by any other state or local government body to submit to a
40378 second fingerprint background check as a condition of lawfully practicing massage therapy in
40379 this state.
40380 Section 891. Section **58-53-103** is amended to read:
40381 **58-53-103. Education and enforcement fund.**
40382 (1) There is created a restricted special revenue fund known as the "Landscape
40383 Architects Education and Enforcement Fund."
40384 (2) The fund consists of monies from:
40385 (a) a surcharge placed on application fees for initial, renewal, and reinstatement
40386 licensure under this chapter, in an amount established by the division with the collaboration of
40387 the board in accordance with Section [~~63-38-3.2~~] 63J-1-303, not to exceed 50% of the
40388 respective fee; and
40389 (b) administrative penalties collected pursuant to this chapter.

40390 (3) The fund shall earn interest, and all interest earned on fund monies shall be
40391 deposited into the fund.
40392 (4) The director may, with concurrence of the board, make distributions from the fund
40393 for the following purposes:
40394 (a) education and training of licensees under this chapter;
40395 (b) education and training of the public or other interested persons in matters
40396 concerning landscape architectural laws and practices; and
40397 (c) enforcement of this chapter by:
40398 (i) investigating unprofessional or unlawful conduct; and
40399 (ii) providing legal representation to the division when the division takes legal action
40400 against a person engaging in unprofessional or unlawful conduct.
40401 (5) If the balance in the fund exceeds $100,000 at the close of any fiscal year, the
40402 excess shall be transferred to the General Fund.
40403 (6) The division shall report annually to the appropriate appropriations subcommittee of
40404 the Legislature concerning the fund.
40405 Section 892. Section **58-53-302** is amended to read:
40406 **58-53-302. Qualifications for licensure.**
40407 (1) Each applicant for licensure as a landscape architect shall:
40408 (a) submit an application in a form prescribed by the division;
40409 (b) pay a fee as determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
40410 (c) provide satisfactory evidence of good moral character;
40411 (d) (i) have graduated and received an earned bachelors or masters degree from a
40412 landscape architecture program meeting criteria established by rule by the division in
40413 collaboration with the board; or
40414 (ii) have completed not less than eight years of supervised practical experience in
40415 landscape architecture which meets the requirements established by rule by the division in
40416 collaboration with the board; and
40417 (e) have successfully passed examinations established by rule by the division in
40418 collaboration with the board.
40419 (2) Satisfactory completion of each year of a landscape architectural program described
40420 in Subsection (1)(d)(i) is equivalent to one year of experience for purposes of Subsection

40421 (1)(d)(ii).
40422 Section 893. Section **58-53-502** is amended to read:
40423 **58-53-502. Citations -- Penalty for unlawful conduct.**
40424 (1) (a) If upon inspection or investigation, the division concludes that a person has
40425 violated Subsections 58-1-501(1)(a) through (d), Section 58-53-501, or Section 58-53-603 or
40426 any rule or order issued with respect to Section 58-53-501, and that disciplinary action is
40427 appropriate, the director or [~~his~~] the director's designee from within the division for each
40428 alternative respectively, shall promptly issue a citation to the person according to this chapter
40429 and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to
40430 appear before an adjudicative proceeding conducted under [~~Title 63, Chapter 46b~~] Title 63G,
40431 Chapter 4, Administrative Procedures Act.
40432 (i) A person who violates Subsections 58-1-501(1)(a) through (d) or Section 58-53-501
40433 or any rule or order issued with respect to Section 58-53-501, as evidenced by an uncontested
40434 citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may
40435 be assessed a fine pursuant to Subsection (1)(i) and may, in addition to or in lieu of, be ordered
40436 to cease and desist from violating Subsections 58-1-501(1)(a) through (d) or Section 58-53-501
40437 or any rule or order issued with respect to Section 58-53-501.
40438 (ii) Except for a cease and desist order, the licensure sanctions cited in Section
40439 58-53-401 may not be assessed through a citation.
40440 (b) A citation shall:
40441 (i) be in writing;
40442 (ii) describe with particularity the nature of the violation, including a reference to the
40443 provision of the chapter, rule, or order alleged to have been violated;
40444 (iii) clearly state that the recipient must notify the division in writing within 20
40445 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing
40446 conducted under [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act;
40447 and
40448 (iv) clearly explain the consequences of failure to timely contest the citation or to make
40449 payment of any fines assessed by the citation within the time specified in the citation.
40450 (c) The division may issue a notice in lieu of a citation.
40451 (d) Each citation issued under this section, or a copy of each citation, may be served

40452 upon any person whom a summons may be served in accordance with the Utah Rules of Civil
40453 Procedure and may be made personally or upon [~~his~~] the person's agent by a division
40454 investigator or by any person specially designated by the director or by mail.
40455 (e) If within 20 calendar days from the service of the citation, the person to whom the
40456 citation was issued fails to request a hearing to contest the citation, the citation becomes the
40457 final order of the division and is not subject to further agency review. The period to contest a
40458 citation may be extended by the division for cause.
40459 (f) The division may refuse to issue or renew, suspend, revoke, or place on probation
40460 the license of a licensee who fails to comply with a citation after it becomes final.
40461 (g) The failure of an applicant for licensure to comply with a citation after it becomes
40462 final is a ground for denial of license.
40463 (h) No citation may be issued under this section after the expiration of six months
40464 following the occurrence of any violation.
40465 (i) The director or [~~his~~] the director's designee shall assess fines according to the
40466 following:
40467 (i) for a first offense handled pursuant to Subsection (1)(a), a fine of up to $1,000;
40468 (ii) for a second offense handled pursuant to Subsection (1)(a), a fine of up to $2,000;
40469 and
40470 (iii) for any subsequent offense handled pursuant to Subsection (1)(a), a fine of up to
40471 $2,000 for each day of continued offense.
40472 (2) An action initiated for a first or second offense which has not yet resulted in a final
40473 order of the division does not preclude initiation of any subsequent action for a second or
40474 subsequent offense during the pendency of any preceding action. The final order on a
40475 subsequent action shall be considered a second or subsequent offense, respectively, provided
40476 the preceding action resulted in a first or second offense, respectively.
40477 (3) Any penalty which is not paid may be collected by the director by either referring
40478 the matter to a collection agency or bringing an action in the district court of the county in
40479 which the person against whom the penalty is imposed resides or in the county where the office
40480 of the director is located. Any county attorney or the attorney general of the state shall provide
40481 legal assistance and advice to the director in any action to collect the penalty. In any action
40482 brought to enforce the provisions of this section, reasonable attorney's fees and costs shall be

40483 awarded to the division.
40484 Section 894. Section **58-54-2** is amended to read:
40485 **58-54-2. Definitions.**
40486 In addition to the definition in Section 58-1-102, as used in this chapter:
40487 (1) "Board" means the Radiology Technologist Licensing Board established under this
40488 chapter.
40489 (2) "Practice of radiologic technology" means using radiation from a radioactive
40490 substance, radiology equipment, or any other source, in amounts beyond normal background
40491 levels, for diagnostic or therapeutic purposes on humans.
40492 (3) "Radiologist" means a physician certified by the American Board of Radiology, the
40493 American Osteopathic Board of Radiology, the British Royal College of Radiology, or the
40494 Canadian College of Physicians and Surgeons.
40495 (4) "Radiology equipment" means any medical radiation device that emits ionizing or
40496 nonionizing radiation or detects that radiation for the purpose or intended purpose of:
40497 (a) diagnosing disease or other medical conditions in humans; or
40498 (b) treating, curing, mitigating, or preventing disease in humans.
40499 (5) "Radiology practical technician" means a person licensed under this chapter to
40500 engage in a practice of radiologic technology performing limited diagnostic radiology
40501 procedures:
40502 (a) as defined and permitted by rule in accordance with [~~Title 63, Chapter 46a~~] Title
40503 63G, Chapter 3, Utah Administrative Rulemaking Act; and
40504 (b) under the supervision of a radiologist or radiology practitioner.
40505 (6) "Radiology practitioner" means any person or individual licensed in this state as a
40506 physician and surgeon, osteopathic physician, podiatric physician, chiropractic physician,
40507 dentist, dental hygienist, or a physician's assistant, nurse practitioner, or nurse specialist
40508 practicing under the supervision of an approved supervising physician and in accordance with
40509 an approved protocol and utilization plan.
40510 (7) "Radiology technologist" means a person licensed under this chapter to engage in
40511 the practice of radiology technology under the supervision of a radiologist or radiology
40512 practitioner including the administration of parenteral contrast media, radionucleides, and other
40513 medications incidental to radiology procedures provided the administrations are under the

40514 direct supervision of a qualified physician and the technologist is currently certified in
40515 cardiopulmonary resuscitation (CPR) and appropriate patient care procedures.
40516 (8) "Unlawful conduct" as defined in Section 58-1-501 includes:
40517 (a) using any of the following titles if not licensed as a radiology technologist under
40518 this chapter:
40519 (i) radiology practical technician;
40520 (ii) radiology technologist;
40521 (iii) medical radiographer;
40522 (iv) radiation therapist; or
40523 (v) nuclear medicine technologist; and
40524 (b) using the title "radiology practical technician" if not licensed as a radiology
40525 practical technician under this chapter.
40526 (9) "Unprofessional conduct" as defined in Section 58-1-501 and as may be further
40527 defined by rule includes:
40528 (a) any act or omission by a person licensed under this chapter that is contrary to the
40529 instructions of the radiologist or radiology practitioner responsible for supervising the licensee
40530 and which does or reasonably could pose a threat to the health, safety, or welfare of a patient or
40531 any other person;
40532 (b) operating any radiology equipment that is known to be unsafe or not in compliance
40533 with all applicable state requirements regulating radiology equipment;
40534 (c) permitting any person to operate any radiology equipment who is not permitted to
40535 do so under provisions of law or who is incompetent to operate radiology equipment for any
40536 reason;
40537 (d) revealing to any unauthorized person any information considered confidential or
40538 privileged regarding any patient;
40539 (e) the use of any controlled substance as defined by the statutes of this state except to
40540 the extent the controlled substance is lawfully prescribed to the licensee and used in accordance
40541 with the instructions of the prescribing practitioner; and
40542 (f) willfully and intentionally or negligently making any false statement or entry on any
40543 patient record or upon any record used to facilitate payment for radiology services.
40544 Section 895. Section **58-54-5** is amended to read:

40545 **58-54-5. Requirements for licensure.**
40546 (1) Each applicant for licensure as a radiology technologist or radiology practical
40547 technician shall:
40548 (a) submit an application in a form prescribed by the division in collaboration with the
40549 board;
40550 (b) pay a fee as determined by the department pursuant to Section [~~63-38-3.2~~]
40551 63J-1-303; and
40552 (c) be of good moral character.
40553 (2) Each applicant for licensure as a radiology technologist shall, in addition to the
40554 requirements of Subsection (1):
40555 (a) be a graduate of an accredited educational program in radiology technology or
40556 certified by the American Registry of Radiologic Technologists or any equivalent educational
40557 program approved by the division in collaboration with the board; and
40558 (b) have passed an examination approved by the division in collaboration with the
40559 board.
40560 (3) Each applicant for licensure as a radiology practical technician shall, in addition to
40561 the requirements of Subsection (1), have passed a basic examination and one or more specialty
40562 examinations that are competency based, using a task analysis of the scope of practice of
40563 radiology practical technicians in the state. The basic examination and the speciality
40564 examination shall be approved by the division in collaboration with the board and the licensing
40565 board of the profession within which the radiology practical technician will be practicing.
40566 (4) The division shall provide for administration of the radiology practical technician
40567 examination not less than monthly at offices designated by the division and located:
40568 (a) in Salt Lake City; and
40569 (b) within each local health department jurisdictional area.
40570 Section 896. Section **58-55-103** is amended to read:
40571 **58-55-103. Construction Services Commission created -- Functions --**
40572 **Appointment -- Qualifications and terms of members -- Vacancies -- Expenses --**
40573 **Meetings.**
40574 (1) (a) There is created within the division the Construction Services Commission.
40575 (b) The commission shall:

40576 (i) with the concurrence of the director, make reasonable rules under [~~Title 63, Chapter~~
40577 ~~46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer and enforce this
40578 chapter which are consistent with this chapter including:
40579 (A) licensing of various licensees;
40580 (B) examination requirements and administration of the examinations, to include
40581 approving and establishing a passing score for applicant examinations;
40582 (C) standards of supervision for students or persons in training to become qualified to
40583 obtain a license in the trade they represent; and
40584 (D) standards of conduct for various licensees;
40585 (ii) approve or disapprove fees adopted by the division under Section [~~63-38-3.2~~]
40586 63J-1-303;
40587 (iii) except where the boards conduct them, conduct all administrative hearings not
40588 delegated to an administrative law judge relating to the licensing of any applicant;
40589 (iv) except as otherwise provided in Sections 38-11-207 and 58-55-503, with the
40590 concurrence of the director, impose sanctions against licensees and certificate holders with the
40591 same authority as the division under Section 58-1-401;
40592 (v) advise the director on the administration and enforcement of any matters affecting
40593 the division and the construction industry;
40594 (vi) advise the director on matters affecting the division budget;
40595 (vii) advise and assist trade associations in conducting construction trade seminars and
40596 industry education and promotion; and
40597 (viii) perform other duties as provided by this chapter.
40598 (2) (a) Initially the commission shall be comprised of the five members of the
40599 Contractors Licensing Board and two of the three chair persons from the Plumbers Licensing
40600 Board, the Alarm System Security and Licensing Board, and the Electricians Licensing Board.
40601 (b) The terms of office of the commission members who are serving on the Contractors
40602 Licensing Board shall continue as they serve on the commission.
40603 (c) Beginning July 1, 2004, the commission shall be comprised of nine members
40604 appointed by the executive director with the approval of the governor from the following
40605 groups:
40606 (i) one member shall be a licensed general engineering contractor;

40607 (ii) one member shall be a licensed general building contractor;
40608 (iii) two members shall be licensed residential and small commercial contractors;
40609 (iv) three members shall be the three chair persons from the Plumbers Licensing Board,
40610 the Alarm System Security and Licensing Board, and the Electricians Licensing Board; and
40611 (v) two members shall be from the general public, provided, however that the certified
40612 public accountant on the Contractors Licensing Board will continue to serve until the current
40613 term expires, after which both members under this Subsection (2)(c)(v) shall be appointed from
40614 the general public.
40615 (3) (a) Except as required by Subsection (3)(b), as terms of current commission
40616 members expire, the executive director with the approval of the governor shall appoint each
40617 new member or reappointed member to a four-year term ending June 30.
40618 (b) Notwithstanding the requirements of Subsection (3)(a), the executive director with
40619 the approval of the governor shall, at the time of appointment or reappointment, adjust the
40620 length of terms to stagger the terms of commission members so that approximately 1/2 of the
40621 commission members are appointed every two years.
40622 (c) A commission member may not serve more than two consecutive terms.
40623 (4) The commission shall elect annually one of its members as chair, for a term of one
40624 year.
40625 (5) When a vacancy occurs in the membership for any reason, the replacement shall be
40626 appointed for the unexpired term.
40627 (6) (a) Members may not receive compensation or benefits for their services, but may
40628 receive per diem and expenses incurred in the performance of the members' official duties at
40629 the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
40630 (b) Members may decline to receive per diem and expenses for their service.
40631 (7) (a) The commission shall meet at least monthly unless the director determines
40632 otherwise.
40633 (b) The director may call additional meetings at the director's discretion, upon the
40634 request of the chair, or upon the written request of four or more commission members.
40635 (8) (a) Five members constitute a quorum for the transaction of business.
40636 (b) If a quorum is present when a vote is taken, the affirmative vote of commission
40637 members present is the act of the commission.

40638 (9) The commission shall comply with the procedures and requirements of Title 13,
40639 Chapter 1, Department of Commerce, and [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
40640 Administrative Procedures Act, in all of its adjudicative proceedings.
40641 Section 897. Section **58-55-302** is amended to read:
40642 **58-55-302. Qualifications for licensure.**
40643 (1) Each applicant for a license under this chapter shall:
40644 (a) submit an application prescribed by the division;
40645 (b) pay a fee as determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
40646 (c) (i) meet the examination requirements established by rule by the commission with
40647 the concurrence of the director, except for the classifications of apprentice plumber, residential
40648 apprentice plumber, and apprentice electrician for whom no examination is required; or
40649 (ii) if required in Section 58-55-304, the individual qualifier must pass the required
40650 examination if the applicant is a business entity;
40651 (d) if an apprentice, identify the proposed supervisor of the apprenticeship;
40652 (e) if an applicant for a contractor's license:
40653 (i) produce satisfactory evidence of financial responsibility, except for a construction
40654 trades instructor for whom evidence of financial responsibility is not required;
40655 (ii) produce satisfactory evidence of knowledge and experience in the construction
40656 industry and knowledge of the principles of the conduct of business as a contractor, reasonably
40657 necessary for the protection of the public health, safety, and welfare; and
40658 (iii) be a licensed master electrician if an applicant for an electrical contractor's license
40659 or a licensed master residential electrician if an applicant for a residential electrical contractor's
40660 license; or
40661 (iv) be a journeyman plumber or residential journeyman plumber if an applicant for a
40662 plumbing contractor's license; and
40663 (f) if an applicant for a construction trades instructor license, satisfy any additional
40664 requirements established by rule.
40665 (2) After approval of an applicant for a contractor's license by the applicable board and
40666 the division, the applicant shall file the following with the division before the division issues
40667 the license:
40668 (a) proof of workers' compensation insurance which covers employees of the applicant

40669 in accordance with applicable Utah law;
40670 (b) proof of public liability insurance in coverage amounts and form established by rule
40671 except for a construction trades instructor for whom public liability insurance is not required;
40672 and
40673 (c) proof of registration as required by applicable law with the:
40674 (i) Utah Department of Commerce;
40675 (ii) Division of Corporations and Commercial Code;
40676 (iii) Unemployment Insurance Division in the Department of Workforce Services, for
40677 purposes of Title 35A, Chapter 4, Employment Security Act;
40678 (iv) State Tax Commission; and
40679 (v) Internal Revenue Service.
40680 (3) In addition to the general requirements for each applicant in Subsection (1),
40681 applicants shall comply with the following requirements to be licensed in the following
40682 classifications:
40683 (a) A journeyman plumber applicant shall produce satisfactory evidence of:
40684 (i) successful completion of the equivalent of at least four years of full-time training
40685 and instruction as a licensed apprentice plumber under supervision of a licensed journeyman
40686 plumber and in accordance with a planned program of training approved by the division;
40687 (ii) at least eight years of full-time experience approved by the division in collaboration
40688 with the Plumbers Licensing Board; or
40689 (iii) satisfactory evidence of meeting the qualifications determined by the board to be
40690 equivalent to Subsection (3)(a)(i) or (a)(ii).
40691 (b) A residential journeyman plumber shall produce satisfactory evidence of:
40692 (i) completion of the equivalent of at least three years of full-time training and
40693 instruction as a licensed apprentice plumber under the supervision of a licensed residential
40694 journeyman plumber or licensed journeyman plumber in accordance with a planned program of
40695 training approved by the division;
40696 (ii) completion of at least six years of full-time experience in a maintenance or repair
40697 trade involving substantial plumbing work; or
40698 (iii) meeting the qualifications determined by the board to be equivalent to Subsection
40699 (3)(b)(i) or (b)(ii).

40700 (c) The conduct of licensed apprentice plumbers and their licensed supervisors shall be
40701 in accordance with the following:
40702 (i) while engaging in the trade of plumbing, a licensed apprentice plumber shall be
40703 under the immediate supervision of a licensed journeyman plumber or a licensed residential
40704 journeyman plumber; and
40705 (ii) a licensed plumbing apprentice in the fourth through tenth year of training may
40706 work without supervision for a period not to exceed eight hours in any 24-hour period, but if
40707 the apprentice does not become a licensed journeyman plumber or licensed residential
40708 journeyman plumber by the end of the tenth year of apprenticeship, this nonsupervision
40709 provision no longer applies.
40710 (d) (i) A master electrician applicant shall produce satisfactory evidence that the
40711 applicant:
40712 (A) is a graduate electrical engineer of an accredited college or university approved by
40713 the division and has one year of practical electrical experience as a licensed apprentice
40714 electrician;
40715 (B) is a graduate of an electrical trade school, having received an associate of applied
40716 sciences degree following successful completion of a course of study approved by the division,
40717 and has two years of practical experience as a licensed journeyman electrician;
40718 (C) has four years of practical experience as a journeyman electrician; or
40719 (D) meets the qualifications determined by the board to be equivalent to Subsection
40720 (3)(d)(i)(A), (B), or (C).
40721 (ii) (A) An individual holding a valid Utah license as a master electrician, based on at
40722 least eight years of practical experience as a licensed apprentice under the supervision of a
40723 licensed journeyman or master electrician, in effect immediately prior to May 3, 2004, is on
40724 and after May 3, 2004, considered to hold a current license under this chapter and satisfies the
40725 requirements of this Subsection (3)(d) for the purpose of renewal or reinstatement of that
40726 license under Section 58-55-303.
40727 (B) An individual who has less than four years of practical experience as a licensed
40728 apprentice under the supervision of a licensed journeyman or master electrician prior to May 3,
40729 2004, shall complete the education requirements of Subsection (3)(d)(i)(A) or (B) to qualify for
40730 licensing as a master electrician.

40731 (C) An individual who has more than four but less than six years of practical
40732 experience as a licensed apprentice under the supervision of a licensed journeyman or master
40733 electrician prior to May 3, 2004, may satisfy the education requirements of Subsection
40734 (3)(d)(i)(A) or (B) by successfully passing a competency placement test approved by the board
40735 and administered at a Utah state institution of higher education.
40736 (D) An individual who has more than six but less than eight years of practical
40737 experience as a licensed apprentice under the supervision of a licensed journeyman or master
40738 electrician prior to May 3, 2004, satisfies the education requirements of this Subsection (3)(d)
40739 by completing the eight-year term of practical experience within a reasonable time frame
40740 subsequent to May 3, 2004, as established by board rule in accordance with [~~Title 63, Chapter~~
40741 ~~46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
40742 (e) A master residential electrician applicant shall produce satisfactory evidence that
40743 the applicant:
40744 (i) has at least two years of practical experience as a residential journeyman electrician;
40745 or
40746 (ii) meets the qualifications determined by the board to be equivalent to this practical
40747 experience.
40748 (f) (i) A journeyman electrician applicant shall produce satisfactory evidence that the
40749 applicant:
40750 (A) has successfully completed at least four years of full-time training and instruction
40751 as a licensed apprentice electrician under the supervision of a master electrician or journeyman
40752 electrician and in accordance with a planned training program approved by the division;
40753 (B) has at least eight years of full-time experience approved by the division in
40754 collaboration with the Electricians Licensing Board; or
40755 (C) meets the qualifications determined by the board to be equivalent to Subsection
40756 (3)(f)(i)(A) or (B).
40757 (ii) An individual holding a valid Utah license as a journeyman electrician, based on at
40758 least six years of full-time experience approved by the division in collaboration with the
40759 Electricians Licensing Board in effect immediately prior to May 3, 2004, is on and after May 3,
40760 2004, considered to hold a current license under this chapter and satisfies the requirements of
40761 Subsection (3)(f)(i)(B) for the purpose of renewal or reinstatement of that license under Section

40762 58-55-303.
40763 (iii) An individual who has more than six but less than eight years of full-time
40764 experience approved by the division in collaboration with the Electricians Licensing Board
40765 prior to May 3, 2004, satisfies the requirements of Subsection (3)(f)(i) by completing the
40766 eight-year term of practical experience within a reasonable time frame subsequent to May 3,
40767 2004, as established by board rule in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
40768 Chapter 3, Utah Administrative Rulemaking Act.
40769 (g) A residential journeyman electrician applicant shall produce satisfactory evidence
40770 that the applicant:
40771 (i) has successfully completed two years of training in an electrical training program
40772 approved by the division;
40773 (ii) has four years of practical experience in wiring, installing, and repairing electrical
40774 apparatus and equipment for light, heat, and power under the supervision of a licensed master,
40775 journeyman, residential master, or residential journeyman electrician; or
40776 (iii) meets the qualifications determined by the division and applicable board to be
40777 equivalent to Subsection (3)(g)(i) or (ii).
40778 (h) The conduct of licensed apprentice electricians and their licensed supervisors shall
40779 be in accordance with the following:
40780 (i) A licensed apprentice electrician shall be under the immediate supervision of a
40781 licensed master, journeyman, residential master, or residential journeyman electrician. An
40782 apprentice in the fourth year of training may work without supervision for a period not to
40783 exceed eight hours in any 24-hour period.
40784 (ii) A licensed master, journeyman, residential master, or residential journeyman
40785 electrician may have under immediate supervision on a residential project up to three licensed
40786 apprentice electricians.
40787 (iii) A licensed master or journeyman electrician may have under immediate
40788 supervision on nonresidential projects only one licensed apprentice electrician.
40789 (i) An alarm company applicant shall:
40790 (i) have a qualifying agent who is an officer, director, partner, proprietor, or manager of
40791 the applicant who:
40792 (A) demonstrates 6,000 hours of experience in the alarm company business;

40793 (B) demonstrates 2,000 hours of experience as a manager or administrator in the alarm
40794 company business or in a construction business; and
40795 (C) passes an examination component established by rule by the commission with the
40796 concurrence of the director;
40797 (ii) if a corporation, provide:
40798 (A) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards
40799 of all corporate officers, directors, and those responsible management personnel employed
40800 within the state or having direct responsibility for managing operations of the applicant within
40801 the state; and
40802 (B) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards
40803 of all shareholders owning 5% or more of the outstanding shares of the corporation, except this
40804 shall not be required if the stock is publicly listed and traded;
40805 (iii) if a limited liability company, provide:
40806 (A) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards
40807 of all company officers, and those responsible management personnel employed within the
40808 state or having direct responsibility for managing operations of the applicant within the state;
40809 and
40810 (B) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards
40811 of all individuals owning 5% or more of the equity of the company;
40812 (iv) if a partnership, the names, addresses, dates of birth, Social Security numbers, and
40813 fingerprint cards of all general partners, and those responsible management personnel
40814 employed within the state or having direct responsibility for managing operations of the
40815 applicant within the state;
40816 (v) if a proprietorship, the names, addresses, dates of birth, Social Security numbers,
40817 and fingerprint cards of the proprietor, and those responsible management personnel employed
40818 within the state or having direct responsibility for managing operations of the applicant within
40819 the state;
40820 (vi) be of good moral character in that officers, directors, shareholders described in
40821 Subsection (3)(i)(ii)(B), partners, proprietors, and responsible management personnel have not
40822 been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime that
40823 when considered with the duties and responsibilities of an alarm company is considered by the

40824 board to indicate that the best interests of the public are served by granting the applicant a
40825 license;
40826 (vii) document that none of the applicant's officers, directors, shareholders described in
40827 Subsection (3)(i)(ii)(B), partners, proprietors, and responsible management personnel have
40828 been declared by any court of competent jurisdiction incompetent by reason of mental defect or
40829 disease and not been restored;
40830 (viii) document that none of the applicant's officers, directors, shareholders described
40831 in Subsection (3)(i)(ii)(B), partners, proprietors, and responsible management personnel are
40832 currently suffering from habitual drunkenness or from drug addiction or dependence;
40833 (ix) file and maintain with the division evidence of:
40834 (A) comprehensive general liability insurance in form and in amounts to be established
40835 by rule by the commission with the concurrence of the director;
40836 (B) workers' compensation insurance that covers employees of the applicant in
40837 accordance with applicable Utah law; and
40838 (C) registration as is required by applicable law with the:
40839 (I) Division of Corporations and Commercial Code;
40840 (II) Unemployment Insurance Division in the Department of Workforce Services, for
40841 purposes of Title 35A, Chapter 4, Employment Security Act;
40842 (III) State Tax Commission; and
40843 (IV) Internal Revenue Service; and
40844 (x) meet with the division and board.
40845 (j) Each applicant for licensure as an alarm company agent shall:
40846 (i) submit an application in a form prescribed by the division accompanied by
40847 fingerprint cards;
40848 (ii) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
40849 (iii) be of good moral character in that the applicant has not been convicted of a felony,
40850 a misdemeanor involving moral turpitude, or any other crime that when considered with the
40851 duties and responsibilities of an alarm company agent is considered by the board to indicate
40852 that the best interests of the public are served by granting the applicant a license;
40853 (iv) not have been declared by any court of competent jurisdiction incompetent by
40854 reason of mental defect or disease and not been restored;

40855 (v) not be currently suffering from habitual drunkenness or from drug addiction or
40856 dependence; and
40857 (vi) meet with the division and board if requested by the division or the board.
40858 (4) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
40859 Administrative Rulemaking Act, the division may make rules establishing when Federal
40860 Bureau of Investigation records shall be checked for applicants as an alarm company or alarm
40861 company agent.
40862 (5) To determine if an applicant meets the qualifications of Subsections (3)(i)(vi) and
40863 (3)(j)(iii), the division shall provide an appropriate number of copies of fingerprint cards to the
40864 Department of Public Safety with the division's request to:
40865 (a) conduct a search of records of the Department of Public Safety for criminal history
40866 information relating to each applicant for licensure as an alarm company or alarm company
40867 agent and each applicant's officers, directors, shareholders described in Subsection (3)(i)(ii)(B),
40868 partners, proprietors, and responsible management personnel; and
40869 (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant
40870 requiring a check of records of the F.B.I. for criminal history information under this section.
40871 (6) The Department of Public Safety shall send to the division:
40872 (a) a written record of criminal history, or certification of no criminal history record, as
40873 contained in the records of the Department of Public Safety in a timely manner after receipt of
40874 a fingerprint card from the division and a request for review of Department of Public Safety
40875 records; and
40876 (b) the results of the F.B.I. review concerning an applicant in a timely manner after
40877 receipt of information from the F.B.I.
40878 (7) (a) The division shall charge each applicant for licensure as an alarm company or
40879 alarm company agent a fee, in accordance with Section [~~63-38-3.2~~] 63J-1-303, equal to the cost
40880 of performing the records reviews under this section.
40881 (b) The division shall pay the Department of Public Safety the costs of all records
40882 reviews, and the Department of Public Safety shall pay the F.B.I. the costs of records reviews
40883 under this section.
40884 (8) Information obtained by the division from the reviews of criminal history records of
40885 the Department of Public Safety and the F.B.I. shall be used or disseminated by the division

40886 only for the purpose of determining if an applicant for licensure as an alarm company or alarm
40887 company agent is qualified for licensure.
40888 (9) (a) An application for licensure under this chapter shall be denied if:
40889 (i) the applicant has had a previous license, which was issued under this chapter,
40890 suspended or revoked within one year prior to the date of the applicant's application;
40891 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and
40892 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the
40893 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar
40894 status, performing similar functions, or directly or indirectly controlling the applicant has
40895 served in any similar capacity with any person or entity which has had a previous license,
40896 which was issued under this chapter, suspended or revoked within one year prior to the date of
40897 the applicant's application; or
40898 (iii) (A) the applicant is an individual or sole proprietorship; and
40899 (B) any owner or agent acting as a qualifier has served in any capacity listed in
40900 Subsection (9)(a)(ii)(B) in any entity which has had a previous license, which was issued under
40901 this chapter, suspended or revoked within one year prior to the date of the applicant's
40902 application.
40903 (b) An application for licensure under this chapter shall be reviewed by the appropriate
40904 licensing board prior to approval if:
40905 (i) the applicant has had a previous license, which was issued under this chapter,
40906 suspended or revoked more than one year prior to the date of the applicant's application;
40907 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and
40908 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the
40909 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar
40910 status, performing similar functions, or directly or indirectly controlling the applicant has
40911 served in any similar capacity with any person or entity which has had a previous license,
40912 which was issued under this chapter, suspended or revoked more than one year prior to the date
40913 of the applicant's application; or
40914 (iii) (A) the applicant is an individual or sole proprietorship; and
40915 (B) any owner or agent acting as a qualifier has served in any capacity listed in
40916 Subsection (9)(b)(ii)(B) in any entity which has had a previous license, which was issued under

40917 this chapter, suspended or revoked more than one year prior to the date of the applicant's
40918 application.
40919 Section 898. Section **58-55-307** is amended to read:
40920 **58-55-307. Confidentiality of records and reports.**
40921 (1) Credit reports, financial statements, and other information submitted to the division
40922 by or at the request and direction of an applicant or licensee for the purpose of supporting a
40923 representation of financial responsibility constitute protected records under [~~Title 63, Chapter~~
40924 ~~2~~] Title 63G, Chapter 2, Government Records Access and Management Act.
40925 (2) Notwithstanding [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records
40926 Access and Management Act, the records described in Subsection (1) are not open for public
40927 inspection and are not subject to discovery in civil or administrative proceedings.
40928 Section 899. Section **58-55-308** is amended to read:
40929 **58-55-308. Scope of practice -- Installation, repair, maintenance, cleaning, or**
40930 **replacement of gas appliance or combustion system -- Rules.**
40931 (1) (a) The commission, with the concurrence of the director, may adopt reasonable
40932 rules pursuant to [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
40933 Rulemaking Act, to define and limit the scope of practice and operating standards of the
40934 classifications and subclassifications licensed under this chapter in a manner consistent with
40935 established practice in the relevant industry.
40936 (b) The commission and the director may limit the field and scope of operations of a
40937 licensee under this chapter in accordance with the rules and the public health, safety, and
40938 welfare, based on the licensee's education, training, experience, knowledge, and financial
40939 responsibility.
40940 (2) (a) The work and scope of practice covered by this Subsection (2) is the
40941 installation, repair, maintenance, cleaning, or replacement of a residential or commercial gas
40942 appliance or combustion system.
40943 (b) The provisions of this Subsection (2) apply to any:
40944 (i) licensee under this chapter whose license authorizes the licensee to perform the
40945 work described in Subsection (2)(a); and
40946 (ii) person exempt from licensure under Subsection 58-55-305(1)(h).
40947 (c) Any person described in Subsection (2)(b) that performs work described in

40948 Subsection (2)(a):
40949 (i) must first receive training and certification as specified in rules adopted by the
40950 division; and
40951 (ii) shall ensure that any employee authorized under other provisions of this chapter to
40952 perform work described in Subsection (2)(a) has first received training and certification as
40953 specified in rules adopted by the division.
40954 (d) The division may exempt from the training requirements adopted under Subsection
40955 (2)(c) a person that has adequate experience, as determined by the division.
40956 (3) The division may exempt the following individuals from the certification
40957 requirements adopted under Subsection (2)(c):
40958 (a) a person who has passed a test equivalent to the level of testing required by the
40959 division for certification, or has completed an apprenticeship program that teaches the
40960 installation of gas line appliances and is approved by the Federal Bureau of Apprenticeship
40961 Training; and
40962 (b) a person working under the immediate one-to-one supervision of a certified natural
40963 gas technician or a person exempt from certification.
40964 (4) This section does not prohibit a licensed specialty contractor from accepting and
40965 entering into a contract involving the use of two or more crafts or trades if the performance of
40966 the work in the crafts or trades, other than that in which the contractor is licensed, is incidental
40967 and supplemental to the work for which the contractor is licensed.
40968 Section 900. Section **58-55-503** is amended to read:
40969 **58-55-503. Penalty for unlawful conduct -- Citations.**
40970 (1) (a) (i) A person who violates Subsection 58-55-308(2), Subsection 58-55-501(1),
40971 (2), (3), (4), (5), (6), (7), (9), (10), (12), (14), or (15), or Subsection 58-55-504(2), or who fails
40972 to comply with a citation issued under this section after it is final, is guilty of a class A
40973 misdemeanor.
40974 (ii) As used in this section in reference to Subsection 58-55-504(2), "person" means an
40975 individual and does not include a sole proprietorship, joint venture, corporation, limited
40976 liability company, association, or organization of any type.
40977 (b) A person who violates the provisions of Subsection 58-55-501(8) may not be
40978 awarded and may not accept a contract for the performance of the work.

40979 (2) A person who violates the provisions of Subsection 58-55-501(13) is guilty of an
40980 infraction unless the violator did so with the intent to deprive the person to whom money is to
40981 be paid of the money received, in which case the violator is guilty of theft, as classified in
40982 Section 76-6-412.
40983 (3) Grounds for immediate suspension of the licensee's license by the division and the
40984 commission include the issuance of a citation for violation of Subsection 58-55-308(2), Section
40985 58-55-501, or Subsection 58-55-504(2), or the failure by a licensee to make application to,
40986 report to, or notify the division with respect to any matter for which application, notification, or
40987 reporting is required under this chapter or rules adopted under this chapter, including applying
40988 to the division for a new license to engage in a new specialty classification or to do business
40989 under a new form of organization or business structure, filing with the division current
40990 financial statements, notifying the division concerning loss of insurance coverage, or change in
40991 qualifier.
40992 (4) (a) If upon inspection or investigation, the division concludes that a person has
40993 violated the provisions of Subsection 58-55-308(2) or Subsections 58-55-501(1), (2), (3), (9),
40994 (10), (12), (14), (19), (21), or Subsection 58-55-504(2), or any rule or order issued with respect
40995 to these subsections, and that disciplinary action is appropriate, the director or the director's
40996 designee from within the division shall promptly issue a citation to the person according to this
40997 chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person
40998 to appear before an adjudicative proceeding conducted under [~~Title 63, Chapter 46b~~] Title 63G,
40999 Chapter 4, Administrative Procedures Act.
41000 (i) A person who is in violation of the provisions of Subsection 58-55-308(2),
41001 Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (19), or (21), or Subsection
41002 58-55-504(2), as evidenced by an uncontested citation, a stipulated settlement, or by a finding
41003 of violation in an adjudicative proceeding, may be assessed a fine pursuant to this Subsection
41004 (4) and may, in addition to or in lieu of, be ordered to cease and desist from violating
41005 Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (19), or (21),
41006 or Subsection 58-55-504(2).
41007 (ii) Except for a cease and desist order, the licensure sanctions cited in Section
41008 58-55-401 may not be assessed through a citation.
41009 (iii) (A) A person who receives a citation or is fined for violating Subsection

41010 58-55-501(21) may also be issued a cease and desist order from engaging in work to be
41011 performed by a contractor licensed under this chapter unless the person meets the continuing
41012 education requirement within 30 days after receipt of the citation or fine.
41013 (B) The order, if issued, shall be removed upon the person's completion of the
41014 continuing education requirement.
41015 (C) This Subsection (4)(a)(iii) is repealed effective July 1, 2010.
41016 (b) (i) Each citation shall be in writing and describe with particularity the nature of the
41017 violation, including a reference to the provision of the chapter, rule, or order alleged to have
41018 been violated.
41019 (ii) The citation shall clearly state that the recipient must notify the division in writing
41020 within 20 calendar days of service of the citation if the recipient wishes to contest the citation
41021 at a hearing conducted under [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
41022 Procedures Act.
41023 (iii) The citation shall clearly explain the consequences of failure to timely contest the
41024 citation or to make payment of any fines assessed by the citation within the time specified in
41025 the citation.
41026 (c) Each citation issued under this section, or a copy of each citation, may be served
41027 upon a person upon whom a summons may be served:
41028 (i) in accordance with the Utah Rules of Civil Procedure;
41029 (ii) personally or upon the person's agent by a division investigator or by a person
41030 specially designated by the director; or
41031 (iii) by mail.
41032 (d) (i) If within 20 calendar days from the service of a citation, the person to whom the
41033 citation was issued fails to request a hearing to contest the citation, the citation becomes the
41034 final order of the division and is not subject to further agency review.
41035 (ii) The period to contest a citation may be extended by the division for cause.
41036 (e) The division may refuse to issue or renew, suspend, revoke, or place on probation
41037 the license of a licensee who fails to comply with a citation after it becomes final.
41038 (f) The failure of an applicant for licensure to comply with a citation after it becomes
41039 final is a ground for denial of license.
41040 (g) No citation may be issued under this section after the expiration of six months

41041 following the occurrence of any violation.
41042 (h) Fines shall be assessed by the director or the director's designee according to the
41043 following:
41044 (i) for a first offense handled pursuant to Subsection (4)(a), a fine of up to $1,000;
41045 (ii) for a second offense handled pursuant to Subsection (4)(a), a fine of up to $2,000;
41046 and
41047 (iii) for any subsequent offense handled pursuant to Subsection (4)(a), a fine of up to
41048 $2,000 for each day of continued offense.
41049 (i) (i) For purposes of issuing a final order under this section and assessing a fine under
41050 Subsection (4)(i), an offense constitutes a second or subsequent offense if:
41051 (A) the division previously issued a final order determining that a person committed a
41052 first or second offense in violation of Subsection 58-55-308(2), Subsection 58-55-501(1), (2),
41053 (3), (9), (10), (12), (14), or (19), or Subsection 58-55-504(2); or
41054 (B) (I) the division initiated an action for a first or second offense;
41055 (II) no final order has been issued by the division in the action initiated under
41056 Subsection (4)(i)(i)(B)(I);
41057 (III) the division determines during an investigation that occurred after the initiation of
41058 the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent
41059 violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9),
41060 (10), (12), (14), or (19), or Subsection 58-55-504(2); and
41061 (IV) after determining that the person committed a second or subsequent offense under
41062 Subsection (4)(i)(i)(B)(III), the division issues a final order on the action initiated under
41063 Subsection (4)(i)(i)(B)(I).
41064 (ii) In issuing a final order for a second or subsequent offense under Subsection
41065 (4)(i)(i), the division shall comply with the requirements of this section.
41066 (5) (a) A penalty imposed by the director under Subsection (4)(h) shall be deposited
41067 into the Commerce Service Fund.
41068 (b) A penalty which is not paid may be collected by the director by either referring the
41069 matter to a collection agency or bringing an action in the district court of the county in which
41070 the person against whom the penalty is imposed resides or in the county where the office of the
41071 director is located.

41072 (c) A county attorney or the attorney general of the state is to provide legal assistance
41073 and advice to the director in any action to collect the penalty.
41074 (d) In an action brought to enforce the provisions of this section, reasonable attorney's
41075 fees and costs shall be awarded.
41076 Section 901. Section **58-56-4** is amended to read:
41077 **58-56-4. Definitions -- Adoption of building codes -- Amendments -- Approval of**
41078 **other codes -- Exemptions.**
41079 (1) As used in this section:
41080 (a) "agricultural use" means a use that relates to the tilling of soil and raising of crops,
41081 or keeping or raising domestic animals;
41082 (b) "not for human occupancy" means use of a structure for purposes other than
41083 protection or comfort of human beings, but allows people to enter the structure for:
41084 (i) maintenance and repair; and
41085 (ii) the care of livestock, crops, or equipment intended for agricultural use which are
41086 kept there; and
41087 (c) "residential area" means land that is not used for an agricultural use and is:
41088 (i) (A) within the boundaries of a city or town; and
41089 (B) less than five contiguous acres;
41090 (ii) (A) within a subdivision for which the county has approved a subdivision plat
41091 under Title 17, Chapter 27a, Part 6, Subdivisions; and
41092 (B) less than two contiguous acres; or
41093 (iii) not located in whole or in part in an agricultural protection area created under Title
41094 17, Chapter 41, Agriculture Protection Area.
41095 (2) (a) Subject to the provisions of Subsections (4) and (5), the following codes, each
41096 of which must be promulgated by a nationally recognized code authority, shall be adopted, in
41097 the manner described in Subsection (2)(b), as the construction codes which the state and each
41098 political subdivision of the state shall follow in the circumstances described in Subsection (3):
41099 (i) a building code;
41100 (ii) the National Electrical Code promulgated by the National Fire Protection
41101 Association;
41102 (iii) a residential one and two family dwelling code;

41103 (iv) a plumbing code;
41104 (v) a mechanical code;
41105 (vi) a fuel gas code;
41106 (vii) an energy conservation code; and
41107 (viii) a manufactured housing installation standard code.
41108 (b) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
41109 Administrative Rulemaking Act, the division, in collaboration with the commission, shall
41110 adopt by rule specific editions of the codes described in Subsection (2)(a), and may adopt by
41111 rule successor editions of any adopted code.
41112 (c) The division, in collaboration with the commission, may, in accordance with
41113 Section 58-56-7, adopt amendments to the codes adopted under Subsection (2)(a), to be
41114 applicable to the entire state or within one or more political subdivisions.
41115 (3) Subject to the provisions of Subsections (4) and (5), the codes and amendments
41116 adopted under Subsection (2) shall be followed when:
41117 (a) new construction is involved;
41118 (b) the owner of an existing building, or the owner's agent, is voluntarily engaged in:
41119 (i) the repair, renovation, remodeling, alteration, enlargement, rehabilitation,
41120 conservation, or reconstruction of the building; or
41121 (ii) changing the character or use of the building in a manner which increases the
41122 occupancy loads, other demands, or safety risks of the building.
41123 (4) (a) The division, in collaboration with the commission, has discretion to approve,
41124 without adopting, certain codes in addition to those described in Subsection (2)(a), including
41125 specific editions of the codes, for use by a compliance agency.
41126 (b) If the applicable code is one which the division has approved under Subsection
41127 (4)(a), a compliance agency has the discretion to:
41128 (i) adopt an ordinance requiring removal, demolition, or repair of a building, according
41129 to a code;
41130 (ii) adopt, by ordinance or rule, a dangerous building code; or
41131 (iii) adopt, by ordinance or rule, a building rehabilitation code.
41132 (5) (a) Except in a residential area, a structure used solely in conjunction with
41133 agriculture use, and not for human occupancy, is exempted from the permit requirements of

41134 any code adopted by the division.
41135 (b) Notwithstanding Subsection (5)(a), unless otherwise exempted, plumbing,
41136 electrical, and mechanical permits may be required when that work is included in the structure.
41137 Section 902. Section **58-56-7** is amended to read:
41138 **58-56-7. Code amendments -- Commission recommendations -- Division duties**
41139 **and responsibilities.**
41140 (1) The division, with the commission, shall establish by rule the procedure and
41141 manner under which requests for amendments to codes under Subsection 58-56-4(2)(c) shall
41142 be:
41143 (a) filed with the division; and
41144 (b) recommended or declined for adoption.
41145 (2) The division shall accept from any local regulators, state regulators, state agencies
41146 involved with the construction and design of buildings, the contractors, plumbers, or
41147 electricians licensing boards, or from recognized construction-related associations a request for
41148 amendment to the codes under Subsection 58-56-4(2)(c).
41149 (3) The division may make recommendations to the commission for amendments to
41150 codes under Subsection 58-56-4(2)(c). The commission may also consider amendments on its
41151 own initiative.
41152 (4) On May 15 and November 15 of each calendar year, or the first government
41153 working day thereafter if either date falls on a weekend or government holiday, the division
41154 shall convene a public hearing, as a part of the rulemaking process, before the commission
41155 concerning requests for amendment of the codes, recommended by the division and
41156 commission to be adopted by rule. The hearing shall be conducted in accordance with the rules
41157 of the commission.
41158 (5) Within 15 days following completion of the hearing under Subsection (4), the
41159 commission shall provide to the division a written recommendation concerning each
41160 amendment.
41161 (6) The division shall consider the recommendations and promulgate amendments by
41162 rule in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
41163 Rulemaking Act and as prescribed by the director.
41164 (7) The decision of the division to accept or reject the recommendation of the

41165 commission shall be made within 15 days after receipt of the recommendation.
41166 (8) All decisions of the division pertaining to adoption of a code edition or
41167 amendments to any code, which are contrary to recommendations of the commission, may be
41168 overridden by a two-thirds vote of the commission according to a procedure to be established
41169 by rule.
41170 (9) (a) Amendments with statewide application:
41171 (i) shall be effective on the January 1 or July 1 following the public hearing or as soon
41172 after that date as the requirements of [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
41173 Administrative Rulemaking Act, are met; or
41174 (ii) may be effective prior to the dates in Subsection (9)(a)(i) if designated by the
41175 division and the commission as necessary for the public health, safety, and welfare.
41176 (b) Amendments with local application only shall be effective on a date to be
41177 determined by the division and the commission.
41178 (c) In making rules required by this chapter, the division shall comply with the
41179 provisions of [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking
41180 Act. The provisions of that chapter shall have control over this section in case of any conflict.
41181 Section 903. Section **58-56-9.3** is amended to read:
41182 **58-56-9.3. Unprofessional conduct.**
41183 Unprofessional conduct is as defined in Subsection 58-1-501(2) and includes:
41184 (1) knowingly failing to inspect or issue correction notices for code violations which
41185 when left uncorrected would constitute a hazard to the public health and safety and knowingly
41186 failing to require that correction notices are complied with as a building inspector;
41187 (2) the use of alcohol or the illegal use of drugs while performing duties as a building
41188 inspector or at any time to the extent that the inspector is physically or mentally impaired and
41189 unable to effectively perform the duties of an inspector;
41190 (3) gross negligence in the performance of official duties as a building inspector;
41191 (4) the personal use of information or knowingly revealing information to unauthorized
41192 persons when that information has been obtained by a building inspector as a result of the
41193 inspector's employment, work, or position as an inspector;
41194 (5) unlawful acts or practices which are clearly unethical under generally recognized
41195 standards of conduct of a building inspector;

41196 (6) engaging in fraud or knowingly misrepresenting a fact relating to the performance
41197 of duties and responsibilities as a building inspector;
41198 (7) a building inspector knowingly failing to require that all plans, specifications,
41199 drawings, documents, and reports be stamped by architects, professional engineers, or both as
41200 established by law;
41201 (8) a building inspector knowingly failing to report to the division an act or omission of
41202 a licensee under Title 58, Chapter 55, Utah Construction Trades Licensing Act, which when
41203 left uncorrected constitutes a hazard to public health and safety;
41204 (9) a building inspector knowingly failing to report to the division unlicensed practice
41205 persons who are required to be licensed under Title 58, Chapter 55, Utah Construction Trades
41206 Licensing Act;
41207 (10) a building inspector's approval of work which materially varies from approved
41208 documents that have been stamped by an architect, professional engineer, or both unless
41209 authorized by the licensed architect, professional engineer, or both;
41210 (11) a building inspector failing to produce verification of current licensure and current
41211 certifications for the codes adopted under rules of the division upon request of the division, a
41212 compliance agency, or a contractor or property owner whose work is being inspected;
41213 (12) nondelivery of goods or services by a registered dealer which constitutes a breach
41214 of contract by the dealer;
41215 (13) the failure of a registered dealer to pay a subcontractor or supplier any amounts to
41216 which that subcontractor or supplier is legally entitled; and
41217 (14) any other activity which is defined as unprofessional conduct by division rule in
41218 accordance with the provisions of [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
41219 Administrative Rulemaking Act.
41220 Section 904. Section **58-56-9.5** is amended to read:
41221 **58-56-9.5. Penalty for unlawful conduct -- Citations.**
41222 (1) A person who violates a provision of Section 58-56-9.1 or who fails to comply with
41223 a citation issued under this section after it is final is guilty of a class A misdemeanor.
41224 (2) Grounds for immediate suspension of a licensee's license by the division under this
41225 chapter include:
41226 (a) the issuance of a citation for violation of a provision of Section 58-56-9.1; and

41227 (b) failure by a licensee to make application to, report to, or notify the division with
41228 respect to a matter for which application, notification, or reporting is required under this
41229 chapter or rules made under this chapter by the division.
41230 (3) (a) If upon inspection or investigation, the division concludes that a person has
41231 violated a provision of Section 58-56-9.1, or a rule or order issued with respect to that section,
41232 and that disciplinary action is appropriate, the director or the director's designee from within
41233 the division shall:
41234 (i) promptly issue a citation to the person according to this chapter and any pertinent
41235 rules;
41236 (ii) attempt to negotiate a stipulated settlement; or
41237 (iii) notify the person to appear before an adjudicative proceeding conducted under
41238 [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
41239 (b) (i) A person who violates a provision of Section 58-56-9.1, as evidenced by an
41240 uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative
41241 proceeding, may be assessed a fine under this Subsection (3)(b) and may, in addition to or
41242 instead of the fine, be ordered by the division to cease from violating the provision.
41243 (ii) Except as otherwise provided in Subsection (2)(a), the division may not assess
41244 licensure sanctions referred to in Subsection 58-56-9(1)(c) through a citation.
41245 (c) (i) Each citation shall be in writing and describe with particularity the nature of the
41246 violation, including a reference to the provision of the chapter, rule, or order alleged to have
41247 been violated.
41248 (ii) The citation shall clearly state that the recipient must notify the division in writing
41249 within 20 calendar days of service of the citation if the recipient wishes to contest the citation
41250 at a hearing conducted under [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
41251 Procedures Act.
41252 (iii) The citation shall clearly explain the consequences of failure to timely contest the
41253 citation or to make payment of any fines assessed by the citation within the time specified in
41254 the citation.
41255 (d) Each citation issued under this section, or a copy of each citation, may be served
41256 upon any person upon whom a summons may be served:
41257 (i) in accordance with the Utah Rules of Civil Procedure;

41258 (ii) personally or upon the person's agent by a division investigator or by any person
41259 specially designated by the director; or
41260 (iii) by mail.
41261 (e) (i) If within 20 calendar days from the service of a citation, the person to whom the
41262 citation was issued fails to request a hearing to contest the citation, the citation becomes the
41263 final order of the division and is not subject to further agency review.
41264 (ii) The period to contest a citation may be extended by the division for cause.
41265 (f) The division may refuse to issue or renew, suspend, revoke, or place on probation
41266 the license of a licensee who fails to comply with a citation after it becomes final.
41267 (g) The failure of an applicant for licensure to comply with a citation after it becomes
41268 final is a ground for denial of a license.
41269 (h) No citation may be issued under this section after the expiration of six months
41270 following the occurrence of the violation.
41271 (i) The director or the director's designee may assess fines for violations of Section
41272 58-56-9.1 as follows:
41273 (i) for a first offense determined under this Subsection (3), a fine of up to $1,000;
41274 (ii) for a second offense, a fine of up to $2,000; and
41275 (iii) for any subsequent offense, a fine of up to $2,000 for each day of continued
41276 offense.
41277 (j) For the purposes of issuing a final order under this section and assessing a fine
41278 under Subsection (3)(i), an offense constitutes a second or subsequent offense if:
41279 (i) the division previously issued a final order determining that a person committed a
41280 first or second offense in violation of a provision of Section 58-56-9.1; or
41281 (ii) (A) the division initiated an action for a first or second offense;
41282 (B) no final order has been issued by the division in the action initiated under
41283 Subsection (3)(j)(ii)(A);
41284 (C) the division determines during an investigation that occurred after the initiation of
41285 the action under Subsection (3)(j)(ii)(A) that the person committed a second or subsequent
41286 violation of a provision of Section 58-56-9.1; and
41287 (D) after determining that the person committed a second or subsequent offense under
41288 Subsection (3)(j)(ii)(C), the division issues a final order on the action initiated under

41289 Subsection (3)(j)(ii)(A).
41290 (k) In issuing a final order for a second or subsequent offense under Subsection (3)(j),
41291 the division shall comply with the requirements of this section.
41292 (4) (a) Proceeds from a fine imposed under Subsection (3)(i) shall be deposited in the
41293 Commerce Service Fund.
41294 (b) The director may collect an unpaid fine by:
41295 (i) referring the matter to a collection agency; or
41296 (ii) bringing an action in the district court of the county in which the person resides or
41297 in the county where the director's office is located.
41298 (c) (i) The state's attorney general or a county attorney shall provide legal assistance
41299 and advice to the director in an action brought under Subsection (4)(b).
41300 (ii) Reasonable attorney's fees and costs shall be awarded in an action brought to
41301 enforce the provisions of this section.
41302 Section 905. Section **58-56-16** is amended to read:
41303 **58-56-16. Registration of dealers -- Bonding requirements -- Renewal --**
41304 **Exemptions -- Discipline.**
41305 (1) Each person engaged in the sale of factory built housing in the state, except as
41306 provided in Subsection (4), shall register with the division as a dealer.
41307 (2) Each applicant for registration under this section shall:
41308 (a) submit an application in a form prescribed by the division;
41309 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303; and
41310 (c) provide the division with a registration bond in accordance with rules established
41311 by the division.
41312 (3) (a) The division shall issue each registration under this section in accordance with a
41313 two-year renewal cycle established by rule.
41314 (b) The division may by rule extend or shorten a renewal cycle by as much as one year
41315 to stagger the renewal cycles it administers.
41316 (c) Each registration under this section automatically expires on the expiration date on
41317 the certificate of registration unless the registrant renews it in accordance with Section
41318 58-1-308.
41319 (4) Subsection (1) does not apply to:

41320 (a) a person not regularly engaged in the sale of factory built housing who is selling a
41321 unit [~~he~~] the person owns for [~~his~~] the person's own account;
41322 (b) a principal broker licensed under Title 61, Chapter 2, Division of Real Estate; or
41323 (c) a sales agent or associate broker licensed under Title 61, Chapter 2, Division of
41324 Real Estate, who sells factory built housing as an agent for, and under the supervision[~~;~~] of, the
41325 licensed principal broker with whom [~~he~~] the sales agent or associate broker is affiliated.
41326 (5) Grounds for refusing to issue a registration, for refusing to renew a registration, for
41327 revoking, suspending, restricting, or placing on probation a registration, for issuing a public or
41328 private reprimand to a registrant, and for issuing a cease and desist order shall be in accordance
41329 with Section 58-1-401.
41330 Section 906. Section **58-57-4** is amended to read:
41331 **58-57-4. Qualifications for a license.**
41332 (1) The division shall issue a respiratory care practitioner license to an applicant who
41333 meets the requirements specified in this section.
41334 (2) An applicant seeking licensure as a respiratory care practitioner shall:
41335 (a) submit an application on a form prescribed by the division;
41336 (b) pay a fee as determined by the department pursuant to Section [~~63-38-3.2~~]
41337 63J-1-303;
41338 (c) show evidence of good moral character;
41339 (d) possess a high school education or its equivalent, as determined by the division in
41340 collaboration with the board;
41341 (e) have completed a respiratory care practitioner educational program that is
41342 accredited by a nationally accredited organization acceptable to the division as defined by rule;
41343 and
41344 (f) pass an examination approved by the division in collaboration with the board.
41345 Section 907. Section **58-57-14** is amended to read:
41346 **58-57-14. Unlawful conduct -- Penalty.**
41347 (1) Beginning January 1, 2007, "unlawful conduct" includes:
41348 (a) using the following titles, names, or initials, if the user is not properly licensed
41349 under this chapter:
41350 (i) respiratory care practitioner;

41351 (ii) respiratory therapist; and
41352 (iii) respiratory technician; and
41353 (b) using any other name, title, or initials that would cause a reasonable person to
41354 believe the user is licensed under this chapter if the user is not properly licensed under this
41355 chapter.
41356 (2) Any person who violates the unlawful conduct provision specifically defined in
41357 Subsection 58-1-501(1)(a) is guilty of a third degree felony.
41358 (3) Any person who violates any of the unlawful conduct provisions specifically
41359 defined in Subsections 58-1-501(1)(b) through (f) and Subsection (1) of this section is guilty of
41360 a class A misdemeanor.
41361 (4) After a proceeding pursuant to [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
41362 Administrative Procedures Act, and Title 58, Chapter 1, Division of Occupational and
41363 Professional Licensing Act, the division may assess administrative penalties for acts of
41364 unprofessional or unlawful conduct or any other appropriate administrative action.
41365 Section 908. Section **58-59-302** is amended to read:
41366 **58-59-302. Registration process.**
41367 (1) A person engaged in practice as a professional employer organization shall register
41368 under this chapter. A person registering or renewing a registration as a professional employer
41369 organization shall:
41370 (a) (i) submit an application in a form prescribed by the division; or
41371 (ii) file a certification in accordance with Subsection (2); and
41372 (b) pay a fee as determined by the department under Section [~~63-38-3.2~~] 63J-1-303.
41373 (2) (a) A person may comply with Subsection (1) by filing with the division:
41374 (i) a certification that an assurance organization certifies the qualifications of the PEO;
41375 (ii) the information required by Subsections 58-59-303.5(1)(a) through (c); and
41376 (iii) any changes to the information required by Subsection (2)(a)(ii) within 30 days of
41377 the day on which the information changes.
41378 (b) A PEO that meets the requirements of Subsection (1) by complying with this
41379 Subsection (2) is not required:
41380 (i) to renew its registration until the day on which the assurance organization no longer
41381 certifies the qualifications of the PEO; and

41382 (ii) to provide the information in Subsections 58-59-303.5(1)(d) through (f).
41383 (c) If a PEO that meets the requirements of Subsection (1) by complying with
41384 Subsection (2) receives a new or renewed certification by the assurance organization, the PEO
41385 shall file with the division a new certification within 30 days from the day on which the PEO
41386 receives the new or renewed certification from the assurance organization.
41387 (d) This Subsection (2) does not modify the division's authority or responsibility to
41388 accept, renew, or terminate a registration.
41389 (e) (i) If a PEO authorizes an assurance organization to act on behalf of the PEO for
41390 purposes of registration under this Subsection (2), the division shall accept the assurance
41391 organization's filing of the information required by Subsection (2)(a)(ii), (2)(a)(iii), or (2)(b) if
41392 the information otherwise complies with this Subsection (2) and division rules.
41393 (ii) Notwithstanding Subsection (2)(e)(i), if the assurance organization fails to make a
41394 required filing under this Subsection (2), the PEO's registration may be not accepted, not
41395 renewed, or terminated.
41396 (3) (a) Any two or more professional employer organizations held under the common
41397 control of any other person or persons acting in concert may be registered as a professional
41398 employer organization group.
41399 (b) A professional employer organization group may satisfy any reporting and financial
41400 requirements under this chapter on a consolidated basis.
41401 (4) An organization engaged in the business of providing professional employer
41402 services is subject to registration under this chapter regardless of its use of the term:
41403 (a) "professional employer organization";
41404 (b) "PEO";
41405 (c) "staff leasing company";
41406 (d) "registered staff leasing company";
41407 (e) "employee leasing company"; or
41408 (f) any other name.
41409 Section 909. Section **58-59-302.5** is amended to read:
41410 **58-59-302.5. Assurance organization.**
41411 (1) The division shall designate one or more assurance organizations by rule:
41412 (a) consistent with this section; and

41413 (b) made in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
41414 Administrative Rulemaking Act.
41415 (2) The division shall require that an assurance organization designated by the division
41416 be licensed by one or more states other than Utah to certify the qualifications of a PEO.
41417 (3) The qualifications certified by an assurance organization designated by the division
41418 shall include at a minimum that a PEO:
41419 (a) ensure that each controlling person of the PEO:
41420 (i) be competent to manage a PEO;
41421 (ii) be responsible in the controlling person's finances; and
41422 (iii) not have a history of or be engaged in unlawful activities;
41423 (b) have a history that is verifiable that the PEO:
41424 (i) complies with regulatory requirements; and
41425 (ii) engages in financially responsible conduct;
41426 (c) has or is able to obtain audited financial statements;
41427 (d) has an adjusted net worth equal to or in excess of the greater of:
41428 (i) $100,000; or
41429 (ii) 5% of total adjusted liabilities;
41430 (e) has liquid assets that are sufficient to pay short-term liabilities as demonstrated by a
41431 ratio determined by dividing current assets by current liabilities or a similar formula;
41432 (f) has on its books adequate financial reserves for all local, state, and federal
41433 self-insurance and any insurance policy or plan in which the final cost of coverage is affected
41434 by claim losses;
41435 (g) operates in conformity with all applicable laws and regulations including those laws
41436 and regulations in addition to this chapter;
41437 (h) does not engage in deceptive trade practices or misrepresentations of an employer's
41438 obligation or liability;
41439 (i) has a written professional employer agreement with each client;
41440 (j) has or is willing to obtain a written acknowledgment, as part of an existing form or
41441 separately, from each covered employee stating that the covered employee understands and
41442 accepts the nature, terms, and conditions of the coemployment relationship;
41443 (k) establishes and maintains a coemployment relationship by assuming key employer

41444 attributes with respect to covered employees as demonstrated by the professional employer
41445 agreement and employment forms, policies, and procedures;
41446 (l) provides all covered employees with a written copy of the PEO's employment
41447 policies and procedures;
41448 (m) ensures that all covered employees are covered in a regulatory compliant manner
41449 by workers' compensation insurance;
41450 (n) does not knowingly use the coemployment relationship to assist a client to evade or
41451 avoid the client's obligations under:
41452 (i) the National Labor Relations Act, 29 U.S.C. Sec. 151 et seq.;
41453 (ii) the federal Railway Labor Act, 45 U.S.C. Sec. 151 et seq.; or
41454 (iii) any collective bargaining agreement;
41455 (o) except through a licensed insurance agent, does not:
41456 (i) represent or imply that it can sell insurance;
41457 (ii) attempt to sell insurance; or
41458 (iii) sell insurance;
41459 (p) markets and provides, or is willing to market and provide professional employer
41460 organization services under a separate and distinct trade name from any affiliated PEO that is
41461 not certified by the assurance organization;
41462 (q) does not allow any person not certified by the assurance organization to use the
41463 PEO's trade name in the sale or delivery of the PEO's professional employer organization
41464 services;
41465 (r) does not guarantee, participate in, transfer between, or otherwise share liabilities
41466 with any other PEO that is not certified by the assurance organization:
41467 (i) in the employment of covered employees; or
41468 (ii) in any employee benefit or insurance policy or plan that is not fully insured and
41469 fully funded; and
41470 (s) has the ability to provide a regulatory agency or insurance carrier upon request with:
41471 (i) a client's name, address, and tax identification number;
41472 (ii) payroll data by:
41473 (A) client;
41474 (B) (I) client SIC Code of the 1987 Standard Industrial Classification Manual of the

41475 federal Executive Office of the President, Office of Management and Budget; or
41476 (II) client classification under the 2002 North American Industry Classification System
41477 of the federal Executive Office of the President, Office of Management and Budget; and
41478 (C) workers' compensation classification;
41479 (iii) the names of covered employees by:
41480 (A) the worksite of a client; and
41481 (B) workers' compensation classification; and
41482 (iv) workers' compensation certificates of insurance.
41483 Section 910. Section **58-59-303** is amended to read:
41484 **58-59-303. Term of registration -- Expiration -- Renewal.**
41485 (1) The division shall issue each registration under this chapter in accordance with a
41486 one-year renewal cycle established by rule.
41487 (2) The division may by rule, in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
41488 Chapter 3, Utah Administrative Rulemaking Act, extend or shorten a renewal period by as
41489 much as six months to stagger the renewal cycles it administers.
41490 Section 911. Section **58-59-308** is amended to read:
41491 **58-59-308. No guarantee.**
41492 By registering and regulating professional employer organizations under this chapter,
41493 the state:
41494 (1) does not guarantee any right, claim, or defense of any professional employer
41495 organization, client company, coemployee, or other person;
41496 (2) does not guarantee the financial responsibility or solvency of any professional
41497 employer organization; and
41498 (3) does not waive any right, claim, or defense of immunity that it may have under
41499 [~~Title 63, Chapter 30d~~] Title 63G, Chapter 7, Governmental Immunity Act of Utah, or other
41500 law.
41501 Section 912. Section **58-60-115** is amended to read:
41502 **58-60-115. License by endorsement.**
41503 The division shall issue a license by endorsement under this chapter to a person who:
41504 (1) submits an application on a form provided by the division;
41505 (2) pays a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;

41506 (3) provides documentation of current licensure in good standing in any state, district,
41507 or territory of the United States to practice in the profession in which licensure is being sought;
41508 (4) provides documentation of having been actively engaged in the legal practice of
41509 [~~his~~] the person's profession, including, but not limited to, mental health therapy, for not less
41510 than 4,000 hours during the three years immediately preceding the date of application for
41511 licensure in Utah;
41512 (5) has passed the profession specific jurisprudence examination if required of a new
41513 applicant; and
41514 (6) is of good moral character and professional standing, and has no disciplinary action
41515 pending or in effect against the applicant's license in any jurisdiction.
41516 Section 913. Section **58-60-117** is amended to read:
41517 **58-60-117. Externship licenses.**
41518 (1) The division shall issue a temporary license under Part 2, 3, or 4 of this chapter to a
41519 person who:
41520 (a) submits an application for licensure under Part 2, 3, or 4;
41521 (b) pays a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
41522 (c) holds an earned doctoral degree or master's degree in a discipline that is a
41523 prerequisite for practice as a mental health therapist;
41524 (d) has one or more deficiencies in course work, experience, or training;
41525 (e) provides mental health therapy as an employee of a public or private organization,
41526 which provides mental health therapy, while under the supervision of a person licensed under
41527 this chapter; and
41528 (f) is of good moral character and has no disciplinary action pending or in effect
41529 against the applicant in connection with the practice of mental health therapy, in any
41530 jurisdiction.
41531 (2) A temporary license issued under this section shall expire upon the earlier of:
41532 (a) issuance of the license applied for; or
41533 (b) three years from the date the temporary license was issued.
41534 (3) The temporary license issued under this section is an externship license.
41535 Section 914. Section **58-60-205** is amended to read:
41536 **58-60-205. Qualifications for licensure or certification as a clinical or certified**

41537 **social worker, certified social worker intern, and social service worker.**
41538 (1) An applicant for licensure as a clinical social worker shall:
41539 (a) submit an application on a form provided by the division;
41540 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
41541 (c) be of good moral character;
41542 (d) produce certified transcripts from an accredited institution of higher education
41543 recognized by the division in collaboration with the board verifying satisfactory completion of
41544 an education and earned degree as follows:
41545 (i) an earned master's degree in social work resulting from completion of an education
41546 program accredited by the Council on Social Work Education; or
41547 (ii) an earned doctoral degree in social work that results from successful completion of
41548 a clinical concentration and practicum approved by the division and defined by rule under
41549 Section 58-1-203;
41550 (e) have completed a minimum of 4,000 hours of clinical social work training as
41551 defined by division rule under Section 58-1-203 in not less than two years and under the
41552 supervision of a clinical social worker supervisor approved by the division in collaboration
41553 with the board;
41554 (f) document successful completion of not less than 1,000 hours of supervised training
41555 in mental health therapy obtained after completion of the education requirement in Subsection
41556 (1)(d), which training may be included as part of the 4,000 hours of training in Subsection
41557 (1)(e), and of which documented evidence demonstrates not less than 100 of the hours were
41558 obtained under the direct personal face to face supervision of a clinical social worker approved
41559 by the division in collaboration with the board;
41560 (g) have completed a case work, group work, or family treatment course sequence with
41561 a clinical practicum in content as defined by rule under Section 58-1-203; and
41562 (h) pass the examination requirement established by rule under Section 58-1-203.
41563 (2) An applicant for licensure as a certified social worker shall:
41564 (a) submit an application on a form provided by the division;
41565 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
41566 (c) be of good moral character;
41567 (d) produce certified transcripts from an accredited institution of higher education

41568 recognized by the division in collaboration with the Social Worker Licensing Board verifying
41569 satisfactory completion of an education and an earned degree as follows:
41570 (i) a social work education program accredited by the Council on Social Work
41571 Education and an earned master's degree resulting from completion of that program; or
41572 (ii) an education program that contains approved clinical social work concentration and
41573 practicum in content as defined by rule under Section 58-1-203 and an earned doctorate
41574 resulting from completion of that program; and
41575 (e) pass the examination requirement established by rule under Section 58-1-203.
41576 (3) (a) An applicant for certification as a certified social worker intern shall meet the
41577 requirements of Subsections (2)(a), (b), (c), and (d).
41578 (b) Certification under Subsection (3)(a) is limited to the time necessary to pass the
41579 examination required under Subsection (2)(e) or six months, whichever occurs first.
41580 (c) A certified social worker intern may provide mental health therapy under the
41581 general supervision of a clinical social worker.
41582 (4) An applicant for licensure as a social service worker shall:
41583 (a) submit an application on a form provided by the division;
41584 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
41585 (c) be of good moral character;
41586 (d) produce certified transcripts from an accredited institution of higher education
41587 recognized by the division in collaboration with the Social Worker Licensing Board verifying
41588 satisfactory completion of an earned degree resulting from education as follows:
41589 (i) a bachelor's degree in a social work program accredited by the Council on Social
41590 Work Education;
41591 (ii) a master's degree in a field approved by the division in collaboration with the social
41592 worker board; or
41593 (iii) a bachelor's degree in sociology, psychology, family sciences, or other field
41594 approved by the division in collaboration with the Social Worker Licensing Board and also
41595 documentation of 2,000 hours of supervised social work activity approved by the division in
41596 collaboration with the board, which is performed after completing bachelor's degree
41597 requirements under this Subsection (4);
41598 (iv) a bachelor's degree in any field, if the applicant has completed:

41599 (A) the equivalent of three credit hours of course work or other approved training in
41600 full-life human growth behavior, abnormal psychology, social work values and ethics, social
41601 welfare, or social welfare policy;
41602 (B) an approved social work practice methods course; and
41603 (C) one year of qualifying experience under the supervision of a licensed certified or
41604 clinical social worker, which experience is approved by the division in collaboration with the
41605 Social Worker Licensing Board, and which is performed after completion of the requirements
41606 to obtain the bachelor's degree required under this Subsection (4); or
41607 (v) successful completion of the first academic year of a Council on Social Work
41608 Education approved master's of social work curriculum and practicum; and
41609 (e) pass the examination requirement established by rule under Section 58-1-203.
41610 Section 915. Section **58-60-305** is amended to read:
41611 **58-60-305. Qualifications for licensure.**
41612 (1) All applicants for licensure as marriage and family therapists shall:
41613 (a) submit an application on a form provided by the division;
41614 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
41615 (c) be of good moral character;
41616 (d) produce certified transcripts evidencing completion of a masters or doctorate degree
41617 in marriage and family therapy from:
41618 (i) a program accredited by the Commission on Accreditation for Marriage and Family
41619 Therapy Education; or
41620 (ii) an accredited institution meeting criteria for approval established by rule under
41621 Section 58-1-203;
41622 (e) have completed a minimum of 4,000 hours of marriage and family therapy training
41623 as defined by division rule under Section 58-1-203, in not less than two years, under the
41624 supervision of a marriage and family therapist supervisor who meets the requirements of
41625 Section 58-60-307, and obtained after completion of the education requirement in Subsection
41626 (1)(d);
41627 (f) document successful completion of not less than 1,000 hours of supervised training
41628 in mental health therapy obtained after completion of the education requirement described in
41629 Subsection (1)(d)(i) or (1)(d)(ii), which training may be included as part of the 4,000 hours of

41630 training described in Subsection (1)(e), and of which documented evidence demonstrates not
41631 less than 100 of the supervised hours were obtained during direct, personal, face-to-face
41632 supervision by a marriage and family therapist supervisor qualified under Section 58-60-307;
41633 and
41634 (g) pass the examination requirement established by division rule under Section
41635 58-1-203.
41636 (2) (a) All applicants for certification as a marriage and family therapist intern shall
41637 comply with the provisions of Subsections (1)(a), (b), (c), and (d).
41638 (b) An individual's certification as a marriage and family therapist intern is limited to
41639 the period of time necessary to complete clinical training as described in Subsections (1)(e) and
41640 (f) and extends not more than one year from the date the minimum requirement for training is
41641 completed, unless the individual presents satisfactory evidence to the division and the
41642 appropriate board that the individual is making reasonable progress toward passing of the
41643 qualifying examination for that profession or is otherwise on a course reasonably expected to
41644 lead to licensure, but the period of time under this Subsection (2)(b) may not exceed two years
41645 past the date the minimum supervised clinical training requirement has been completed.
41646 Section 916. Section **58-60-405** is amended to read:
41647 **58-60-405. Qualifications for licensure.**
41648 (1) All applicants for licensure as a professional counselor shall:
41649 (a) submit an application on a form provided by the division;
41650 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
41651 (c) be of good moral character;
41652 (d) produce certified transcripts from an accredited institution of higher education
41653 recognized by the division in collaboration with the board verifying satisfactory completion of:
41654 (i) an education and degree in an education program in counseling with a core
41655 curriculum defined by division rule under Section 58-1-203 preparing one to competently
41656 engage in mental health therapy; and
41657 (ii) an earned doctoral or master's degree resulting from that education program;
41658 (e) have completed a minimum of 4,000 hours of professional counselor training as
41659 defined by division rule under Section 58-1-203, in not less than two years, under the
41660 supervision of a professional counselor, psychiatrist, psychologist, clinical social worker,

41661 registered psychiatric mental health nurse specialist, or marriage and family therapist
41662 supervisor approved by the division in collaboration with the board, and obtained after
41663 completion of the education requirement in Subsection (1)(d);
41664 (f) document successful completion of not less than 1,000 hours of supervised training
41665 in mental health therapy obtained after completion of the education requirement in Subsection
41666 (1)(d), which training may be included as part of the 4,000 hours of training in Subsection
41667 (1)(e), and of which documented evidence demonstrates not less than 100 of the hours were
41668 obtained under the direct personal face to face supervision of a mental health therapist
41669 approved by the division in collaboration with the board; and
41670 (g) pass the examination requirement established by division rule under Section
41671 58-1-203.
41672 (2) (a) All applicants for certification as a professional counselor intern shall comply
41673 with the provisions of Subsections (1)(a), (b), (c), and (d).
41674 (b) An individual's certification as a professional counselor intern is limited to the
41675 period of time necessary to complete clinical training as described in Subsections (1)(e) and (f)
41676 and extends not more than one year from the date the minimum requirement for training is
41677 completed, unless the individual presents satisfactory evidence to the division and the
41678 appropriate board that the individual is making reasonable progress toward passing of the
41679 qualifying examination for that profession or is otherwise on a course reasonably expected to
41680 lead to licensure, but the period of time under this Subsection (2)(b) may not exceed two years
41681 past the date the minimum supervised clinical training requirement has been completed.
41682 Section 917. Section **58-60-506** is amended to read:
41683 **58-60-506. Qualifications for licensure on and after July 1, 2007.**
41684 (1) An applicant for licensure under this part on and after July 1, 2007, must meet the
41685 following qualifications:
41686 (a) submit an application in a form prescribed by the division;
41687 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
41688 (c) be of good moral character;
41689 (d) satisfy the requirements of Subsection (2), (3), (4), or (5) respectively; and
41690 (e) except for licensure as a certified substance abuse counselor intern, satisfy the
41691 examination requirement established by rule under Section 58-1-203.

41692 (2) An applicant for licensure as a licensed substance abuse counselor shall meet one of
41693 the following:
41694 (a) The applicant shall produce:
41695 (i) certified transcripts from an accredited institution of higher education meeting
41696 standards established by the division by rule in collaboration with the board verifying
41697 satisfactory completion of a baccalaureate or graduate degree in behavioral or social sciences;
41698 (ii) documentation of the applicant's completion of a substance abuse education
41699 program; and
41700 (iii) documentation of the applicant's completion of 2,000 hours of supervised
41701 experience in substance abuse treatment:
41702 (A) meeting standards established by the division in collaboration with the board; and
41703 (B) performed within a two-year period after the applicant's completion of the
41704 substance abuse education program described in Subsection (2)(a)(ii).
41705 (b) The applicant shall produce:
41706 (i) certified transcripts from an accredited institution meeting standards established by
41707 the division by rule in collaboration with the board verifying satisfactory completion of a
41708 baccalaureate or graduate degree or a high school diploma or equivalent;
41709 (ii) documentation of the applicant's completion of a substance abuse education
41710 program; and
41711 (iii) documentation of the applicant's completion of 4,000 hours of supervised
41712 experience in substance abuse treatment:
41713 (A) meeting standards established by the division in collaboration with the board; and
41714 (B) performed within a four-year period after the applicant's completion of the
41715 substance abuse education program described in Subsection (2)(b)(ii).
41716 (c) Before January 1, 2009, the applicant shall produce:
41717 (i) certified transcripts from an accredited institution of higher education meeting
41718 standards established by the division by rule in collaboration with the board verifying
41719 satisfactory completion of a baccalaureate or graduate degree in behavioral or social sciences;
41720 and
41721 (ii) documentation of the applicant's completion of 4,000 hours of supervised
41722 experience in substance abuse treatment:

41723 (A) meeting standards established by the division in collaboration with the board; and
41724 (B) performed within a four-year period.
41725 (d) Before January 1, 2009, the applicant shall produce:
41726 (i) certified transcripts from an accredited institution meeting standards established by
41727 the division by rule in collaboration with the board verifying satisfactory completion of a
41728 baccalaureate or graduate degree or a high school diploma or equivalent; and
41729 (ii) documentation of the applicant's completion of 6,000 hours of supervised
41730 experience in substance abuse treatment:
41731 (A) meeting standards established by the division in collaboration with the board; and
41732 (B) performed within a six-year period.
41733 (3) An applicant for licensure as a certified substance abuse counselor shall meet one
41734 of the following:
41735 (a) The applicant shall produce:
41736 (i) certified transcripts from an accredited institution of higher education meeting
41737 standards established by the division by rule in collaboration with the board verifying
41738 satisfactory completion of a baccalaureate or graduate degree in behavioral or social sciences;
41739 and
41740 (ii) documentation of the applicant's completion of a substance abuse education
41741 program.
41742 (b) The applicant shall produce:
41743 (i) certified transcripts from an accredited institution meeting standards established by
41744 the division by rule in collaboration with the board verifying satisfactory completion of a
41745 baccalaureate or graduate degree or a high school diploma or equivalent; and
41746 (ii) documentation of the applicant's completion of a substance abuse education
41747 program.
41748 (c) Before January 1, 2009, the applicant shall produce certified transcripts from an
41749 accredited institution of higher education meeting standards established by the division by rule
41750 in collaboration with the board verifying satisfactory completion of a baccalaureate or graduate
41751 degree in behavioral or social sciences.
41752 (d) Before January 1, 2009, the applicant shall produce certified transcripts from an
41753 accredited institution meeting standards established by the division by rule in collaboration

41754 with the board verifying satisfactory completion of a baccalaureate or graduate degree or a high
41755 school diploma or equivalent.
41756 (4) (a) An applicant for licensure as a certified substance abuse counselor intern shall
41757 meet the requirements for licensure as a certified substance abuse counselor under Subsection
41758 (3).
41759 (b) A certified substance abuse counselor intern license expires at the earlier of:
41760 (i) the licensee passing the examination required for licensure as a certified substance
41761 abuse counselor; or
41762 (ii) six months after the certified substance abuse counselor intern license is issued.
41763 (5) (a) An applicant for licensure as a certified substance abuse counselor extern shall
41764 meet the requirements of Subsection (2)(a)(iii) or (2)(b)(iii).
41765 (b) A certified substance abuse counselor extern license is valid for two years from the
41766 day on which it is issued or until January 1, 2010, whichever comes first.
41767 (c) A certified substance abuse counselor extern whose license expires before the
41768 licensee completes a substance abuse education program under Subsection (2)(a)(ii) or
41769 (2)(b)(ii) may not practice under this part until the licensee meets the requirements of
41770 Subsection (2) or (3).
41771 Section 918. Section **58-61-304** is amended to read:
41772 **58-61-304. Qualifications for licensure by examination or endorsement.**
41773 (1) An applicant for licensure as a psychologist based upon education, clinical training,
41774 and examination shall:
41775 (a) submit an application on a form provided by the division;
41776 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
41777 (c) be of good moral character;
41778 (d) produce certified transcripts of credit verifying satisfactory completion of a doctoral
41779 degree in psychology that includes specific core course work established by division rule under
41780 Section 58-1-203, from an institution of higher education whose doctoral program, at the time
41781 the applicant received the doctoral degree, met approval criteria established by division rule
41782 made in consultation with the board;
41783 (e) have completed a minimum of 4,000 hours of psychology training as defined by
41784 division rule under Section 58-1-203 in not less than two years and under the supervision of a

41785 psychologist supervisor approved by the division in collaboration with the board;
41786 (f) to be qualified to engage in mental health therapy, document successful completion
41787 of not less than 1,000 hours of supervised training in mental health therapy obtained after
41788 completion of a master's level of education in psychology, which training may be included as
41789 part of the 4,000 hours of training required in Subsection (1)(e), and for which documented
41790 evidence demonstrates not less than one hour of supervision for each 40 hours of supervised
41791 training was obtained under the direct personal face to face supervision of a psychologist
41792 approved by the division in collaboration with the board;
41793 (g) pass the examination requirement established by division rule under Section
41794 58-1-203; and
41795 (h) meet with the board, upon request for good cause, for the purpose of evaluating the
41796 applicant's qualifications for licensure.
41797 (2) An applicant for licensure as a psychologist by endorsement based upon licensure in
41798 another jurisdiction shall:
41799 (a) submit an application on a form provided by the division;
41800 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
41801 (c) be of good moral character and professional standing, and not have any disciplinary
41802 action pending or in effect against the applicant's psychologist license in any jurisdiction;
41803 (d) have passed the Utah Psychologist Law and Ethics Examination established by
41804 division rule;
41805 (e) provide satisfactory evidence the applicant is currently licensed in another state,
41806 district, or territory of the United States, or in any other jurisdiction approved by the division in
41807 collaboration with the board;
41808 (f) provide satisfactory evidence the applicant has actively practiced psychology in that
41809 jurisdiction for not less than 2,000 hours or one year, whichever is greater;
41810 (g) provide satisfactory evidence that:
41811 (i) the education, supervised experience, examination, and all other requirements for
41812 licensure in that jurisdiction at the time the applicant obtained licensure were substantially
41813 equivalent to the licensure requirements for a psychologist in Utah at the time the applicant
41814 obtained licensure in the other jurisdiction; or
41815 (ii) the applicant is:

41816 (A) a current holder of diplomate status in good standing from the American Board of
41817 Professional Psychology;
41818 (B) currently credentialed as a health service provider in psychology by the National
41819 Register of Health Service Providers in Psychology; or
41820 (C) currently holds a Certificate of Professional Qualification (CPQ) granted by the
41821 Association of State and Provincial Psychology Boards; and
41822 (h) meet with the board, upon request for good cause, for the purpose of evaluating the
41823 applicant's qualifications for licensure.
41824 (3) (a) An applicant for certification as a psychology resident shall comply with the
41825 provisions of Subsections (1)(a), (b), (c), (d), and (h).
41826 (b) (i) An individual's certification as a psychology resident is limited to the period of
41827 time necessary to complete clinical training as described in Subsections (1)(e) and (f) and
41828 extends not more than one year from the date the minimum requirement for training is
41829 completed, unless the individual presents satisfactory evidence to the division and the
41830 Psychologist Licensing Board that the individual is making reasonable progress toward passing
41831 the qualifying examination or is otherwise on a course reasonably expected to lead to licensure
41832 as a psychologist.
41833 (ii) The period of time under Subsection (3)(b)(i) may not exceed two years past the
41834 date the minimum supervised clinical training requirement has been completed.
41835 Section 919. Section **58-63-302** is amended to read:
41836 **58-63-302. Qualifications for licensure.**
41837 (1) Each applicant for licensure as a contract security company shall:
41838 (a) submit an application in a form prescribed by the division;
41839 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
41840 (c) have a qualifying agent who is a resident of the state and an officer, director,
41841 partner, proprietor, or manager of the applicant who:
41842 (i) passes an examination component established by rule by the division in
41843 collaboration with the board; and
41844 (ii) (A) demonstrates 6,000 hours of experience as a manager, supervisor, or
41845 administrator of a contract security company; or
41846 (B) demonstrates 6,000 hours of supervisory experience acceptable to the division in

41847 collaboration with the board with a federal, United States military, state, county, or municipal
41848 law enforcement agency;
41849 (d) if a corporation, provide:
41850 (i) the names, addresses, dates of birth, and Social Security numbers of all corporate
41851 officers, directors, and those responsible management personnel employed within the state or
41852 having direct responsibility for managing operations of the applicant within the state; and
41853 (ii) the names, addresses, dates of birth, and Social Security numbers, of all
41854 shareholders owning 5% or more of the outstanding shares of the corporation, except this may
41855 not be required if the stock is publicly listed and traded;
41856 (e) if a limited liability company, provide:
41857 (i) the names, addresses, dates of birth, and Social Security numbers of all company
41858 officers, and those responsible management personnel employed within the state or having
41859 direct responsibility for managing operations of the applicant within the state; and
41860 (ii) the names, addresses, dates of birth, and Social Security numbers of all individuals
41861 owning 5% or more of the equity of the company;
41862 (f) if a partnership, the names, addresses, dates of birth, and Social Security numbers of
41863 all general partners, and those responsible management personnel employed within the state or
41864 having direct responsibility for managing operations of the applicant within the state;
41865 (g) if a proprietorship, the names, addresses, dates of birth, and Social Security
41866 numbers of the proprietor, and those responsible management personnel employed within the
41867 state or having direct responsibility for managing operations of the applicant within the state;
41868 (h) be of good moral character in that officers, directors, shareholders described in
41869 Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel have not
41870 been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime that
41871 when considered with the duties and responsibilities of a contract security company is
41872 considered by the division and the board to indicate that the best interests of the public are not
41873 served by granting the applicant a license;
41874 (i) document that none of the applicant's officers, directors, shareholders described in
41875 Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel:
41876 (i) have been declared by any court of competent jurisdiction incompetent by reason of
41877 mental defect or disease and not been restored; and

41878 (ii) currently suffer from habitual drunkenness or from drug addiction or dependence;
41879 (j) file and maintain with the division evidence of:
41880 (i) comprehensive general liability insurance in form and in amounts to be established
41881 by rule by the division in collaboration with the board;
41882 (ii) workers' compensation insurance that covers employees of the applicant in
41883 accordance with applicable Utah law;
41884 (iii) registration with the Division of Corporations and Commercial Code; and
41885 (iv) registration as required by applicable law with the:
41886 (A) Unemployment Insurance Division in the Department of Workforce Services, for
41887 purposes of Title 35A, Chapter 4, Employment Security Act;
41888 (B) State Tax Commission; and
41889 (C) Internal Revenue Service; and
41890 (k) meet with the division and board if requested by the division or board.
41891 (2) Each applicant for licensure as an armed private security officer shall:
41892 (a) submit an application in a form prescribed by the division;
41893 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
41894 (c) be of good moral character in that the applicant has not been convicted of a felony,
41895 a misdemeanor involving moral turpitude, or any other crime that when considered with the
41896 duties and responsibilities of an armed private security officer is considered by the division and
41897 the board to indicate that the best interests of the public are not served by granting the applicant
41898 a license;
41899 (d) not have been declared by any court of competent jurisdiction incompetent by
41900 reason of mental defect or disease and not been restored;
41901 (e) not be currently suffering from habitual drunkenness or from drug addiction or
41902 dependence;
41903 (f) successfully complete basic education and training requirements established by rule
41904 by the division in collaboration with the board;
41905 (g) successfully complete firearms training requirements established by rule by the
41906 division in collaboration with the board;
41907 (h) pass the examination requirement established by rule by the division in
41908 collaboration with the board; and

41909 (i) meet with the division and board if requested by the division or the board.
41910 (3) Each applicant for licensure as an unarmed private security officer shall:
41911 (a) submit an application in a form prescribed by the division;
41912 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
41913 (c) be of good moral character in that the applicant has not been convicted of a felony,
41914 a misdemeanor involving moral turpitude, or any other crime that when considered with the
41915 duties and responsibilities of an unarmed private security officer is considered by the division
41916 and the board to indicate that the best interests of the public are not served by granting the
41917 applicant a license;
41918 (d) not have been declared by any court of competent jurisdiction incompetent by
41919 reason of mental defect or disease and not been restored;
41920 (e) not be currently suffering from habitual drunkenness or from drug addiction or
41921 dependence;
41922 (f) successfully complete basic education and training requirements established by rule
41923 by the division in collaboration with the board;
41924 (g) pass the examination requirement established by rule by the division in
41925 collaboration with the board; and
41926 (h) meet with the division and board if requested by the division or board.
41927 (4) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
41928 Administrative Rulemaking Act, the division may make rules establishing when Federal
41929 Bureau of Investigation records shall be checked for applicants.
41930 (5) To determine if an applicant meets the qualifications of Subsections (1)(h), (2)(c),
41931 and (3)(c), the division shall provide an appropriate number of copies of fingerprint cards to the
41932 Department of Public Safety with the division's request to:
41933 (a) conduct a search of records of the Department of Public Safety for criminal history
41934 information relating to each applicant for licensure under this chapter and each applicant's
41935 officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and
41936 responsible management personnel; and
41937 (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant
41938 requiring a check of records of the F.B.I. for criminal history information under this section.
41939 (6) The Department of Public Safety shall send to the division:

41940 (a) a written record of criminal history, or certification of no criminal history record, as
41941 contained in the records of the Department of Public Safety in a timely manner after receipt of
41942 a fingerprint card from the division and a request for review of Department of Public Safety
41943 records; and
41944 (b) the results of the F.B.I. review concerning an applicant in a timely manner after
41945 receipt of information from the F.B.I.
41946 (7) (a) The division shall charge each applicant a fee, in accordance with Section
41947 [~~63-38-3.2~~] 63J-1-303, equal to the cost of performing the records reviews under this section.
41948 (b) The division shall pay the Department of Public Safety the costs of all records
41949 reviews, and the Department of Public Safety shall pay the F.B.I. the costs of records reviews
41950 under this chapter.
41951 (8) Information obtained by the division from the reviews of criminal history records of
41952 the Department of Public Safety and the F.B.I. shall be used or disseminated by the division
41953 only for the purpose of determining if an applicant for licensure under this chapter is qualified
41954 for licensure.
41955 Section 920. Section **58-63-304** is amended to read:
41956 **58-63-304. Exemptions from licensure.**
41957 (1) In addition to the exemptions from licensure in Section 58-1-307, the following
41958 individuals may engage in acts regulated under this chapter without being licensed under this
41959 chapter:
41960 (a) a peace officer employed by or licensed as a contract security company; and
41961 (b) a person employed by a contract security company for the sole purpose of operating
41962 or staffing security apparatus, including a magnetometer, magnetometer wand, x-ray viewing
41963 device, or other device approved by rule of the division.
41964 (2) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
41965 Administrative Rulemaking Act, the division may make rules approving security apparatus
41966 under Subsection (1)(b).
41967 Section 921. Section **58-63-503** is amended to read:
41968 **58-63-503. Penalties.**
41969 (1) Unless Subsection (2) applies, an individual who commits an act of unlawful
41970 conduct under Section 58-63-501 or who fails to comply with a citation issued under this

41971 section after it becomes final is guilty of a class A misdemeanor.
41972 (2) The division may immediately suspend a license issued under this chapter of a
41973 person who is given a citation for violating Subsection 58-63-501(1) or (3).
41974 (3) (a) If upon inspection or investigation, the division determines that a person has
41975 violated Subsection 58-63-501(1) or (3) or any rule made or order issued under those
41976 subsections, and that disciplinary action is warranted, the director or the director's designee
41977 within the division shall promptly issue a citation to the person and:
41978 (i) attempt to negotiate a stipulated settlement; or
41979 (ii) notify the person to appear for an adjudicative proceeding conducted under [~~Title~~
41980 ~~63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
41981 (b) (i) The division may fine a person who is in violation of Subsection 58-63-501(1)
41982 or (3), as evidenced by an uncontested citation, a stipulated settlement, or a finding of a
41983 violation in an adjudicative proceeding held under Subsection (3)(a)(ii), or order the person to
41984 cease and desist from the violation, or do both.
41985 (ii) Except for a cease and desist order, the division may not impose the licensure
41986 sanctions listed in Section 58-63-401 through the issuance of a citation under this section.
41987 (c) The citation shall:
41988 (i) be in writing and describe the nature of the violation, including a reference to the
41989 statute, rule, or order alleged to have been violated;
41990 (ii) state the recipient must notify the division in writing within 20 calendar days of
41991 issuance of the citation if the recipient wants to contest the citation at the adjudicative
41992 proceeding referred to in Subsection (3)(a)(ii); and
41993 (iii) explain the consequences of failure to timely contest the citation or to make
41994 payment of any fines assessed under the citation with the time specified in the citation.
41995 (d) (i) A citation issued under this section, or a copy of the citation, may be served
41996 upon any person upon whom a summons may be served under the Utah Rules of Civil
41997 Procedure.
41998 (ii) The individual may be served personally or service may be made upon the
41999 individual's agent, and in either case the service can be made by a division investigator, by a
42000 person designated by the director, or by mail.
42001 (e) (i) If within 20 days from the service of a citation the person to whom the citation

42002 was issued fails to request a hearing to contest the citation, the citation becomes the final order
42003 of the division and is not subject to further agency review.
42004 (ii) The division may grant an extension of the 20-day period for cause.
42005 (f) The division may refuse to issue or renew, suspend, revoke, or place on probation
42006 the license of a licensee who fails to comply with a citation after it becomes final.
42007 (g) The division may not issue a citation for an alleged violation under this section
42008 after the expiration of six months following the occurrence of the alleged violation.
42009 (h) The director or the director's designee may assess fines under this section as
42010 follows:
42011 (i) for a first offense under Subsection (3)(a), a fine of up to $1,000;
42012 (ii) for a second offense under Subsection (3)(a), a fine of up to $2,000; and
42013 (iii) for any subsequent offense under Subsection (3)(a), a fine of up to $2,000 for each
42014 day of continued violation.
42015 (i) (i) For purposes of issuing a final order under this section and assessing a fine under
42016 Subsection (3)(h), an offense is a second or subsequent offense if:
42017 (A) the division previously issued a final order determining that a person committed a
42018 first or second offense in violation of Subsection 58-63-501(1) or (3); or
42019 (B) (I) the division initiated an action for a first or second offense;
42020 (II) no final order has been issued by the division in an action initiated under
42021 Subsection (3)(i)(i)(B)(I);
42022 (III) the division determines during an investigation that occurred after the initiation of
42023 the action under Subsection (3)(i)(i)(B)(I) that the person committed a second or subsequent
42024 violation of Subsection 58-63-501(1) or (3); and
42025 (IV) after determining that the person committed a second or subsequent offense under
42026 Subsection (3)(i)(i)(B)(III), the division issues a final order on the action initiated under
42027 Subsection (3)(i)(i)(B)(I).
42028 (ii) In issuing a final order for a second or subsequent offense under Subsection
42029 (3)(i)(i), the division shall comply with the requirements of this section.
42030 (4) (a) A fine imposed by the director under Subsection (3)(h) shall be deposited in the
42031 General Fund as dedicated credits to be used by the division for the purposes listed in Section
42032 58-63-103.

42033 (b) The director may collect a Subsection (3)(h) fine which is not paid by:
42034 (i) referring the matter to the Office of State Debt Collection or a collection agency; or
42035 (ii) bringing an action in the district court of the county in which the person resides or
42036 in the county where the office of the director is located.
42037 (c) The director may seek legal assistance from the attorney general or the county or
42038 district attorney of the district in which the action is brought to collect the fine.
42039 (d) The court shall award reasonable attorney's fees and costs to the division for
42040 successful actions under Subsection (4)(b)(ii).
42041 Section 922. Section **58-64-302** is amended to read:
42042 **58-64-302. Qualifications for licensure.**
42043 (1) Each applicant for licensure as a deception detection examiner shall:
42044 (a) submit an application in a form prescribed by the division;
42045 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
42046 (c) be of good moral character in that the applicant has not been convicted of a felony,
42047 a misdemeanor involving moral turpitude, or any other crime which when considered with the
42048 duties and responsibilities of a deception detection examiner is considered by the division and
42049 the board to indicate that the best interests of the public will not be served by granting the
42050 applicant a license;
42051 (d) not have been declared by any court of competent jurisdiction incompetent by
42052 reason of mental defect or disease and not been restored;
42053 (e) may not be currently suffering from habitual drunkenness or from drug addiction or
42054 dependence;
42055 (f) have completed one of the following:
42056 (i) have earned a bachelor's degree from a four year university or college meeting
42057 standards established by the division by rule in collaboration with the board;
42058 (ii) have completed not less than 8,000 hours of investigation experience approved by
42059 the division in collaboration with the board; or
42060 (iii) have completed a combination of university or college education and investigation
42061 experience, as defined by rule by the division in collaboration with the board as being
42062 equivalent to the requirements under Subsection (1)(f)(i) or (1)(f)(ii);
42063 (g) have successfully completed a training program in detection deception meeting

42064 criteria established by rule by the division in collaboration with the board; and
42065 (h) have performed satisfactorily as a licensed deception detection intern for a period of
42066 not less than one year and shall have satisfactorily conducted not less than 100 deception
42067 detection examinations under the direct supervision of a licensed deception detection examiner.
42068 (2) Each applicant for licensure as a deception detection intern shall:
42069 (a) submit an application in a form prescribed by the division;
42070 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
42071 (c) be of good moral character in that the applicant has not been convicted of a felony,
42072 a misdemeanor involving moral turpitude, or any other crime which when considered with the
42073 duties and responsibilities of a deception detection intern is considered by the division and the
42074 board to indicate that the best interests of the public will not be served by granting the applicant
42075 a license;
42076 (d) not have been declared by any court of competent jurisdiction incompetent by
42077 reason of mental defect or disease and not been restored;
42078 (e) may not be currently suffering from habitual drunkenness or from drug addiction or
42079 dependence;
42080 (f) have completed one of the following:
42081 (i) have earned a bachelor's degree from a four year university or college meeting
42082 standards established by the division by rule in collaboration with the board;
42083 (ii) have completed not less than 8,000 hours of investigation experience approved by
42084 the division in collaboration with the board; or
42085 (iii) have completed a combination of university or college education and investigation
42086 experience, as defined by rule by the division in collaboration with the board as being
42087 equivalent to the requirements under Subsection (2)(f)(i) or (2)(f)(ii);
42088 (g) have successfully completed a training program in detection deception meeting
42089 criteria established by rule by the division in collaboration with the board; and
42090 (h) provide the division with an intern supervision agreement in a form prescribed by
42091 the division under which:
42092 (i) a licensed deception detection examiner agrees to directly supervise the intern; and
42093 (ii) the applicant agrees to be directly supervised by that licensed deception detection
42094 examiner.

42095 Section 923. Section **58-67-102** is amended to read:
42096 **58-67-102. Definitions.**
42097 In addition to the definitions in Section 58-1-102, as used in this chapter:
42098 (1) "ACGME" means the Accreditation Council for Graduate Medical Education of the
42099 American Medical Association.
42100 (2) "Administrative penalty" means a monetary fine imposed by the division for acts or
42101 omissions determined to constitute unprofessional or unlawful conduct, as a result of an
42102 adjudicative proceeding conducted in accordance with [~~Title 63, Chapter 46b~~] Title 63G,
42103 Chapter 4, Administrative Procedures Act.
42104 (3) "Board" means the Physicians Licensing Board created in Section 58-67-201.
42105 (4) "Diagnose" means:
42106 (a) to examine in any manner another person, parts of a person's body, substances,
42107 fluids, or materials excreted, taken, or removed from a person's body, or produced by a person's
42108 body, to determine the source, nature, kind, or extent of a disease or other physical or mental
42109 condition;
42110 (b) to attempt to conduct an examination or determination described under Subsection
42111 (4)(a);
42112 (c) to hold oneself out as making or to represent that one is making an examination or
42113 determination as described in Subsection (4)(a); or
42114 (d) to make an examination or determination as described in Subsection (4)(a) upon or
42115 from information supplied directly or indirectly by another person, whether or not in the
42116 presence of the person making or attempting the diagnosis or examination.
42117 (5) "LCME" means the Liaison Committee on Medical Education of the American
42118 Medical Association.
42119 (6) "Medical assistant" means an unlicensed individual working under the direct and
42120 immediate supervision of a licensed physician and surgeon and engaged in specific tasks
42121 assigned by the licensed physician and surgeon in accordance with the standards and ethics of
42122 the profession.
42123 (7) "Physician" means both physicians and surgeons licensed under Section 58-67-301,
42124 Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under Section
42125 58-68-301, Utah Osteopathic Medical Practice Act.

42126 (8) "Practice of medicine" means:
42127 (a) to diagnose, treat, correct, administer anesthesia, or prescribe for any human
42128 disease, ailment, injury, infirmity, deformity, pain or other condition, physical or mental, real
42129 or imaginary, or to attempt to do so, by any means or instrumentality, and by an individual in
42130 Utah or outside the state upon or for any human within the state, except that conduct described
42131 in this Subsection (8)(a) that is performed by a person legally and in accordance with a license
42132 issued under another chapter of this title does not constitute the practice of medicine;
42133 (b) when a person not licensed as a physician directs a licensee under this chapter to
42134 withhold or alter the health care services that the licensee has ordered, but practice of medicine
42135 does not include any conduct under Subsection 58-67-501(2);
42136 (c) to maintain an office or place of business for the purpose of doing any of the acts
42137 described in Subsection (8)(a) whether or not for compensation; or
42138 (d) to use, in the conduct of any occupation or profession pertaining to the diagnosis or
42139 treatment of human diseases or conditions in any printed material, stationery, letterhead,
42140 envelopes, signs, or advertisements, the designation "doctor," "doctor of medicine,"
42141 "physician," "surgeon," "physician and surgeon," "Dr.," "M.D.," or any combination of these
42142 designations in any manner which might cause a reasonable person to believe the individual
42143 using the designation is a licensed physician and surgeon, and if the party using the designation
42144 is not a licensed physician and surgeon, the designation must additionally contain the
42145 description of the branch of the healing arts for which the person has a license.
42146 (9) "Prescription drug or device" means:
42147 (a) a drug or device which, under federal law, is required to be labeled with either of
42148 the following statements or their equivalent:
42149 (i) "CAUTION: Federal law prohibits dispensing without prescription"; or
42150 (ii) "CAUTION: Federal law restricts this drug to use by or on the order of a licensed
42151 veterinarian"; or
42152 (b) a drug or device that is required by any applicable federal or state law or rule to be
42153 dispensed on prescription only or is restricted to use by practitioners only.
42154 (10) "SPEX" means the Special Purpose Examination of the Federation of State
42155 Medical Boards.
42156 (11) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-67-501.

42157 (12) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-67-502, and
42158 as may be further defined by division rule.
42159 Section 924. Section **58-67-302** is amended to read:
42160 **58-67-302. Qualifications for licensure.**
42161 (1) An applicant for licensure as a physician and surgeon, except as set forth in
42162 Subsection (2), shall:
42163 (a) submit an application in a form prescribed by the division, which may include:
42164 (i) submissions by the applicant of information maintained by practitioner data banks,
42165 as designated by division rule, with respect to the applicant; and
42166 (ii) a record of professional liability claims made against the applicant and settlements
42167 paid by or on behalf of the applicant;
42168 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
42169 (c) be of good moral character;
42170 (d) provide satisfactory documentation of having successfully completed a program of
42171 professional education preparing an individual as a physician and surgeon, as evidenced by
42172 having received an earned degree of doctor of medicine from:
42173 (i) an LCME accredited medical school or college; or
42174 (ii) a medical school or college located outside of the United States or its jurisdictions
42175 which at the time of the applicant's graduation, met criteria for LCME accreditation;
42176 (e) hold a current certification by the Educational Commission for Foreign Medical
42177 Graduates or any successor organization approved by the division in collaboration with the
42178 board, if the applicant graduated from a medical school or college located outside of the United
42179 States or its jurisdictions;
42180 (f) satisfy the division and board that the applicant:
42181 (i) has successfully completed 24 months of progressive resident training in a program
42182 approved by the ACGME, the Royal College of Physicians and Surgeons, the College of
42183 Family Physicians of Canada, or any similar body in the United States or Canada approved by
42184 the division in collaboration with the board; or
42185 (ii) (A) has successfully completed 12 months of resident training in an ACGME
42186 approved program after receiving a degree of doctor of medicine as required under Subsection
42187 (1)(d);

42188 (B) has been accepted in and is successfully participating in progressive resident
42189 training in an ACGME approved program within Utah, in the applicant's second or third year
42190 of postgraduate training; and
42191 (C) has agreed to surrender to the division [~~his~~] the applicant's license as a physician
42192 and surgeon without any proceedings under [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
42193 Administrative Procedures Act, and has agreed [~~his~~] the applicant's license as a physician and
42194 surgeon will be automatically revoked by the division if the applicant fails to continue in good
42195 standing in an ACGME approved progressive resident training program within the state;
42196 (g) pass the licensing examination sequence required by division rule made in
42197 collaboration with the board;
42198 (h) be able to read, write, speak, understand, and be understood in the English language
42199 and demonstrate proficiency to the satisfaction of the board if requested by the board;
42200 (i) meet with the board and representatives of the division, if requested, for the purpose
42201 of evaluating the applicant's qualifications for licensure;
42202 (j) designate:
42203 (i) a contact person for access to medical records in accordance with the federal Health
42204 Insurance Portability and Accountability Act; and
42205 (ii) an alternate contact person for access to medical records, in the event the original
42206 contact person is unable or unwilling to serve as the contact person for access to medical
42207 records; and
42208 (k) establish a method for notifying patients of the identity and location of the contact
42209 person and alternate contact person, if the applicant will practice in a location with no other
42210 persons licensed under this chapter.
42211 (2) An applicant for licensure as a physician and surgeon by endorsement shall:
42212 (a) be currently licensed with a full unrestricted license in good standing in any state,
42213 district, or territory of the United States;
42214 (b) have been actively engaged in the legal practice of medicine in any state, district, or
42215 territory of the United States for not less than 6,000 hours during the five years immediately
42216 preceding the date of application for licensure in Utah;
42217 (c) not have any action pending against the applicant's license;
42218 (d) not have a license that was suspended or revoked in any state, unless the license

42219 was subsequently reinstated as a full unrestricted license in good standing; and
42220 (e) produce satisfactory evidence of the applicant's qualifications, identity, and good
42221 standing to the satisfaction of the division in collaboration with the board.
42222 (3) An applicant for licensure by endorsement may engage in the practice of medicine
42223 under a temporary license while the applicant's application for licensure is being processed by
42224 the division, provided:
42225 (a) the applicant submits a complete application required for temporary licensure to the
42226 division;
42227 (b) the applicant submits a written document to the division from:
42228 (i) a health care facility licensed under Title 26, Chapter 21, Health Care Facility
42229 Licensing and Inspection Act, stating that the applicant is practicing under the invitation of the
42230 health care facility; or
42231 (ii) two individuals licensed under this chapter, whose license is in good standing and
42232 who practice in the same clinical location, both stating that:
42233 (A) the applicant is practicing under the invitation of the individual; and
42234 (B) the applicant will practice at the same clinical location as the individual;
42235 (c) the applicant submits a signed certification to the division that the applicant meets
42236 the requirements of Subsection (2);
42237 (d) the applicant does not engage in the practice of medicine until the division has
42238 issued a temporary license;
42239 (e) the temporary license is only issued for and may not be extended beyond the
42240 duration of one year from issuance; and
42241 (f) the temporary license expires immediately and prior to the expiration of one year
42242 from issuance, upon notification from the division that the applicant's application for licensure
42243 by endorsement is denied.
42244 (4) The division shall issue a temporary license under Subsection (3) within 15
42245 business days after the applicant satisfies the requirements of Subsection (3).
42246 Section 925. Section **58-67-402** is amended to read:
42247 **58-67-402. Authority to assess penalty.**
42248 (1) After proceeding pursuant to [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
42249 Administrative Procedures Act, and Title 58, Chapter 1, Division of Occupational and

42250 Professional Licensing Act, the division may impose administrative penalties of up to $10,000
42251 for acts of unprofessional conduct under this chapter.
42252 (2) Assessment of a penalty under this section does not affect any other action the
42253 division is authorized to take regarding a license issued under this chapter.
42254 Section 926. Section **58-67-601** is amended to read:
42255 **58-67-601. Mentally incompetent or incapacitated physician.**
42256 (1) As used in this section:
42257 (a) "Incapacitated person" has the same definition as in Section 75-1-201.
42258 (b) "Mentally ill" has the same definition as in Section 62A-15-602.
42259 (2) If a court of competent jurisdiction determines a physician is an incapacitated
42260 person or that [~~he~~] the physician is mentally ill and unable to safely engage in the practice of
42261 medicine, the director shall immediately suspend the license of the physician upon the entry of
42262 the judgment of the court, without further proceedings under [~~Title 63, Chapter 46b~~] Title 63G,
42263 Chapter 4, Administrative Procedures Act, regardless of whether an appeal from the court's
42264 ruling is pending. The director shall promptly notify the physician, in writing, of the
42265 suspension.
42266 (3) (a) If the division and a majority of the board find reasonable cause to believe a
42267 physician, who is not determined judicially to be an incapacitated person or to be mentally ill,
42268 is incapable of practicing medicine with reasonable skill regarding the safety of patients,
42269 because of illness, excessive use of drugs or alcohol, or as a result of any mental or physical
42270 condition, the board shall recommend that the director file a petition with the division, and
42271 cause the petition to be served upon the physician with a notice of hearing on the sole issue of
42272 the capacity of the physician to competently and safely engage in the practice of medicine.
42273 (b) The hearing shall be conducted under Section 58-1-109, and [~~Title 63, Chapter 46b~~]
42274 Title 63G, Chapter 4, Administrative Procedures Act, except as provided in Subsection (4).
42275 (4) (a) Every physician who accepts the privilege of being licensed under this chapter
42276 gives consent to:
42277 (i) submitting at [~~his~~] the physician's own expense to an immediate mental or physical
42278 examination when directed in writing by the division and a majority of the board to do so; and
42279 (ii) the admissibility of the reports of the examining physician's testimony or
42280 examination, and waives all objections on the ground the reports constitute a privileged

42281 communication.
42282 (b) The examination may be ordered by the division, with the consent of a majority of
42283 the board, only upon a finding of reasonable cause to believe:
42284 (i) the physician is mentally ill or incapacitated or otherwise unable to practice
42285 medicine with reasonable skill and safety; and
42286 (ii) immediate action by the division and the board is necessary to prevent harm to the
42287 physician's patients or the general public.
42288 (c) (i) Failure of a physician to submit to the examination ordered under this section is
42289 a ground for the division's immediate suspension of the physician's license by written order of
42290 the director.
42291 (ii) The division may enter the order of suspension without further compliance with
42292 [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, unless the
42293 division finds the failure to submit to the examination ordered under this section was due to
42294 circumstances beyond the control of the physician and was not related directly to the illness or
42295 incapacity of the physician.
42296 (5) (a) A physician whose license is suspended under Subsection (2) or (3) has the right
42297 to a hearing to appeal the suspension within ten days after the license is suspended.
42298 (b) The hearing held under this subsection shall be conducted in accordance with
42299 Sections 58-1-108 and 58-1-109 for the sole purpose of determining if sufficient basis exists
42300 for the continuance of the order of suspension in order to prevent harm to the physician's
42301 patients or the general public.
42302 (6) A physician whose license is revoked, suspended, or in any way restricted under
42303 this section may request the division and the board to consider, at reasonable intervals,
42304 evidence presented by the physician, under procedures established by division rule, regarding
42305 any change in the physician's condition, to determine whether:
42306 (a) [~~he~~] the physician is or is not able to safely and competently engage in the practice
42307 of medicine; and
42308 (b) [~~he~~] the physician is qualified to have [~~his~~] the physician's license to practice under
42309 this chapter restored completely or in part.
42310 Section 927. Section **58-68-102** is amended to read:
42311 **58-68-102. Definitions.**

42312 In addition to the definitions in Section 58-1-102, as used in this chapter:
42313 (1) "ACGME" means the Accreditation Council for Graduate Medical Education of the
42314 American Medical Association.
42315 (2) "Administrative penalty" means a monetary fine imposed by the division for acts or
42316 omissions determined to constitute unprofessional or unlawful conduct, as a result of an
42317 adjudicative proceeding conducted in accordance with [~~Title 63, Chapter 46b~~] Title 63G,
42318 Chapter 4, Administrative Procedures Act.
42319 (3) "AOA" means the American Osteopathic Association.
42320 (4) "Board" means the Osteopathic Physicians Licensing Board created in Section
42321 58-68-201.
42322 (5) "Diagnose" means:
42323 (a) to examine in any manner another person, parts of a person's body, substances,
42324 fluids, or materials excreted, taken, or removed from a person's body, or produced by a person's
42325 body, to determine the source, nature, kind, or extent of a disease or other physical or mental
42326 condition;
42327 (b) to attempt to conduct an examination or determination described under Subsection
42328 (5)(a);
42329 (c) to hold oneself out as making or to represent that one is making an examination or
42330 determination as described in Subsection (5)(a); or
42331 (d) to make an examination or determination as described in Subsection (5)(a) upon or
42332 from information supplied directly or indirectly by another person, whether or not in the
42333 presence of the person making or attempting the diagnosis or examination.
42334 (6) "Medical assistant" means an unlicensed individual working under the direct and
42335 immediate supervision of a licensed osteopathic physician and surgeon and engaged in specific
42336 tasks assigned by the licensed osteopathic physician and surgeon in accordance with the
42337 standards and ethics of the profession.
42338 (7) "Physician" means both physicians and surgeons licensed under Section 58-67-301,
42339 Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under Section
42340 58-68-301, Utah Osteopathic Medical Practice Act.
42341 (8) "Practice of osteopathic medicine" means:
42342 (a) to diagnose, treat, correct, administer anesthesia, or prescribe for any human

42343 disease, ailment, injury, infirmity, deformity, pain, or other condition, physical or mental, real
42344 or imaginary, or to attempt to do so, by any means or instrumentality, which in whole or in part
42345 is based upon emphasis of the importance of the musculoskeletal system and manipulative
42346 therapy in the maintenance and restoration of health, by an individual in Utah or outside of the
42347 state upon or for any human within the state, except that conduct described in this Subsection
42348 (8)(a) that is performed by a person legally and in accordance with a license issued under
42349 another chapter of this title does not constitute the practice of medicine;
42350 (b) when a person not licensed as a physician directs a licensee under this chapter to
42351 withhold or alter the health care services that the licensee has ordered, but practice of medicine
42352 does not include any conduct under Subsection 58-68-501(2);
42353 (c) to maintain an office or place of business for the purpose of doing any of the acts
42354 described in Subsection (8)(a) whether or not for compensation; or
42355 (d) to use, in the conduct of any occupation or profession pertaining to the diagnosis or
42356 treatment of human diseases or conditions, in any printed material, stationery, letterhead,
42357 envelopes, signs, or advertisements, the designation "doctor," "doctor of osteopathic medicine,"
42358 "osteopathic physician," "osteopathic surgeon," "osteopathic physician and surgeon," "Dr.,"
42359 "D.O.," or any combination of these designations in any manner which might cause a
42360 reasonable person to believe the individual using the designation is a licensed osteopathic
42361 physician, and if the party using the designation is not a licensed osteopathic physician, the
42362 designation must additionally contain the description of the branch of the healing arts for which
42363 the person has a license.
42364 (9) "Prescription drug or device" means:
42365 (a) a drug or device which, under federal law, is required to be labeled with either of
42366 the following statements or their equivalent:
42367 (i) "CAUTION: Federal law prohibits dispensing without prescription"; or
42368 (ii) "CAUTION: Federal law restricts this drug to use by or on the order of a licensed
42369 veterinarian"; or
42370 (b) a drug or device that is required by any applicable federal or state law or rule to be
42371 dispensed on prescription only or is restricted to use by practitioners only.
42372 (10) "SPEX" means the Special Purpose Examination of the Federation of State
42373 Medical Boards.

42374 (11) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-68-501.
42375 (12) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-68-502 and as
42376 may be further defined by division rule.
42377 Section 928. Section **58-68-302** is amended to read:
42378 **58-68-302. Qualifications for licensure.**
42379 (1) An applicant for licensure as an osteopathic physician and surgeon, except as set
42380 forth in Subsection (2) or (3), shall:
42381 (a) submit an application in a form prescribed by the division, which may include:
42382 (i) submissions by the applicant of information maintained by practitioner data banks,
42383 as designated by division rule, with respect to the applicant; and
42384 (ii) a record of professional liability claims made against the applicant and settlements
42385 paid by or on behalf of the applicant;
42386 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
42387 (c) be of good moral character;
42388 (d) provide satisfactory documentation of having successfully completed a program of
42389 professional education preparing an individual as an osteopathic physician and surgeon, as
42390 evidenced by having received an earned degree of doctor of osteopathic medicine from:
42391 (i) an AOA approved medical school or college; or
42392 (ii) an osteopathic medical school or college located outside of the United States or its
42393 jurisdictions which at the time of the applicant's graduation, met criteria for accreditation by the
42394 AOA;
42395 (e) hold a current certification by the Educational Commission for Foreign Medical
42396 Graduates or any successor organization approved by the division in collaboration with the
42397 board, if the applicant graduated from a medical school or college located outside of the United
42398 States or its jurisdictions;
42399 (f) satisfy the division and board that the applicant:
42400 (i) has successfully completed 24 months of progressive resident training in an
42401 ACGME or AOA approved program after receiving a degree of doctor of osteopathic medicine
42402 required under Subsection (1)(d); or
42403 (ii) (A) has successfully completed 12 months of resident training in an ACGME or
42404 AOA approved program after receiving a degree of doctor of osteopathic medicine as required

42405 under Subsection (1)(d);
42406 (B) has been accepted in and is successfully participating in progressive resident
42407 training in an ACGME or AOA approved program within Utah, in the applicant's second or
42408 third year of postgraduate training; and
42409 (C) has agreed to surrender to the division [~~his~~] the applicant's license as an osteopathic
42410 physician and surgeon without any proceedings under [~~Title 63, Chapter 46b~~] Title 63G,
42411 Chapter 4, Administrative Procedures Act, and has agreed [~~his~~] the applicant's license as an
42412 osteopathic physician and surgeon will be automatically revoked by the division if the applicant
42413 fails to continue in good standing in an ACGME or AOA approved progressive resident
42414 training program within the state;
42415 (g) pass the licensing examination sequence required by division rule, as made in
42416 collaboration with the board;
42417 (h) be able to read, write, speak, understand, and be understood in the English language
42418 and demonstrate proficiency to the satisfaction of the board, if requested by the board;
42419 (i) meet with the board and representatives of the division, if requested for the purpose
42420 of evaluating the applicant's qualifications for licensure;
42421 (j) designate:
42422 (i) a contact person for access to medical records in accordance with the federal Health
42423 Insurance Portability and Accountability Act; and
42424 (ii) an alternate contact person for access to medical records, in the event the original
42425 contact person is unable or unwilling to serve as the contact person; and
42426 (k) establish a method for notifying patients of the identity and location of the contact
42427 person and alternate contact person, if the applicant will practice in a location with no other
42428 persons licensed under this chapter.
42429 (2) An applicant for licensure as an osteopathic physician and surgeon qualifying under
42430 the endorsement provision of Section 58-1-302 shall:
42431 (a) be currently licensed in good standing in another jurisdiction as set forth in Section
42432 58-1-302;
42433 (b) (i) document having met all requirements for licensure under Subsection (1) except,
42434 if an applicant received licensure in another state or jurisdiction based upon only 12 months
42435 residency training after graduation from medical school, the applicant may qualify for licensure

42436 in Utah by endorsement only if licensed in the other state prior to July 1, 1996; or
42437 (ii) document having obtained licensure in another state or jurisdiction whose licensure
42438 requirements were at the time of obtaining licensure equal to licensure requirements at that
42439 time in Utah;
42440 (c) have passed the SPEX examination within 12 months preceding the date of
42441 application for licensure in Utah if the date on which the applicant passed qualifying
42442 examinations for licensure is greater than five years prior to the date of the application for
42443 licensure in Utah, or meet medical specialty certification requirements which may be
42444 established by division rule made in collaboration with the board;
42445 (d) have been actively engaged in the practice as an osteopathic physician and surgeon
42446 for not less than 6,000 hours during the five years immediately preceding the date of
42447 application for licensure in Utah;
42448 (e) meet with the board and representatives of the division, if requested for the purpose
42449 of evaluating the applicant's qualifications for licensure; and
42450 (f) not have a license that was suspended or revoked in any state, unless the license was
42451 subsequently reinstated as a full unrestricted license in good standing.
42452 (3) An applicant for licensure as an osteopathic physician and surgeon, who has been
42453 licensed as an osteopathic physician in Utah, who has allowed [~~his~~] the applicant's license in
42454 Utah to expire for nonpayment of license fees, and who is currently licensed in good standing
42455 in another state or jurisdiction of the United States shall:
42456 (a) submit an application in a form prescribed by the division;
42457 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
42458 (c) be of good moral character;
42459 (d) have passed the SPEX examination within 12 months preceding the date of
42460 application for licensure in Utah if the date on which the applicant passed qualifying
42461 examinations for licensure is greater than five years prior to the date of the application for
42462 licensure in Utah;
42463 (e) have been actively engaged in the practice as an osteopathic physician for not fewer
42464 than 6,000 hours during the five years immediately preceding the date of application for
42465 licensure; and
42466 (f) meet with the board and representatives of the division, if requested for the purpose

42467 of evaluating the applicant's qualifications for licensure.
42468 (4) An applicant for licensure by endorsement may engage in the practice of medicine
42469 under a temporary license while the applicant's application for licensure is being processed by
42470 the division, provided:
42471 (a) the applicant submits a complete application required for temporary licensure to the
42472 division;
42473 (b) the applicant submits a written document to the division from:
42474 (i) a health care facility licensed under Title 26, Chapter 21, Health Care Facility
42475 Licensing and Inspection Act, stating that the applicant is practicing under the invitation of the
42476 health care facility; or
42477 (ii) two individuals licensed under this chapter, whose license is in good standing and
42478 who practice in the same clinical location, both stating that:
42479 (A) the applicant is practicing under the invitation of the individual; and
42480 (B) the applicant will practice at the same clinical location as the individual;
42481 (c) the applicant submits a signed certification to the division that the applicant meets
42482 the requirements of Subsection (2);
42483 (d) the applicant does not engage in the practice of medicine until the division has
42484 issued a temporary license;
42485 (e) the temporary license is only issued for and may not be extended beyond the
42486 duration of one year from issuance; and
42487 (f) the temporary license expires immediately and prior to the expiration of one year
42488 from issuance, upon notification from the division that the applicant's application for licensure
42489 by endorsement is denied.
42490 (5) The division shall issue a temporary license under Subsection (4) within 15
42491 business days after the applicant satisfies the requirements of Subsection (4).
42492 Section 929. Section **58-68-402** is amended to read:
42493 **58-68-402. Authority to assess penalties.**
42494 (1) After acting in accordance with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
42495 Administrative Procedures Act, and Title 58, Chapter 1, Division of Occupational and
42496 Professional Licensing Act, the division may impose administrative penalties of up to $10,000
42497 for each act of unprofessional conduct under this chapter.

42498 (2) Assessment of a penalty under this section does not affect any other action the
42499 division is authorized to take regarding a license issued under this chapter.
42500 Section 930. Section **58-68-601** is amended to read:
42501 **58-68-601. Mentally incompetent or incapacitated osteopathic physician.**
42502 (1) As used in this section:
42503 (a) "Incapacitated person" has the same definition as in Section 75-1-201.
42504 (b) "Mentally ill" has the same definition as in Section 62A-15-602.
42505 (2) If a court of competent jurisdiction determines an osteopathic physician and
42506 surgeon is an incapacitated person or that [~~he~~] the physician or surgeon is mentally ill and
42507 unable to safely engage in the practice of medicine, the director shall immediately suspend the
42508 license of the osteopathic physician and surgeon upon the entry of the judgment of the court,
42509 without further proceedings under [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
42510 Procedures Act, regardless of whether an appeal from the court's ruling is pending. The
42511 director shall promptly notify the osteopathic physician and surgeon, in writing, of the
42512 suspension.
42513 (3) (a) If the division and a majority of the board find reasonable cause to believe an
42514 osteopathic physician and surgeon, who is not determined judicially to be an incapacitated
42515 person or to be mentally ill, is incapable of practicing osteopathic medicine with reasonable
42516 skill regarding the safety of patients, because of illness, excessive use of drugs or alcohol, or as
42517 a result of any mental or physical condition, the board shall recommend that the director file a
42518 petition with the division, and cause the petition to be served upon the osteopathic physician
42519 and surgeon with a notice of hearing on the sole issue of the capacity of the osteopathic
42520 physician and surgeon to competently and safety engage in the practice of medicine.
42521 (b) The hearing shall be conducted under Section 58-1-109, and [~~Title 63, Chapter 46b~~]
42522 Title 63G, Chapter 4, Administrative Procedures Act, except as provided in Subsection (4).
42523 (4) (a) Every osteopathic physician and surgeon who accepts the privilege of being
42524 licensed under this chapter gives consent to:
42525 (i) submitting at [~~his~~] the physician's or surgeon's own expense to an immediate mental
42526 or physical examination when directed in writing by the division and a majority of the board to
42527 do so; and
42528 (ii) the admissibility of the reports of the examining physician's testimony or

42529 examination, and waives all objections on the ground the reports constitute a privileged
42530 communication.
42531 (b) The examination may be ordered by the division, with the consent of a majority of
42532 the board, only upon a finding of reasonable cause to believe:
42533 (i) the osteopathic physician and surgeon is mentally ill or incapacitated or otherwise
42534 unable to practice medicine with reasonable skill and safety; and
42535 (ii) immediate action by the division and the board is necessary to prevent harm to the
42536 osteopathic physician and surgeon's patients or the general public.
42537 (c) (i) Failure of an osteopathic physician and surgeon to submit to the examination
42538 ordered under this section is a ground for the division's immediate suspension of the
42539 osteopathic physician and surgeon's license by written order of the director.
42540 (ii) The division may enter the order of suspension without further compliance with
42541 [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, unless the
42542 division finds the failure to submit to the examination ordered under this section was due to
42543 circumstances beyond the control of the osteopathic physician and surgeon and was not related
42544 directly to the illness or incapacity of the osteopathic physician and surgeon.
42545 (5) (a) An osteopathic physician and surgeon whose license is suspended under
42546 Subsection (2) or (3) has the right to a hearing to appeal the suspension within ten days after
42547 the license is suspended.
42548 (b) The hearing held under this subsection shall be conducted in accordance with
42549 Sections 58-1-108 and 58-1-109 for the sole purpose of determining if sufficient basis exists
42550 for the continuance of the order of suspension in order to prevent harm to the osteopathic
42551 physician and surgeon's patients or the general public.
42552 (6) An osteopathic physician and surgeon whose license is revoked, suspended, or in
42553 any way restricted under this section may request the division and the board to consider, at
42554 reasonable intervals, evidence presented by the osteopathic physician and surgeon, under
42555 procedures established by division rule, regarding any change in the osteopathic physician and
42556 surgeon's condition, to determine whether:
42557 (a) [~~he~~] the physician or surgeon is or is not able to safely and competently engage in
42558 the practice of medicine; and
42559 (b) [~~he~~] the physician or surgeon is qualified to have [~~his~~] the physician's or surgeon's

42560 license to practice under this chapter restored completely or in part.
42561 Section 931. Section **58-69-302** is amended to read:
42562 **58-69-302. Qualifications for licensure.**
42563 (1) An applicant for licensure as a dentist, except as set forth in Subsection (2), shall:
42564 (a) submit an application in a form as prescribed by the division;
42565 (b) pay a fee as determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
42566 (c) be of good moral character;
42567 (d) provide satisfactory documentation of having successfully completed a program of
42568 professional education preparing an individual as a dentist as evidenced by having received an
42569 earned doctor's degree in dentistry from:
42570 (i) a dental school accredited by the Commission on Dental Accreditation of the
42571 American Dental Association; or
42572 (ii) a dental school located outside of the United States or its jurisdictions which, at the
42573 time the applicant graduated from the dental school, met standards for accreditation by the
42574 Commission on Dental Accreditation of the American Dental Association;
42575 (e) pass the National Board Dental Examinations as administered by the Joint
42576 Commission on National Dental Examinations of the American Dental Association;
42577 (f) pass any one of the regional dental clinical licensure examinations unless the
42578 division, in collaboration with the board, determines that:
42579 (i) the examination is clearly inferior to the Western Regional Examination Board; and
42580 (ii) reliance upon the examination poses an unjustifiable threat to public health and
42581 safety;
42582 (g) pass any other examinations regarding applicable law, rules, or ethics as established
42583 by division rule made in collaboration with the board;
42584 (h) be able to read, write, speak, understand, and be understood in the English language
42585 and demonstrate proficiency to the satisfaction of the board if requested by the board; and
42586 (i) meet with the board if requested by the board or division for the purpose of
42587 examining the applicant's qualifications for licensure.
42588 (2) An applicant for licensure as a dentist qualifying under the endorsement provision
42589 of Section 58-1-302 shall:
42590 (a) be currently licensed in good standing in another jurisdiction set forth in Section

42591 58-1-302;
42592 (b) (i) document having met all requirements for licensure under Subsection (1) except,
42593 an applicant having received licensure in another state or jurisdiction prior to the year when the
42594 National Board Dental Examinations were first administered, shall document having passed a
42595 state administered examination acceptable to the division in collaboration with the board; or
42596 (ii) document having obtained licensure in another state or jurisdiction upon which
42597 licensure by endorsement is based by meeting requirements which were equal to licensure
42598 requirements in Utah at the time the applicant obtained licensure in the other state or
42599 jurisdiction; and
42600 (c) document having been successfully engaged in practice as a dentist for not less than
42601 6,000 hours in the five years immediately preceding the date of application for licensure.
42602 (3) An applicant for licensure as a dental hygienist, except as set forth in Subsection
42603 (4), shall:
42604 (a) submit an application in a form as prescribed by the division;
42605 (b) pay a fee as determined by the department pursuant to Section [~~63-38-3.2~~]
42606 63J-1-303;
42607 (c) be of good moral character;
42608 (d) be a graduate holding a certificate or degree in dental hygiene from:
42609 (i) a school accredited by the Commission on Dental Accreditation of the American
42610 Dental Association; or
42611 (ii) a dental hygiene school located outside of the United States or its jurisdictions
42612 which, at the time the applicant graduated from or received certification from the school, met
42613 standards for accreditation by the Commission on Dental Accreditation of the American Dental
42614 Association;
42615 (e) pass the National Board Dental Hygiene Examination as administered by the Joint
42616 Commission on National Dental Examinations of the American Dental Association;
42617 (f) pass an examination consisting of practical demonstrations in the practice of dental
42618 hygiene and written or oral examination in the theory and practice of dental hygiene as
42619 established by division rule made in collaboration with the board;
42620 (g) pass any other examinations regarding applicable law, rules, and ethics as
42621 established by rule by division rule made in collaboration with the board;

42622 (h) be able to read, write, speak, understand, and be understood in the English language
42623 and demonstrate proficiency to the satisfaction of the board if requested by the board; and
42624 (i) meet with the board if requested by the board or division for the purpose of
42625 examining the applicant's qualifications for licensure.
42626 (4) An applicant for licensure as a dental hygienist qualifying under the endorsement
42627 provision of Section 58-1-302 shall:
42628 (a) be currently licensed in another jurisdiction set forth in Section 58-1-302;
42629 (b) (i) document having met all requirements for licensure under Subsection (3) except,
42630 an applicant having received licensure in another state or jurisdiction prior to 1962, the year
42631 when the National Board Dental Hygiene Examinations were first administered, shall
42632 document having passed a state administered examination acceptable to the division in
42633 collaboration with the board; or
42634 (ii) document having obtained licensure in another state or jurisdiction upon which
42635 licensure by endorsement is based by meeting requirements which were equal to licensure
42636 requirements in Utah at the time the applicant obtained licensure in the other state or
42637 jurisdiction; and
42638 (c) document having been successfully engaged in practice as a dental hygienist for not
42639 less than 2,000 hours in the two years immediately preceding the date of application for
42640 licensure.
42641 Section 932. Section **58-69-601** is amended to read:
42642 **58-69-601. Mentally incompetent or incapacitated dentist or dental hygienist.**
42643 (1) As used in this section:
42644 (a) "Incapacitated person" has the same definition as in Section 75-1-201.
42645 (b) "Mentally ill" has the same definition as in Section 62A-15-602.
42646 (2) If a court of competent jurisdiction determines a dentist or dental hygienist is an
42647 incapacitated person or that [~~he~~] the dentist or hygienist is mentally ill and unable to safely
42648 engage in the practice of dentistry or dental hygiene, the director shall immediately suspend the
42649 license of the dentist or dental hygienist upon the entry of the judgment of the court, without
42650 further proceedings under [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
42651 Procedures Act, regardless of whether an appeal from the court's ruling is pending. The
42652 director shall promptly notify the dentist or dental hygienist, in writing, of the suspension.

42653 (3) (a) If the division and a majority of the board find reasonable cause to believe a
42654 dentist or dental hygienist, who is not determined judicially to be an incapacitated person or to
42655 be mentally ill, is incapable of practicing dentistry or dental hygiene with reasonable skill
42656 regarding the safety of patients, because of illness, excessive use of drugs or alcohol, or as a
42657 result of any mental or physical condition, the board shall recommend that the director file a
42658 petition with the division, and cause the petition to be served upon the dentist or dental
42659 hygienist with a notice of hearing on the sole issue of the capacity of the dentist or dental
42660 hygienist to competently and safely engage in the practice of dentistry or dental hygiene.
42661 (b) The hearing shall be conducted under Section 58-1-109 and [~~Title 63, Chapter 46b~~]
42662 Title 63G, Chapter 4, Administrative Procedures Act, except as provided in Subsection (4).
42663 (4) (a) Every dentist or dental hygienist who accepts the privilege of being licensed
42664 under this chapter gives consent to:
42665 (i) submitting at [~~his~~] the dentist or dental hygienist's own expense to an immediate
42666 mental or physical examination when directed in writing by the division and a majority of the
42667 board to do so; and
42668 (ii) the admissibility of the reports of the examining practitioner's testimony or
42669 examination, and waives all objections on the ground the reports constitute a privileged
42670 communication.
42671 (b) The examination may be ordered by the division, with the consent of a majority of
42672 the board, only upon a finding of reasonable cause to believe:
42673 (i) the dentist or dental hygienist is mentally ill or incapacitated or otherwise unable to
42674 practice dentistry or dental hygiene with reasonable skill and safety; and
42675 (ii) immediate action by the division and the board is necessary to prevent harm to the
42676 dentist's or dental hygienist's patients or the general public.
42677 (c) (i) Failure of a dentist or dental hygienist to submit to the examination ordered
42678 under this section is a ground for the division's immediate suspension of the dentist's or dental
42679 hygienist's license by written order of the director.
42680 (ii) The division may enter the order of suspension without further compliance with
42681 [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, unless the
42682 division finds the failure to submit to the examination ordered under this section was due to
42683 circumstances beyond the control of the dentist or dental hygienist and was not related directly

42684 to the illness or incapacity of the dentist or dental hygienist.
42685 (5) (a) A dentist or dental hygienist whose license is suspended under Subsection (2) or
42686 (3) has the right to a hearing to appeal the suspension within ten days after the license is
42687 suspended.
42688 (b) The hearing held under this subsection shall be conducted in accordance with
42689 Sections 58-1-108 and 58-1-109 for the sole purpose of determining if sufficient basis exists
42690 for the continuance of the order of suspension in order to prevent harm to the dentist's or dental
42691 hygienist's patients or the general public.
42692 (6) A dentist or dental hygienist whose license is revoked, suspended, or in any way
42693 restricted under this section may request the division and the board to consider, at reasonable
42694 intervals, evidence presented by the dentist or dental hygienist, under procedures established by
42695 division rule, regarding any change in the dentist's or dental hygienist's condition, to determine
42696 whether:
42697 (a) [~~he~~] the dentist or dental hygienist is or is not able to safely and competently engage
42698 in the practice of dentistry or dental hygiene; and
42699 (b) [~~he~~] the dentist or dental hygienist is qualified to have [~~his~~] the dentist or dental
42700 hygienist's licensure to practice under this chapter restored completely or in part.
42701 Section 933. Section **58-70a-302** is amended to read:
42702 **58-70a-302. Qualifications for licensure.**
42703 Each applicant for licensure as a physician assistant shall:
42704 (1) submit an application in a form prescribed by the division;
42705 (2) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
42706 (3) be of good moral character;
42707 (4) have successfully completed a physician assistant program accredited by the
42708 Commission on Accreditation of Allied Health Education Programs;
42709 (5) have passed the licensing examinations required by division rule made in
42710 collaboration with the board;
42711 (6) meet with the board and representatives of the division, if requested, for the
42712 purpose of evaluating the applicant's qualifications for licensure; and
42713 (7) (a) if the applicant desires to practice in Utah, complete a form provided by the
42714 division indicating:

42715 (i) the applicant has completed a delegation of services agreement signed by the
42716 physician assistant, supervising physician, and substitute supervising physicians; and
42717 (ii) the agreement is on file at the Utah practice sites; or
42718 (b) complete a form provided by the division indicating the applicant is not practicing
42719 in Utah and, prior to practicing in Utah, the applicant will meet the requirements of Subsection
42720 (7)(a).
42721 Section 934. Section **58-71-102** is amended to read:
42722 **58-71-102. Definitions.**
42723 In addition to the definitions in Section 58-1-102, as used in this chapter:
42724 (1) "Administrative penalty" means a monetary fine imposed by the division for acts or
42725 omissions determined to constitute unprofessional or unlawful conduct, as a result of an
42726 adjudicative proceeding conducted in accordance with [~~Title 63, Chapter 46b~~] Title 63G,
42727 Chapter 4, Administrative Procedures Act.
42728 (2) "Acupuncture" has the same definition as in Section 58-72-102.
42729 (3) "Board" means the Naturopathic Physicians Licensing Board created in Section
42730 58-71-201.
42731 (4) "Diagnose" means:
42732 (a) to examine in any manner another person, parts of a person's body, substances,
42733 fluids, or materials excreted, taken, or removed from a person's body, or produced by a person's
42734 body, to determine the source, nature, kind, or extent of a disease or other physical or mental
42735 condition;
42736 (b) to attempt to conduct an examination or determination described under Subsection
42737 (4)(a);
42738 (c) to hold oneself out as making or to represent that one is making an examination or
42739 determination as described in Subsection (4)(a); or
42740 (d) to make an examination or determination as described in Subsection (4)(a) upon or
42741 from information supplied directly or indirectly by another person, whether or not in the
42742 presence of the person making or attempting the diagnosis or examination.
42743 (5) "Local anesthesia" means an agent, whether a natural medicine or prescription drug,
42744 which:
42745 (a) is applied topically or by injection in superficial tissues associated with the

42746 performance of minor office procedures;
42747 (b) has the ability to produce loss of sensation at the site of minor office procedures;
42748 and
42749 (c) does not cause loss of consciousness or produce general sedation.
42750 (6) "Medical naturopathic assistant" means an unlicensed individual working under the
42751 direct and immediate supervision of a licensed naturopathic physician and engaged in specific
42752 tasks assigned by the licensed naturopathic physician in accordance with the standards and
42753 ethics of the profession.
42754 (7) (a) "Minor office procedures" means:
42755 (i) the use of operative, electrical, or other methods for repair and care of superficial
42756 lacerations, abrasions, and benign lesions;
42757 (ii) removal of foreign bodies located in the superficial tissues, excluding the eye or
42758 ear; and
42759 (iii) the use of antiseptics and local anesthetics in connection with minor office surgical
42760 procedures; and
42761 (b) "Minor office procedures" does not include:
42762 (i) general or spinal anesthesia;
42763 (ii) office procedures more complicated or extensive than those set forth in Subsection
42764 (7)(a);
42765 (iii) procedures involving the eye; or
42766 (iv) any office procedure involving tendons, nerves, veins, or arteries.
42767 (8) "Natural medicine" means:
42768 (a) food, food extracts, dietary supplements as defined by the federal Food, Drug, and
42769 Cosmetics Act, all homeopathic remedies, and plant substances that are not designated as
42770 prescription drugs or controlled substances;
42771 (b) over-the-counter medications;
42772 (c) other nonprescription substances, the prescription or administration of which is not
42773 otherwise prohibited or restricted under federal or state law; and
42774 (d) prescription drugs:
42775 (i) that are not controlled substances as defined in Section 58-37-2;
42776 (ii) the prescription of which is consistent with the competent practice of naturopathic

42777 medicine; and
42778 (iii) the prescription of which is approved by the division in collaboration with the
42779 naturopathic formulary advisory peer committee.
42780 (9) (a) "Naturopathic childbirth" means uncomplicated natural childbirth assisted by a
42781 naturopathic physician, and includes the use of:
42782 (i) natural medicines; and
42783 (ii) uncomplicated episiotomy.
42784 (b) "Naturopathic childbirth" does not include the use of:
42785 (i) forceps delivery;
42786 (ii) general or spinal anesthesia;
42787 (iii) caesarean section delivery; or
42788 (iv) induced labor or abortion.
42789 (10) "Naturopathic mobilization therapy":
42790 (a) means manually administering mechanical treatment of body structures or tissues
42791 for the purpose of restoring normal physiological function to the body by normalizing and
42792 balancing the musculoskeletal system of the body;
42793 (b) does not mean manipulation or adjustment of the joints of the human body beyond
42794 the elastic barrier; and
42795 (c) does not include manipulation as defined in Title 58, Chapter 73, Chiropractic
42796 Physician Practice Act.
42797 (11) "Naturopathic physical medicine" means the use of the physical agents of air,
42798 water, heat, cold, sound, light, and electromagnetic nonionizing radiation, and the physical
42799 modalities of electrotherapy, biofeedback, acupuncture, diathermy, ultraviolet light, ultrasound,
42800 hydrotherapy, naturopathic mobilization therapy, and exercise. Naturopathic medicine does not
42801 include the practice of physical therapy or physical rehabilitation.
42802 (12) "Practice of naturopathic medicine" means:
42803 (a) a system of primary health care for the prevention, diagnosis, and treatment of
42804 human health conditions, injuries, and diseases that uses education, natural medicines, and
42805 natural therapies, to support and stimulate the patient's intrinsic self-healing processes:
42806 (i) using naturopathic childbirth, but only if:
42807 (A) the licensee meets standards of the American College of Naturopathic

42808 Obstetricians (ACNO) or its successor as determined by the division in collaboration with the
42809 board; and
42810 (B) the licensee follows a written plan for naturopathic physicians practicing
42811 naturopathic childbirth approved by the division in collaboration with the board, which
42812 includes entering into an agreement with a consulting physician and surgeon or osteopathic
42813 physician, in cases where the scope of practice of naturopathic childbirth may be exceeded and
42814 specialty care and delivery is indicated, detailing the guidelines by which the naturopathic
42815 physician will:
42816 (I) refer patients to the consulting physician; and
42817 (II) consult with the consulting physician;
42818 (ii) using naturopathic mobilization therapy;
42819 (iii) using naturopathic physical medicine;
42820 (iv) using minor office procedures;
42821 (v) prescribing or administering natural medicine;
42822 (vi) prescribing medical equipment and devices, diagnosing by the use of medical
42823 equipment and devices, and administering therapy or treatment by the use of medical devices
42824 necessary and consistent with the competent practice of naturopathic medicine;
42825 (vii) prescribing barrier devices for contraception;
42826 (viii) using dietary therapy;
42827 (ix) taking and using diagnostic x-rays, electrocardiograms, ultrasound, and
42828 physiological function tests;
42829 (x) taking of body fluids for clinical laboratory tests and using the results of the tests in
42830 diagnosis;
42831 (xi) taking of a history from and conducting of a physical examination upon a human
42832 patient; and
42833 (xii) prescribing and administering natural medicines and medical devices, except a
42834 naturopathic physician may only administer:
42835 (A) a prescription drug, as defined in Section 58-17b-102, in accordance with
42836 Subsection (8)(d); and
42837 (B) local anesthesia that is not a controlled substance, and only in the performance of
42838 minor office procedures;

42839 (b) to maintain an office or place of business for the purpose of doing any of the acts
42840 described in Subsection (12)(a), whether or not for compensation; or
42841 (c) to use, in the conduct of any occupation or profession pertaining to the diagnosis or
42842 treatment of human diseases or conditions, in any printed material, stationery, letterhead,
42843 envelopes, signs, or advertisements, the designation "naturopathic physician," "naturopathic
42844 doctor," "naturopath," "doctor of naturopathic medicine," "doctor of naturopathy,"
42845 "naturopathic medical doctor," "naturopathic medicine," "naturopathic health care,"
42846 "naturopathy," "N.D.," "N.M.D.," or any combination of these designations in any manner that
42847 might cause a reasonable person to believe the individual using the designation is a licensed
42848 naturopathic physician.
42849 (13) "Prescription drug or device" means:
42850 (a) a drug or device which, under federal law, is required to be labeled with either of
42851 the following statements or their equivalent:
42852 (i) "CAUTION: Federal law prohibits dispensing without prescription"; or
42853 (ii) "CAUTION: Federal law restricts this drug to use by or on the order of a licensed
42854 veterinarian"; or
42855 (b) a drug or device that is required by any applicable federal or state law or rule to be
42856 dispensed on prescription only or is restricted to use by practitioners only.
42857 (14) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-71-501.
42858 (15) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-71-502, and
42859 as may be further defined by division rule.
42860 Section 935. Section **58-71-302** is amended to read:
42861 **58-71-302. Qualifications for licensure.**
42862 (1) An applicant for licensure as a naturopathic physician, except as set forth in
42863 Subsection (2), shall:
42864 (a) submit an application in a form prescribed by the division which may include:
42865 (i) submissions by the applicant of information maintained by practitioner data banks,
42866 as designated by division rule, with respect to the applicant; and
42867 (ii) a record of professional liability claims made against the applicant and settlements
42868 paid by or in behalf of the applicant;
42869 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;

42870 (c) be of good moral character;
42871 (d) provide satisfactory documentation of having successfully completed a program of
42872 professional education preparing an individual as a naturopathic physician, as evidenced by
42873 having received an earned degree of doctor of naturopathic medicine from:
42874 (i) a naturopathic medical school or college accredited by the Council of Naturopathic
42875 Medical Education or its successor organization approved by the division;
42876 (ii) a naturopathic medical school or college that is a candidate for accreditation by the
42877 Council of Naturopathic Medical Education or its successor organization, and is approved by
42878 the division in collaboration with the board, upon a finding there is reasonable expectation the
42879 school or college will be accredited; or
42880 (iii) a naturopathic medical school or college which, at the time of the applicant's
42881 graduation, met current criteria for accreditation by the Council of Naturopathic Medical
42882 Education or its successor approved by the division;
42883 (e) provide satisfactory documentation of having successfully completed, after
42884 successful completion of the education requirements set forth in Subsection (1)(d), 12 months
42885 of clinical experience in naturopathic medicine in a residency program recognized by the
42886 division and associated with an accredited school or college of naturopathic medicine, and
42887 under the preceptorship of a licensed naturopathic physician, physician and surgeon, or
42888 osteopathic physician;
42889 (f) pass the licensing examination sequence required by division rule established in
42890 collaboration with the board;
42891 (g) be able to read, write, speak, understand, and be understood in the English language
42892 and demonstrate proficiency to the satisfaction of the board if requested by the board; and
42893 (h) meet with the board and representatives of the division, if requested, for the
42894 purpose of evaluating the applicant's qualifications for licensure.
42895 (2) An applicant for licensure as a naturopathic physician qualifying under the
42896 endorsement provision of Section 58-1-302 shall:
42897 (a) be currently licensed in good standing in another jurisdiction as set forth in Section
42898 58-1-302;
42899 (b) document having met all requirements for licensure under Subsection (1) except the
42900 clinical experience requirement of Subsection (1)(e);

42901 (c) have passed the examination requirements established under Subsection (1)(f)
42902 which:
42903 (i) the applicant has not passed in connection with licensure in another state or
42904 jurisdiction; and
42905 (ii) are available to the applicant to take without requiring additional professional
42906 education;
42907 (d) have been actively engaged in the practice of a naturopathic physician for not less
42908 than 6,000 hours during the five years immediately preceding the date of application for
42909 licensure in Utah; and
42910 (e) meet with the board and representatives of the division, if requested for the purpose
42911 of evaluating the applicant's qualifications for licensure.
42912 Section 936. Section **58-71-402** is amended to read:
42913 **58-71-402. Authority to assess penalty.**
42914 (1) After proceeding pursuant to [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
42915 Administrative Procedures Act, and Title 58, Chapter 1, Division of Occupational and
42916 Professional Licensing Act, the division may impose administrative penalties of up to $10,000
42917 for acts of unprofessional conduct or unlawful conduct under this chapter.
42918 (2) Assessment of a penalty under this section does not affect any other action the
42919 division is authorized to take regarding a license issued under this chapter.
42920 Section 937. Section **58-71-601** is amended to read:
42921 **58-71-601. Mentally incompetent or incapacitated naturopathic physician.**
42922 (1) As used in this section:
42923 (a) "Incapacitated person" has the same definition as in Section 75-1-201.
42924 (b) "Mentally ill" has the same definition as in Section 62A-15-602.
42925 (2) If a court of competent jurisdiction determines a naturopathic physician is an
42926 incapacitated person or that [~~he~~] the physician is mentally ill and unable to safely engage in the
42927 practice of medicine, the director shall immediately suspend the license of the naturopathic
42928 physician upon the entry of the judgment of the court, without further proceedings under [~~Title~~
42929 ~~63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, regardless of whether
42930 an appeal from the court's ruling is pending. The director shall promptly notify the
42931 naturopathic physician, in writing, of the suspension.

42932 (3) (a) If the division and a majority of the board find reasonable cause to believe a
42933 naturopathic physician, who is not determined judicially to be an incapacitated person or to be
42934 mentally ill, is incapable of practicing medicine with reasonable skill regarding the safety of
42935 patients, because of illness, excessive use of drugs or alcohol, or as a result of any mental or
42936 physical condition, the board shall recommend that the director file a petition with the division,
42937 and cause the petition to be served upon the naturopathic physician with a notice of hearing on
42938 the sole issue of the capacity of the naturopathic physician to competently and safely engage in
42939 the practice of medicine.
42940 (b) The hearing shall be conducted under Section 58-1-109, and [~~Title 63, Chapter 46b~~]
42941 Title 63G, Chapter 4, Administrative Procedures Act, except as provided in Subsection (4).
42942 (4) (a) Every naturopathic physician who accepts the privilege of being licensed under
42943 this chapter gives consent to:
42944 (i) submitting at [~~his~~] the physician's own expense to an immediate mental or physical
42945 examination when directed in writing by the division and a majority of the board to do so; and
42946 (ii) the admissibility of the reports of the examining physician's testimony or
42947 examination, and waives all objections on the ground the reports constitute a privileged
42948 communication.
42949 (b) The examination may be ordered by the division, with the consent of a majority of
42950 the board, only upon a finding of reasonable cause to believe:
42951 (i) the naturopathic physician is mentally ill or incapacitated or otherwise unable to
42952 practice medicine with reasonable skill and safety; and
42953 (ii) immediate action by the division and the board is necessary to prevent harm to the
42954 naturopathic physician's patients or the general public.
42955 (c) (i) Failure of a naturopathic physician to submit to the examination ordered under
42956 this section is a ground for the division's immediate suspension of the naturopathic physician's
42957 license by written order of the director.
42958 (ii) The division may enter the order of suspension without further compliance with
42959 [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, unless the
42960 division finds the failure to submit to the examination ordered under this section was due to
42961 circumstances beyond the control of the naturopathic physician and was not related directly to
42962 the illness or incapacity of the naturopathic physician.

42963 (5) (a) A naturopathic physician whose license is suspended under Subsection (2) or
42964 (3) has the right to a hearing to appeal the suspension within ten days after the license is
42965 suspended.
42966 (b) The hearing held under this subsection shall be conducted in accordance with
42967 Sections 58-1-108 and 58-1-109 for the sole purpose of determining if sufficient basis exists
42968 for the continuance of the order of suspension in order to prevent harm to the naturopathic
42969 physician's patients or the general public.
42970 (6) A naturopathic physician whose license is revoked, suspended, or in any way
42971 restricted under this section may request the division and the board to consider, at reasonable
42972 intervals, evidence presented by the naturopathic physician, under procedures established by
42973 division rule, regarding any change in the naturopathic physician's condition, to determine
42974 whether:
42975 (a) [~~he~~] the physician is or is not able to safely and competently engage in the practice
42976 of medicine; and
42977 (b) [~~he~~] the physician is qualified to have [~~his~~] the physician's license to practice under
42978 this chapter restored completely or in part.
42979 Section 938. Section **58-72-302** is amended to read:
42980 **58-72-302. Qualification for licensure.**
42981 Notwithstanding Section 58-1-302, an applicant for licensure as a licensed
42982 acupuncturist shall:
42983 (1) submit an application in a form prescribed by the division;
42984 (2) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
42985 (3) be of good moral character;
42986 (4) meet the requirements for current active certification in acupuncture under
42987 guidelines established by the National Commission for the Certification of Acupuncture and
42988 Oriental Medicine (NCCAOM) as demonstrated through a current certificate or other
42989 appropriate documentation;
42990 (5) pass the examination required by the division by rule;
42991 (6) establish procedures, as defined by rule, which shall enable patients to give
42992 informed consent to treatment; and
42993 (7) meet with the board, if requested, for the purpose of evaluating the applicant's

42994 qualifications for licensure.
42995 Section 939. Section **58-73-302** is amended to read:
42996 **58-73-302. Qualifications for licensure.**
42997 (1) Each applicant for licensure as a chiropractic physician, other than those applying
42998 for a license based on licensure as a chiropractor or chiropractic physician in another
42999 jurisdiction, shall:
43000 (a) submit an application in a form prescribed by the division;
43001 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
43002 (c) be of good moral character;
43003 (d) demonstrate satisfactory completion of at least two years of general study in a
43004 college or university;
43005 (e) demonstrate having earned a degree of doctor of chiropractic from a chiropractic
43006 college or university that at the time the degree was conferred was accredited by the Council on
43007 Chiropractic Education, Inc., or an equivalent chiropractic accrediting body recognized by the
43008 United States Department of Education and by the division rule made in collaboration with the
43009 board;
43010 (f) demonstrate successful completion of:
43011 (i) the National Chiropractic Boards:
43012 (A) Parts I and II;
43013 (B) Written Clinical Competency Examination; and
43014 (C) Physical Therapy;
43015 (ii) the Utah Chiropractic Law and Rules Examination; and
43016 (iii) a practical examination approved by the division in collaboration with the board;
43017 and
43018 (g) meet with the board, if requested, for the purpose of reviewing the applicant's
43019 qualifications for licensure.
43020 (2) Each applicant for licensure as a chiropractic physician based on licensure as a
43021 chiropractor or chiropractic physician in another jurisdiction shall:
43022 (a) submit an application in the form prescribed by the division;
43023 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
43024 (c) be of good moral character;

43025 (d) demonstrate having obtained licensure as a chiropractor or chiropractic physician in
43026 another state under education requirements which were equivalent to the education
43027 requirements in this state to obtain a chiropractor or chiropractic physician license at the time
43028 the applicant obtained the license in the other state;
43029 (e) demonstrate successful completion of:
43030 (i) the Utah Chiropractic Law and Rules Examination; and
43031 (ii) the Special Purposes Examination for Chiropractic (SPEC) of the National Board
43032 of Chiropractic Examiners;
43033 (f) have been actively engaged in the practice of chiropractic for not less than two years
43034 immediately preceding application for licensure in this state; and
43035 (g) meet with the board, if requested, for the purpose of reviewing the applicant's
43036 qualifications for licensure.
43037 Section 940. Section **58-73-701** is amended to read:
43038 **58-73-701. Persons immune from liability.**
43039 (1) Employees of the division, members of the board or its committees, and
43040 professional consultants serving the division or the board, are not subject to civil damages,
43041 when acting under the authority of this chapter for any act or omission performed in good faith
43042 within the scope of their functions as an employee of the division or member of the board.
43043 (2) Employees, board members, committee members, and professional consultants are
43044 indemnified by the state. The state has full responsibility for providing legal and financial
43045 protection for employees, board members, committee members, and consultants to the board or
43046 division.
43047 (3) Nothing in this section may be construed to adversely limit any provision of [~~Title~~
43048 ~~63, Chapter 30d~~] Title 63G, Chapter 7, Governmental Immunity Act of Utah.
43049 Section 941. Section **58-74-302** is amended to read:
43050 **58-74-302. Qualifications for licensure.**
43051 (1) Each applicant for licensure as a certified court reporter under this chapter shall:
43052 (a) be at least 18 years of age;
43053 (b) be a citizen of the United States;
43054 (c) submit an application in a form prescribed by the division;
43055 (d) pay a fee determined by the department under Subsection [~~63-38-3~~] 63J-1-301(2);

43056 (e) possess a high degree of skill and ability in the art of court reporting;
43057 (f) produce satisfactory evidence of good moral character; and
43058 (g) submit evidence that they have completed and passed the Registered Professional
43059 Reporter Examination of the National Court Reporters Association or the Certified Verbatim
43060 Reporter Examination of the National Verbatim Reporters Association.
43061 (2) Any person granted a certificate to practice as a certified shorthand reporter may
43062 use the abbreviation "C.S.R." as long as the person's certificate is current and valid.
43063 (3) Any person granted a certificate to practice as a certified voice reporter may use the
43064 abbreviation "C.V.R." as long as the person's certificate is current and valid.
43065 Section 942. Section **58-75-102** is amended to read:
43066 **58-75-102. Definitions.**
43067 In addition to the definitions in Section 58-1-102, as used in this chapter:
43068 (1) "Board" means the Genetic Counselors Licensing Board created in Section
43069 58-75-201.
43070 (2) "Genetic counselor" means a person licensed under this chapter to engage in the
43071 practice of genetic counseling.
43072 (3) "Practice of genetic counseling" means the communication process which deals
43073 with the human problems associated with the occurrence, or the risk of occurrence, of a genetic
43074 disorder in a family, including the provision of services to help an individual or family:
43075 (a) comprehend the medical facts, including the diagnosis, probable cause of the
43076 disorder, and the available management;
43077 (b) appreciate the way heredity contributes to the disorder and the risk of occurrence in
43078 specified relatives;
43079 (c) understand the alternatives for dealing with the risk of occurrence;
43080 (d) choose the course of action which seems appropriate to them in view of their risk,
43081 their family goals, and their ethical and religious standards, and to act in accordance with that
43082 decision; and
43083 (e) make the best possible psychosocial adjustment to the disorder in an affected family
43084 member or to the risk of occurrence of that disorder.
43085 (4) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-75-501.
43086 (5) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-75-502 and as

43087 may be further defined by rule by the division in accordance with [~~Title 63, Chapter 46a~~] Title
43088 63G, Chapter 3, Utah Administrative Rulemaking Act.
43089 Section 943. Section **58-75-302** is amended to read:
43090 **58-75-302. Qualifications for licensure -- Temporary license.**
43091 (1) Except as provided in Subsection (2), each applicant for licensure as a genetic
43092 counselor under this chapter shall:
43093 (a) submit an application in a form prescribed by the division;
43094 (b) pay a fee determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
43095 (c) be of good moral character;
43096 (d) provide satisfactory documentation of having earned:
43097 (i) a master's degree from a genetic counseling training program that is accredited by
43098 the American Board of Genetic Counseling or an equivalent as determined by the division; or
43099 (ii) a doctoral degree from a medical genetics training program that is accredited by the
43100 American Board of Medical Genetics or an equivalent as determined by the division; and
43101 (e) meet the examination requirement for certification as:
43102 (i) a genetic counselor by the American Board of Genetic Counseling or the American
43103 Board of Medical Genetics; or
43104 (ii) a medical geneticist by the American Board of Medical Genetics.
43105 (2) The division may issue a temporary license, in accordance with Section 58-1-303
43106 and any other conditions established by rule, to an applicant who meets all of the requirements
43107 for licensure except the examination requirement of Subsection (1)(e).
43108 Section 944. Section **58-76-103** is amended to read:
43109 **58-76-103. Education and enforcement fund.**
43110 (1) There is created within the General Fund a restricted account known as the
43111 "Professional Geologist Education and Enforcement Fund."
43112 (2) The account shall be nonlapsing and consist of monies from:
43113 (a) a surcharge fee established by the department in accordance with Section
43114 [~~63-38-3.2~~] 63J-1-303, placed on initial, renewal, and reinstatement licensure fees under this
43115 chapter not to exceed 50% of the respective initial, renewal, or reinstatement licensure fee;
43116 (b) administrative penalties collected pursuant to this chapter; and
43117 (c) interest earned on monies in the account.

43118 (3) Monies in the account may be appropriated by the Legislature for the following
43119 purposes:
43120 (a) education and training of licensees under this chapter;
43121 (b) education and training of the public or other interested persons in matters
43122 concerning geology laws and practices;
43123 (c) enforcement of this chapter by:
43124 (i) investigating unprofessional or unlawful conduct;
43125 (ii) providing legal representation to the division when legal action is taken against a
43126 person engaging in unprofessional or unlawful conduct; and
43127 (iii) monitoring compliance of renewal requirements; and
43128 (d) education and training of board members.
43129 Section 945. Section **58-76-302** is amended to read:
43130 **58-76-302. Qualifications for licensure.**
43131 Each applicant for licensure as a professional geologist shall:
43132 (1) submit an application in a form as prescribed by the division;
43133 (2) pay a fee as determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
43134 (3) be of good moral character;
43135 (4) provide satisfactory evidence of:
43136 (a) a bachelors or graduate degree in the geosciences granted through an institution of
43137 higher education that is accredited by a regional or national accrediting agency with a minimum
43138 of 30 semester or 45 quarter hours of course work in the geosciences; or
43139 (b) completion of other equivalent educational requirements as determined by the
43140 division in collaboration with the board;
43141 (5) provide satisfactory evidence of:
43142 (a) with a bachelors degree, a specific record of five years of active professional
43143 practice in geological work of a character satisfactory to the division, indicating the applicant is
43144 competent to be placed in a responsible charge of the work;
43145 (b) with a masters degree, a specific record of three years of active professional
43146 practice in geological work of a character satisfactory to the division, indicating the applicant is
43147 competent to be placed in a responsible charge of the work; or
43148 (c) with a doctorate degree, a specific record of one year of active professional practice

43149 in geological work of a character satisfactory to the division, indicating the applicant is
43150 competent to be placed in a responsible charge of the work; and
43151 (6) after January 1, 2004, meet the examination requirement established by rule by the
43152 division in collaboration with the board.
43153 Section 946. Section **58-76-502** is amended to read:
43154 **58-76-502. Penalty for unlawful conduct.**
43155 (1) (a) If, upon inspection or investigation, the division concludes that a person has
43156 violated Section 58-76-501 or any rule or order issued with respect to Section 58-76-501, and
43157 that disciplinary action is appropriate, the director or [~~his or her~~] the director's designee from
43158 within the division shall promptly issue a citation to the person according to this chapter and
43159 any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to appear
43160 before an adjudicative proceeding conducted under [~~Title 63, Chapter 46b~~] Title 63G, Chapter
43161 4, Administrative Procedures Act.
43162 (i) A person who violates Subsections 58-1-501(1)(a) through (d) or Section 58-76-501
43163 or any rule or order issued with respect to Section 58-76-501, as evidenced by an uncontested
43164 citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may
43165 be assessed a fine pursuant to this Subsection (1) and may, in addition to or in lieu of, be
43166 ordered to cease and desist from violating Subsections 58-1-501(1)(a) through (d) or Section
43167 58-76-501 or any rule or order issued with respect to this section.
43168 (ii) Except for a cease and desist order, the licensure sanctions cited in Section
43169 58-76-401 may not be assessed through a citation.
43170 (b) A citation shall:
43171 (i) be in writing;
43172 (ii) describe with particularity the nature of the violation, including a reference to the
43173 provision of the chapter, rule, or order alleged to have been violated;
43174 (iii) clearly state that the recipient must notify the division in writing within 20
43175 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing
43176 conducted under [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act;
43177 and
43178 (iv) clearly explain the consequences of failure to timely contest the citation or to make
43179 payment of any fines assessed by the citation within the time specified in the citation.

43180 (c) The division may issue a notice in lieu of a citation.
43181 (d) Each citation issued under this section, or a copy of each citation, may be served
43182 upon any person upon whom a summons may be served in accordance with the Utah Rules of
43183 Civil Procedure and may be made personally or upon [~~his~~] the person's agent by a division
43184 investigator or by any person specially designated by the director or by mail.
43185 (e) If within 20 calendar days from the service of the citation, the person to whom the
43186 citation was issued fails to request a hearing to contest the citation, the citation becomes the
43187 final order of the division and is not subject to further agency review. The period to contest a
43188 citation may be extended by the division for cause.
43189 (f) The division may refuse to issue or renew, suspend, revoke, or place on probation
43190 the license of a licensee who fails to comply with a citation after it becomes final.
43191 (g) The failure of an applicant for licensure to comply with a citation after it becomes
43192 final is a ground for denial of license.
43193 (h) No citation may be issued under this section after the expiration of six months
43194 following the occurrence of any violation.
43195 (i) The director or [~~his~~] the director's designee shall assess fines according to the
43196 following:
43197 (i) for a first offense handled pursuant to Subsection (1)(a), a fine of up to $1,000;
43198 (ii) for a second offense handled pursuant to Subsection (1)(a), a fine of up to $2,000;
43199 and
43200 (iii) for any subsequent offense handled pursuant to Subsection (1)(a), a fine of up to
43201 $2,000 for each day of continued offense.
43202 (2) An action initiated for a first or second offense which has not yet resulted in a final
43203 order of the division shall not preclude initiation of any subsequent action for a second or
43204 subsequent offense during the pendency of any preceding action. The final order on a
43205 subsequent action shall be considered a second or subsequent offense, respectively, provided
43206 the preceding action resulted in a first or second offense, respectively.
43207 (3) Any penalty which is not paid may be collected by the director by either referring
43208 the matter to a collection agency or bringing an action in the district court of the county in
43209 which the person against whom the penalty is imposed resides or in the county where the office
43210 of the director is located. Any county attorney or the attorney general of the state shall provide

43211 legal assistance and advice to the director in any action to collect the penalty. In any action
43212 brought to enforce the provisions of this section, reasonable attorney's fees and costs shall be
43213 awarded to the division.
43214 Section 947. Section **58-77-302** is amended to read:
43215 **58-77-302. Qualifications for licensure.**
43216 Each applicant for licensure as a licensed Direct-entry midwife shall:
43217 (1) submit an application in a form prescribed by the division;
43218 (2) pay a fee as determined by the department under Section [~~63-38-3.2~~] 63J-1-303;
43219 (3) be of good moral character;
43220 (4) hold a Certified Professional Midwife certificate in good standing with the North
43221 American Registry of Midwives or equivalent certification approved by the division in
43222 collaboration with the board;
43223 (5) hold current adult and infant CPR and newborn resuscitation certifications through
43224 an organization approved by the division in collaboration with the board; and
43225 (6) provide documentation of successful completion of an approved pharmacology
43226 course as defined by division rule.
43227 Section 948. Section **59-1-210 (Effective 01/01/08)** is amended to read:
43228 **59-1-210 (Effective 01/01/08). General powers and duties.**
43229 The powers and duties of the commission are as follows:
43230 (1) to sue and be sued in its own name;
43231 (2) to adopt rules and policies consistent with the Constitution and laws of this state to
43232 govern the commission, executive director, division directors, and commission employees in
43233 the performance of their duties;
43234 (3) to adopt rules and policies consistent with the Constitution and laws of the state, to
43235 govern county boards and officers in the performance of any duty relating to assessment,
43236 equalization, and collection of taxes;
43237 (4) to prescribe the use of forms relating to the assessment of property for state or local
43238 taxation, the equalization of those assessments, the reporting of property or income for state or
43239 local taxation purposes, or for the computation of those taxes and the reporting of any
43240 information, statistics, or data required by the commission;
43241 (5) to administer and supervise the tax laws of the state;

43242 (6) to prepare and maintain from year to year a complete record of all lands subject to
43243 taxation in this state, and all machinery used in mining and all property or surface
43244 improvements upon or appurtenant to mines or mining claims;
43245 (7) to exercise general supervision over assessors and county boards of equalization
43246 including the authority to enforce Section 59-2-303.1, and over other county officers in the
43247 performance of their duties relating to the assessment of property and collection of taxes, so
43248 that all assessments of property are just and equal, according to fair market value, and that the
43249 tax burden is distributed without favor or discrimination;
43250 (8) to reconvene any county board of equalization which, when reconvened, may only
43251 address business approved by the commission and extend the time for which any county board
43252 of equalization may sit for the equalization of assessments;
43253 (9) to confer with, advise, and direct county treasurers, assessors, and other county
43254 officers in matters relating to the assessment and equalization of property for taxation and the
43255 collection of taxes;
43256 (10) to provide for and hold annually at such time and place as may be convenient a
43257 district or state convention of county assessors, auditors, and other county officers to consider
43258 and discuss matters relative to taxation, uniformity of valuation, and changes in the law relative
43259 to taxation and methods of assessment, to which county assessors and other officers called to
43260 attend shall attend at county expense;
43261 (11) to direct proceedings, actions, and prosecutions to enforce the laws relating to the
43262 penalties, liabilities, and punishments of public officers, persons, and officers or agents of
43263 corporations for failure or neglect to comply with the statutes governing the reporting,
43264 assessment, and taxation of property;
43265 (12) to cause complaints to be made in the proper court seeking removal from office of
43266 assessors, auditors, members of county boards, and other assessing, taxing, or disbursing
43267 officers, who are guilty of official misconduct or neglect of duty;
43268 (13) to require county attorneys to immediately institute and prosecute actions and
43269 proceedings in respect to penalties, forfeitures, removals, and punishments for violations of the
43270 laws relating to the assessment and taxation of property in their respective counties;
43271 (14) to require any person to furnish any information required by the commission to
43272 ascertain the value and the relative burden borne by all kinds of property in the state, and to

43273 require from all state and local officers any information necessary for the proper discharge of
43274 the duties of the commission;
43275 (15) to examine all records relating to the valuation of property of any person;
43276 (16) to subpoena witnesses to appear and give testimony and produce records relating
43277 to any matter before the commission;
43278 (17) to cause depositions of witnesses to be taken as in civil actions at the request of
43279 the commission or any party to any matter or proceeding before the commission;
43280 (18) to authorize any member or employee of the commission to administer oaths and
43281 affirmations in any matter or proceeding relating to the exercise of the powers and duties of the
43282 commission;
43283 (19) to visit periodically each county of the state, to investigate and direct the work and
43284 methods of local assessors and other officials in the assessment, equalization, and taxation of
43285 property, and to ascertain whether the law requiring the assessment of all property not exempt
43286 from taxation, and the collection of taxes, have been properly administered and enforced;
43287 (20) to carefully examine all cases where evasion or violation of the laws for
43288 assessment and taxation of property is alleged, to ascertain whether existing laws are defective
43289 or improperly administered;
43290 (21) to furnish to the governor from time to time such assistance and information as the
43291 governor requires;
43292 (22) to transmit to the governor and to each member of the Legislature
43293 recommendations as to legislation which will correct or eliminate defects in the operation of
43294 the tax laws and will equalize the burden of taxation within the state;
43295 (23) to correct any error in any assessment made by it at any time before the tax is due
43296 and report the correction to the county auditor, who shall enter the corrected assessment upon
43297 the assessment roll;
43298 (24) to compile and publish statistics relating to taxation in the state and prepare and
43299 submit an annual budget to the governor for inclusion in the state budget to be submitted to the
43300 Legislature;
43301 (25) to perform any further duties imposed by law, and exercise all powers necessary in
43302 the performance of its duties;
43303 (26) to adopt a schedule of fees assessed for services provided by the commission,

43304 unless otherwise provided by statute. The fee shall be reasonable and fair, and shall reflect the
43305 cost of services provided. Each fee established in this manner shall be submitted to and
43306 approved by the Legislature as part of the commission's annual appropriations request. The
43307 commission may not charge or collect any fee proposed in this manner without approval by the
43308 Legislature;
43309 (27) to comply with the procedures and requirements of [~~Title 63, Chapter 46b~~] Title
43310 63G, Chapter 4, Administrative Procedures Act, in its adjudicative proceedings; and
43311 (28) to provide data to the executive director of the Department of Health for purposes
43312 of the distributions required by Section 26-9-4.
43313 Section 949. Section **59-1-302** is amended to read:
43314 **59-1-302. Penalty for nonpayment of certain taxes -- Jeopardy proceedings.**
43315 (1) This section applies to the following:
43316 (a) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
43317 (b) a tax under Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax
43318 Act;
43319 (c) a tax under Chapter 10, Part 4, Withholding of Tax;
43320 (d) (i) except as provided in Subsection (1)(d)(ii), a tax under Chapter 12, Sales and
43321 Use Tax Act; and
43322 (ii) notwithstanding Subsection (1)(d)(i), this section does not apply to Chapter 12, Part
43323 9, Sales Tax Refund for Qualified Emergency Food Agencies;
43324 (e) a tax under Chapter 13, Part 2, Motor Fuel;
43325 (f) a tax under Chapter 13, Part 3, Special Fuel; and
43326 (g) a tax under Chapter 13, Part 4, Aviation Fuel.
43327 (2) Any person required to collect, truthfully account for, and pay over any tax listed in
43328 Subsection (1) who willfully fails to collect the tax, fails to truthfully account for and pay over
43329 the tax, or attempts in any manner to evade or defeat any tax or the payment of the tax, shall be
43330 liable for a penalty equal to the total amount of the tax evaded, not collected, not accounted for,
43331 or not paid over. This penalty is in addition to other penalties provided by law.
43332 (3) (a) If the commission determines in accordance with Subsection (2) that a person is
43333 liable for the penalty, the commission shall notify the taxpayer of the proposed penalty.
43334 (b) The notice of proposed penalty shall:

43335 (i) set forth the basis of the assessment; and
43336 (ii) be mailed by certified mail to the person's last-known address.
43337 (4) Upon receipt of the notice of proposed penalty, the person against whom the
43338 penalty is proposed may:
43339 (a) pay the amount of the proposed penalty at the place and time stated in the notice; or
43340 (b) proceed in accordance with the review procedures of Subsection (5).
43341 (5) Any person against whom a penalty has been proposed in accordance with
43342 Subsections (2) and (3) may contest the proposed penalty by filing a petition for an adjudicative
43343 proceeding with the commission.
43344 (6) If the commission determines that the collection of the penalty is in jeopardy,
43345 nothing in this section may prevent the immediate collection of the penalty in accordance with
43346 the procedures and requirements for emergency proceedings in [~~Title 63, Chapter 46b~~] Title
43347 63G, Chapter 4, Administrative Procedures Act.
43348 (7) (a) In any hearing before the commission and in any judicial review of the hearing,
43349 the commission and the court shall consider any inference and evidence that a person has
43350 willfully failed to collect, truthfully account for, or pay over any tax listed in Subsection (1).
43351 (b) It is prima facie evidence that a person has willfully failed to collect, truthfully
43352 account for, or pay over any of the taxes listed in Subsection (1) if the commission or a court
43353 finds that the person charged with the responsibility of collecting, accounting for, or paying
43354 over the taxes:
43355 (i) made a voluntary, conscious, and intentional decision to prefer other creditors over
43356 the state government or utilize the tax money for personal purposes;
43357 (ii) recklessly disregarded obvious or known risks, which resulted in the failure to
43358 collect, account for, or pay over the tax; or
43359 (iii) failed to investigate or to correct mismanagement, having notice that the tax was
43360 not or is not being collected, accounted for, or paid over as provided by law.
43361 (c) The commission or court need not find a bad motive or specific intent to defraud
43362 the government or deprive it of revenue to establish willfulness under this section.
43363 (d) (i) If the commission determines that a person is liable for the penalty under
43364 Subsection (2), the commission shall assess the penalty and give notice and demand for
43365 payment.

43366 (ii) The notice and demand for payment described in Subsection (7)(d)(i) shall be
43367 mailed by certified mail to the person's last-known address.
43368 Section 950. Section **59-1-304** is amended to read:
43369 **59-1-304. Definition -- Limitations on maintaining a class action that relates to a**
43370 **tax or fee -- Requirements for a person to be included as a member of a class in a class**
43371 **action -- Rulemaking authority -- Commission report to Revenue and Taxation Interim**
43372 **Committee -- Limitations on recovery by members of a class -- Severability.**
43373 (1) As used in this section, "tax or fee" means a tax or fee administered by the
43374 commission.
43375 (2) A class action that relates to a tax or fee may not be maintained in any court if a
43376 claim sought by a representative party seeking to maintain the class action arises as a result of:
43377 (a) a person collecting a tax or fee from the representative party if the representative
43378 party is not required by law to pay the tax or fee; or
43379 (b) any of the following that requires a change in the manner in which a tax or fee is
43380 required to be collected or paid:
43381 (i) an administrative rule made by the commission;
43382 (ii) a private letter ruling issued by the commission; or
43383 (iii) a decision issued by:
43384 (A) the commission; or
43385 (B) a court of competent jurisdiction.
43386 (3) (a) A person may be included as a member of a class in a class action relating to a
43387 tax or fee only if the person:
43388 (i) exhausts all administrative remedies with the commission; and
43389 (ii) requests in writing to be included as a member of the class.
43390 (b) (i) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
43391 Administrative Rulemaking Act, the commission shall make rules to simplify and expedite the
43392 administrative remedies a person shall exhaust as required by Subsection (3)(a).
43393 (ii) The rules required by Subsection (3)(b)(i) may include rules providing for:
43394 (A) expedited filing procedures and forms;
43395 (B) consolidation of hearings procedures as may be reasonably needed to accommodate
43396 potential inclusion of similarly situated persons; and

43397 (C) the designation of test or sample cases to avoid multiple hearings.
43398 (iii) The commission shall report to the Revenue and Taxation Interim Committee on
43399 the status of the rules required by this Subsection (3)(b) on or before the October 2004 interim
43400 meeting.
43401 (4) Subject to Subsection (5), in a class action brought under this section against the
43402 state or its political subdivisions in which members of the class are awarded a refund or credit
43403 of a tax or fee by a court of competent jurisdiction, the total amount that may be recovered by
43404 members of the class may not exceed the difference between:
43405 (a) the sum of:
43406 (i) the amount of the refund or credit awarded to members of the class; and
43407 (ii) interest as provided in Section 59-1-402; and
43408 (b) if awarded in accordance with Subsection (5), the sum of:
43409 (i) reasonable costs; and
43410 (ii) reasonable attorneys' fees.
43411 (5) (a) For purposes of Subsection (4), at the discretion of the court, the court may
43412 award:
43413 (i) reasonable costs as determined by the court; and
43414 (ii) reasonable attorneys' fees determined under Subsection (5)(b).
43415 (b) Reasonable attorneys' fees awarded in a class action may not exceed a reasonable
43416 hourly rate for work actually performed:
43417 (i) as determined by the court; and
43418 (ii) taking into account all facts and circumstances that the court considers reasonable.
43419 (6) If any provision of this section, or the application of any provision of this section to
43420 any person or circumstance is held unconstitutional or invalid by a court of competent
43421 jurisdiction, the remainder of the section shall be given effect without the invalid provision or
43422 application.
43423 Section 951. Section **59-1-305** is amended to read:
43424 **59-1-305. Convenience fee to cover the costs of electronic payments.**
43425 (1) As used in this section:
43426 (a) "Electronic payment" has the same meaning as defined in Section 41-1a-1221.
43427 (b) "Electronic payment fee" has the same meaning as defined in Section 41-1a-1221.

43428 (2) The commission may collect a convenience electronic payment fee established in
43429 accordance with the procedures and requirements of Section [~~63-38-3.2~~] 63J-1-303 to cover the
43430 costs of electronic payments of taxes and fees administered by the commission.
43431 (3) Notwithstanding any other provisions of this title, the commission shall use a fee
43432 imposed under this section as a dedicated credit to cover the costs of electronic payments.
43433 Section 952. Section **59-1-401** is amended to read:
43434 **59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute**
43435 **of limitations -- Commission authority to waive, reduce, or compromise penalty or**
43436 **interest.**
43437 (1) As used in this section:
43438 (a) (i) "Nonqualifying obligation" means a charge, fee, payment, or tax administered by
43439 the commission.
43440 (ii) "Nonqualifying obligation" does not include:
43441 (A) beginning on the phase I activation date, a phase I obligation; or
43442 (B) beginning on the phase II activation date, a phase II obligation.
43443 (b) "Phase I activation date" means the earlier of:
43444 (i) the day on which the commission's GenTax system is activated to administer all
43445 phase I obligations; or
43446 (ii) May 1, 2008.
43447 (c) "Phase I obligation" means:
43448 (i) a fee under Section 19-6-808;
43449 (ii) a tax under Chapter 10, Part 1, Determination and Reporting of Tax Liability and
43450 Information;
43451 (iii) a tax under Chapter 10, Part 2, Trusts and Estates;
43452 (iv) a tax under Chapter 10, Part 12, Single Rate Individual Income Tax Act; or
43453 (v) a tax under Chapter 12, Sales and Use Tax Act.
43454 (d) "Phase II activation date" means the earlier of:
43455 (i) the day on which the commission's GenTax system is activated to administer all
43456 phase II obligations; or
43457 (ii) May 4, 2009.
43458 (e) (i) "Phase II obligation" means:

43459 (A) a payment under Chapter 6, Mineral Production Tax Withholding;
43460 (B) a tax under Chapter 7, Corporate Franchise and Income Taxes;
43461 (C) a payment under Chapter 10, Part 4, Withholding of Tax; or
43462 (D) a tax paid on a return filed in accordance with Section 59-10-507.
43463 (ii) "Phase II obligation" does not include a payment of estimated tax under Section
43464 59-7-504.
43465 (2) (a) The due date for filing a return is:
43466 (i) if the person filing the return is not allowed by law an extension of time for filing
43467 the return, the day on which the return is due as provided by law; or
43468 (ii) if the person filing the return is allowed by law an extension of time for filing the
43469 return, the last day of that extension of time.
43470 (b) (i) A penalty in the amount described in Subsection (2)(b)(ii) is imposed if:
43471 (A) a person is required to file a return with respect to a nonqualifying obligation; and
43472 (B) the person described in Subsection (2)(b)(i)(A) files the return after the due date
43473 described in Subsection (2)(a).
43474 (ii) For purposes of Subsection (2)(b)(i), the penalty is an amount equal to the greater
43475 of:
43476 (A) $20; or
43477 (B) 10% of the unpaid nonqualifying obligation due on the return.
43478 (c) (i) A penalty in the amount described in Subsection (2)(c)(ii) is imposed if a person:
43479 (A) (I) is required to file a return:
43480 (Aa) on or after the phase I activation date; and
43481 (Bb) with respect to a phase I obligation; and
43482 (II) files the return after the due date described in Subsection (2)(a); or
43483 (B) (I) is required to file a return:
43484 (Aa) on or after the phase II activation date; and
43485 (Bb) with respect to a phase II obligation; and
43486 (II) files the return after the due date described in Subsection (2)(a).
43487 (ii) For purposes of Subsection (2)(c)(i), the penalty is an amount equal to the greater
43488 of:
43489 (A) $20; or

43490 (B) (I) 2% of the unpaid phase I obligation or phase II obligation due on the return if
43491 the return is filed no later than five days after the due date described in Subsection (2)(a);
43492 (II) 5% of the unpaid phase I obligation or phase II obligation due on the return if the
43493 return is filed more than five days after the due date but no later than 15 days after the due date
43494 described in Subsection (2)(a); or
43495 (III) 10% of the unpaid phase I obligation or phase II obligation due on the return if the
43496 return is filed more than 15 days after the due date described in Subsection (2)(a).
43497 (d) This Subsection (2) does not apply to:
43498 (i) an amended return; or
43499 (ii) a return with no tax due.
43500 (3) (a) If a person fails to pay a tax, fee, or charge due, the person is subject to a penalty
43501 as provided in this Subsection (3).
43502 (b) (i) A penalty in the amount described in Subsection (3)(b)(ii) is imposed if:
43503 (A) a person files a return with respect to a nonqualifying obligation on or before the
43504 due date for filing a return described in Subsection (2)(a), but fails to pay the nonqualifying
43505 obligation due on the return on or before that due date;
43506 (B) a person:
43507 (I) is subject to a penalty under Subsection (2)(b); and
43508 (II) fails to pay a nonqualifying obligation due on a return within a 90-day period after
43509 the due date for filing a return described in Subsection (2)(a);
43510 (C) a person:
43511 (I) is mailed a notice of deficiency; and
43512 (II) within a 30-day period after the day on which the notice of deficiency described in
43513 Subsection (3)(b)(i)(C)(I) is mailed:
43514 (Aa) does not file a petition for redetermination or a request for agency action; and
43515 (Bb) fails to pay a nonqualifying obligation due on a return;
43516 (D) (I) the commission:
43517 (Aa) issues an order constituting final agency action resulting from a timely filed
43518 petition for redetermination or a timely filed request for agency action; or
43519 (Bb) is considered to have denied a request for reconsideration under Subsection
43520 [~~63-46b-13~~] 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a

43521 timely filed request for agency action; and
43522 (II) a person fails to pay a nonqualifying obligation due on a return within a 30-day
43523 period after the date the commission:
43524 (Aa) issues the order constituting final agency action described in Subsection
43525 (3)(b)(i)(D)(I)(Aa); or
43526 (Bb) is considered to have denied the request for reconsideration described in
43527 Subsection (3)(b)(i)(D)(I)(Bb); or
43528 (E) a person fails to pay a nonqualifying obligation within a 30-day period after the
43529 date of a final judicial decision resulting from a timely filed petition for judicial review.
43530 (ii) For purposes of Subsection (3)(b)(i), the penalty is an amount equal to the greater
43531 of:
43532 (A) $20; or
43533 (B) 10% of the unpaid nonqualifying obligation due on the return.
43534 (c) (i) This Subsection (3)(c) applies to a penalty:
43535 (A) imposed on or after the phase I activation date with respect to a phase I obligation;
43536 or
43537 (B) imposed on or after the phase II activation date with respect to a phase II
43538 obligation.
43539 (ii) (A) The penalty described in Subsection (3)(c)(ii)(B) applies if a person:
43540 (I) with respect to a phase I obligation:
43541 (Aa) files a return on or before the due date for filing a return described in Subsection
43542 (2)(a); and
43543 (Bb) fails to pay the phase I obligation due on the return on or before the due date
43544 described in Subsection (2)(a); or
43545 (II) with respect to a phase II obligation:
43546 (Aa) files a return on or before the due date for filing a return described in Subsection
43547 (2)(a); and
43548 (Bb) fails to pay the phase II obligation due on the return on or before the due date
43549 described in Subsection (2)(a).
43550 (B) For purposes of Subsection (3)(c)(ii)(A), the penalty is an amount equal to the
43551 greater of:

43552 (I) $20; or
43553 (II) (Aa) 2% of the unpaid phase I obligation or phase II obligation due on the return if
43554 the phase I obligation or phase II obligation due on the return is paid no later than five days
43555 after the due date for filing a return described in Subsection (2)(a);
43556 (Bb) 5% of the unpaid phase I obligation or phase II obligation due on the return if the
43557 phase I obligation or phase II obligation due on the return is paid more than five days after the
43558 due date for filing a return described in Subsection (2)(a) but no later than 15 days after that
43559 due date; or
43560 (Cc) 10% of the unpaid phase I obligation or phase II obligation due on the return if the
43561 phase I obligation or phase II obligation due on the return is paid more than 15 days after the
43562 due date for filing a return described in Subsection (2)(a).
43563 (iii) (A) A person is subject to a penalty as provided in Subsection (3)(c)(iii)(B) if the
43564 person:
43565 (I) is subject to a penalty under Subsection (2)(c); and
43566 (II) fails to pay a phase I obligation or phase II obligation due on a return within a
43567 90-day period after the due date for filing a return described in Subsection (2)(a).
43568 (B) For purposes of Subsection (3)(c)(iii)(A), the penalty is an amount equal to the
43569 greater of:
43570 (I) $20; or
43571 (II) (Aa) 2% of the unpaid phase I obligation or phase II obligation due on the return if
43572 the phase I obligation or phase II obligation due on the return is paid no later than five days
43573 after the last day of the 90-day period described in Subsection (3)(c)(iii)(A)(II);
43574 (Bb) 5% of the unpaid phase I obligation or phase II obligation due on the return if the
43575 phase I obligation or phase II obligation due on the return is paid more than five days after the
43576 last day of the 90-day period described in Subsection (3)(c)(iii)(A)(II) but no later than 15 days
43577 after the last day of the 90-day period described in Subsection (3)(c)(iii)(A)(II); or
43578 (Cc) 10% of the unpaid phase I obligation or phase II obligation due on the return if the
43579 phase I obligation or phase II obligation due on the return is paid more than 15 days after the
43580 last day of the 90-day period described in Subsection (3)(c)(iii)(A)(II).
43581 (iv) (A) A person is subject to a penalty as provided in Subsection (3)(c)(iv)(B) if the
43582 person:

43583 (I) is mailed a notice of deficiency; and
43584 (II) within a 30-day period after the day on which the notice of deficiency described in
43585 Subsection (3)(c)(iv)(A)(I) is mailed:
43586 (Aa) does not file a petition for redetermination or a request for agency action; and
43587 (Bb) fails to pay a phase I obligation or phase II obligation due on a return.
43588 (B) For purposes of Subsection (3)(c)(iv)(A), the penalty is an amount equal to the
43589 greater of:
43590 (I) $20; or
43591 (II) (Aa) 2% of the unpaid phase I obligation or phase II obligation due on the return if
43592 the phase I obligation or phase II obligation due on the return is paid no later than five days
43593 after the last day of the 30-day period described in Subsection (3)(c)(iv)(A)(II);
43594 (Bb) 5% of the unpaid phase I obligation or phase II obligation due on the return if the
43595 phase I obligation or phase II obligation due on the return is paid more than five days after the
43596 last day of the 30-day period described in Subsection (3)(c)(iv)(A)(II) but no later than 15 days
43597 after the last day of the 30-day period described in Subsection (3)(c)(iv)(A)(II); or
43598 (Cc) 10% of the unpaid phase I obligation or phase II obligation due on the return if the
43599 phase I obligation or phase II obligation due on the return is paid more than 15 days after the
43600 last day of the 30-day period described in Subsection (3)(c)(iv)(A)(II).
43601 (v) (A) A person is subject to a penalty as provided in Subsection (3)(c)(v)(B) if:
43602 (I) the commission:
43603 (Aa) issues an order constituting final agency action resulting from a timely filed
43604 petition for redetermination or a timely filed request for agency action; or
43605 (Bb) is considered to have denied a request for reconsideration under Subsection
43606 [~~63-46b-13~~] 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a
43607 timely filed request for agency action; and
43608 (II) the person fails to pay a phase I obligation or phase II obligation due on a return
43609 within a 30-day period after the date the commission:
43610 (Aa) issues the order constituting final agency action described in Subsection
43611 (3)(c)(v)(A)(I)(Aa); or
43612 (Bb) is considered to have denied the request for reconsideration described in
43613 Subsection (3)(c)(v)(A)(I)(Bb).

43614 (B) For purposes of Subsection (3)(c)(v)(A), the penalty is an amount equal to the
43615 greater of:
43616 (I) $20; or
43617 (II) (Aa) 2% of the unpaid phase I obligation or phase II obligation due on the return if
43618 the phase I obligation or phase II obligation due on the return is paid no later than five days
43619 after the last day of the 30-day period described in Subsection (3)(c)(v)(A)(II);
43620 (Bb) 5% of the unpaid phase I obligation or phase II obligation due on the return if the
43621 phase I obligation or phase II obligation due on the return is paid more than five days after the
43622 last day of the 30-day period described in Subsection (3)(c)(v)(A)(II) but no later than 15 days
43623 after the last day of the 30-day period described in Subsection (3)(c)(v)(A)(II); or
43624 (Cc) 10% of the unpaid phase I obligation or phase II obligation due on the return if the
43625 phase I obligation or phase II obligation due on the return is paid more than 15 days after the
43626 last day of the 30-day period described in Subsection (3)(c)(v)(A)(II).
43627 (vi) (A) A person is subject to a penalty as provided in Subsection (3)(c)(vi)(B) if
43628 within a 30-day period after the date of a final judicial decision resulting from a timely filed
43629 petition for judicial review, the person fails to pay a phase I obligation or phase II obligation.
43630 (B) For purposes of Subsection (3)(c)(vi)(A), the penalty is an amount equal to the
43631 greater of:
43632 (I) $20; or
43633 (II) (Aa) 2% of the unpaid phase I obligation or phase II obligation due on the return if
43634 the phase I obligation or phase II obligation due on the return is paid no later than five days
43635 after the last day of the 30-day period described in Subsection (3)(c)(vi)(A);
43636 (Bb) 5% of the unpaid phase I obligation or phase II obligation due on the return if the
43637 phase I obligation or phase II obligation due on the return is paid more than five days after the
43638 last day of the 30-day period described in Subsection (3)(c)(vi)(A) but no later than 15 days
43639 after the last day of the 30-day period described in Subsection (3)(c)(vi)(A); or
43640 (Cc) 10% of the unpaid phase I obligation or phase II obligation due on the return if the
43641 phase I obligation or phase II obligation due on the return is paid more than 15 days after the
43642 last day of the 30-day period described in Subsection (3)(c)(vi)(A).
43643 (4) (a) Beginning January 1, 1995, in the case of any underpayment of estimated tax or
43644 quarterly installments required by Sections 59-5-107, 59-5-207, 59-7-504, and 59-9-104, there

43645 shall be added a penalty in an amount determined by applying the interest rate provided under
43646 Section 59-1-402 plus four percentage points to the amount of the underpayment for the period
43647 of the underpayment.
43648 (b) (i) For purposes of Subsection (4)(a), the amount of the underpayment shall be the
43649 excess of the required installment over the amount, if any, of the installment paid on or before
43650 the due date for the installment.
43651 (ii) The period of the underpayment shall run from the due date for the installment to
43652 whichever of the following dates is the earlier:
43653 (A) the original due date of the tax return, without extensions, for the taxable year; or
43654 (B) with respect to any portion of the underpayment, the date on which that portion is
43655 paid.
43656 (iii) For purposes of this Subsection (4), a payment of estimated tax shall be credited
43657 against unpaid required installments in the order in which the installments are required to be
43658 paid.
43659 (5) (a) Notwithstanding Subsection (2) and except as provided in Subsection (6), a
43660 person allowed by law an extension of time for filing a corporate franchise or income tax return
43661 under Chapter 7, Corporate Franchise and Income Taxes, or an individual income tax return
43662 under Chapter 10, Individual Income Tax Act, is subject to a penalty in the amount described in
43663 Subsection (5)(b) if, on or before the day on which the return is due as provided by law, not
43664 including the extension of time, the person fails to pay:
43665 (i) for a person filing a corporate franchise or income tax return under Chapter 7,
43666 Corporate Franchise and Income Taxes, the payment required by Subsection 59-7-507(1)(b); or
43667 (ii) for a person filing an individual income tax return under Chapter 10, Individual
43668 Income Tax Act, the payment required by Subsection 59-10-516(2).
43669 (b) For purposes of Subsection (5)(a), the penalty per month during the period of the
43670 extension of time for filing the return is an amount equal to 2% of the unpaid tax due on the
43671 return.
43672 (6) If a person does not file a return within an extension of time allowed by Section
43673 59-7-505 or 59-10-516, the person:
43674 (a) is not subject to a penalty in the amount described in Subsection (5)(b); and
43675 (b) is subject to a penalty in an amount equal to the sum of:

43676 (i) a late file penalty in an amount equal to the greater of:
43677 (A) $20; or
43678 (B) 10% of the unpaid tax due on the return; and
43679 (ii) a late pay penalty in an amount equal to the greater of:
43680 (A) $20; or
43681 (B) 10% of the unpaid tax due on the return.
43682 (7) (a) Additional penalties for underpayments of tax are as provided in this Subsection
43683 (7)(a).
43684 (i) Except as provided in Subsection (7)(c), if any underpayment of tax is due to
43685 negligence, the penalty is 10% of the underpayment.
43686 (ii) Except as provided in Subsection (7)(d), if any underpayment of tax is due to
43687 intentional disregard of law or rule, the penalty is 15% of the underpayment.
43688 (iii) For intent to evade the tax, the penalty is the greater of $500 per period or 50% of
43689 the tax due.
43690 (iv) If the underpayment is due to fraud with intent to evade the tax, the penalty is the
43691 greater of $500 per period or 100% of the underpayment.
43692 (b) If the commission determines that a person is liable for a penalty imposed under
43693 Subsection (7)(a)(ii), (iii), or (iv), the commission shall notify the taxpayer of the proposed
43694 penalty.
43695 (i) The notice of proposed penalty shall:
43696 (A) set forth the basis of the assessment; and
43697 (B) be mailed by certified mail, postage prepaid, to the person's last-known address.
43698 (ii) Upon receipt of the notice of proposed penalty, the person against whom the
43699 penalty is proposed may:
43700 (A) pay the amount of the proposed penalty at the place and time stated in the notice;
43701 or
43702 (B) proceed in accordance with the review procedures of Subsection (7)(b)(iii).
43703 (iii) Any person against whom a penalty has been proposed in accordance with this
43704 Subsection (7) may contest the proposed penalty by filing a petition for an adjudicative
43705 proceeding with the commission.
43706 (iv) (A) If the commission determines that a person is liable for a penalty under this

43707 Subsection (7), the commission shall assess the penalty and give notice and demand for
43708 payment.
43709 (B) The notice and demand for payment described in Subsection (7)(b)(iv)(A) shall be
43710 mailed by certified mail, postage prepaid, to the person's last-known address.
43711 (c) A seller that voluntarily collects a tax under Subsection 59-12-107(1)(b) is not
43712 subject to the penalty under Subsection (7)(a)(i) if on or after July 1, 2001:
43713 (i) a court of competent jurisdiction issues a final unappealable judgment or order
43714 determining that:
43715 (A) the seller meets one or more of the criteria described in Subsection
43716 59-12-107(1)(a); and
43717 (B) the commission or a county, city, or town may require the seller to collect a tax
43718 under Subsection 59-12-103(2)(a) or (b); or
43719 (ii) the commission issues a final unappealable administrative order determining that:
43720 (A) the seller meets one or more of the criteria described in Subsection
43721 59-12-107(1)(a); and
43722 (B) the commission or a county, city, or town may require the seller to collect a tax
43723 under Subsection 59-12-103(2)(a) or (b).
43724 (d) A seller that voluntarily collects a tax under Subsection 59-12-107(1)(b) is not
43725 subject to the penalty under Subsection (7)(a)(ii) if:
43726 (i) (A) a court of competent jurisdiction issues a final unappealable judgment or order
43727 determining that:
43728 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(1)(a);
43729 and
43730 (II) the commission or a county, city, or town may require the seller to collect a tax
43731 under Subsection 59-12-103(2)(a) or (b); or
43732 (B) the commission issues a final unappealable administrative order determining that:
43733 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(1)(a);
43734 and
43735 (II) the commission or a county, city, or town may require the seller to collect a tax
43736 under Subsection 59-12-103(2)(a) or (b); and
43737 (ii) the seller's intentional disregard of law or rule is warranted by existing law or by a

43738 nonfrivolous argument for the extension, modification, or reversal of existing law or the
43739 establishment of new law.
43740 (8) Except as provided in Section 59-12-105, the penalty for failure to file an
43741 information return, information report, or a complete supporting schedule is $50 for each
43742 information return, information report, or supporting schedule up to a maximum of $1,000.
43743 (9) If any taxpayer, in furtherance of a frivolous position, has a prima facie intent to
43744 delay or impede administration of the tax law and files a purported return that fails to contain
43745 information from which the correctness of reported tax liability can be determined or that
43746 clearly indicates that the tax liability shown must be substantially incorrect, the penalty is $500.
43747 (10) (a) A seller that fails to remit a tax, fee, or charge monthly as required by
43748 Subsection 59-12-108(1)(a)(ii):
43749 (i) is subject to a penalty described in Subsection (2); and
43750 (ii) may not retain the percentage of sales and use taxes that would otherwise be
43751 allowable under Subsection 59-12-108(2).
43752 (b) A seller that fails to remit a tax, fee, or charge by electronic funds transfer as
43753 required by Subsection 59-12-108(1)(a)(ii)(B):
43754 (i) is subject to a penalty described in Subsection (2); and
43755 (ii) may not retain the percentage of sales and use taxes that would otherwise be
43756 allowable under Subsection 59-12-108(2).
43757 (11) (a) A person is subject to the penalty provided in Subsection (11)(c) if that person:
43758 (i) commits an act described in Subsection (11)(b) with respect to one or more of the
43759 following documents:
43760 (A) a return;
43761 (B) an affidavit;
43762 (C) a claim; or
43763 (D) a document similar to Subsections (11)(a)(i)(A) through (C);
43764 (ii) knows or has reason to believe that the document described in Subsection (11)(a)(i)
43765 will be used in connection with any material matter administered by the commission; and
43766 (iii) knows that the document described in Subsection (11)(a)(i), if used in connection
43767 with any material matter administered by the commission, would result in an understatement of
43768 another person's liability for a tax, fee, or charge administered by the commission.

43769 (b) The following acts apply to Subsection (11)(a)(i):
43770 (i) preparing any portion of a document described in Subsection (11)(a)(i);
43771 (ii) presenting any portion of a document described in Subsection (11)(a)(i);
43772 (iii) procuring any portion of a document described in Subsection (11)(a)(i);
43773 (iv) advising in the preparation or presentation of any portion of a document described
43774 in Subsection (11)(a)(i);
43775 (v) aiding in the preparation or presentation of any portion of a document described in
43776 Subsection (11)(a)(i);
43777 (vi) assisting in the preparation or presentation of any portion of a document described
43778 in Subsection (11)(a)(i); or
43779 (vii) counseling in the preparation or presentation of any portion of a document
43780 described in Subsection (11)(a)(i).
43781 (c) For purposes of Subsection (11)(a), the penalty:
43782 (i) shall be imposed by the commission;
43783 (ii) is $500 for each document described in Subsection (11)(a)(i) with respect to which
43784 the person described in Subsection (11)(a) meets the requirements of Subsection (11)(a); and
43785 (iii) is in addition to any other penalty provided by law.
43786 (d) The commission may seek a court order to enjoin a person from engaging in
43787 conduct that is subject to a penalty under this Subsection (11).
43788 (e) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
43789 Administrative Rulemaking Act, the commission may make rules prescribing the documents
43790 that are similar to Subsections (11)(a)(i)(A) through (C).
43791 (12) (a) As provided in Section 76-8-1101, criminal offenses and penalties are as
43792 provided in Subsections (12)(b) through (e).
43793 (b) (i) Any person who is required by this title or any laws the commission administers
43794 or regulates to register with or obtain a license or permit from the commission, who operates
43795 without having registered or secured a license or permit, or who operates when the registration,
43796 license, or permit is expired or not current, is guilty of a class B misdemeanor.
43797 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(b)(i), the
43798 penalty may not:
43799 (A) be less than $500; or

43800 (B) exceed $1,000.
43801 (c) (i) Any person who, with intent to evade any tax or requirement of this title or any
43802 lawful requirement of the commission, fails to make, render, sign, or verify any return or to
43803 supply any information within the time required by law, or who makes, renders, signs, or
43804 verifies any false or fraudulent return or statement, or who supplies any false or fraudulent
43805 information, is guilty of a third degree felony.
43806 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(c)(i), the
43807 penalty may not:
43808 (A) be less than $1,000; or
43809 (B) exceed $5,000.
43810 (d) (i) Any person who intentionally or willfully attempts to evade or defeat any tax or
43811 the payment of a tax is, in addition to other penalties provided by law, guilty of a second degree
43812 felony.
43813 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(d)(i), the
43814 penalty may not:
43815 (A) be less than $1,500; or
43816 (B) exceed $25,000.
43817 (e) (i) A person is guilty of a second degree felony if that person commits an act:
43818 (A) described in Subsection (12)(e)(ii) with respect to one or more of the following
43819 documents:
43820 (I) a return;
43821 (II) an affidavit;
43822 (III) a claim; or
43823 (IV) a document similar to Subsections (12)(e)(i)(A)(I) through (III); and
43824 (B) subject to Subsection (12)(e)(iii), with knowledge that the document described in
43825 Subsection (12)(e)(i)(A):
43826 (I) is false or fraudulent as to any material matter; and
43827 (II) could be used in connection with any material matter administered by the
43828 commission.
43829 (ii) The following acts apply to Subsection (12)(e)(i):
43830 (A) preparing any portion of a document described in Subsection (12)(e)(i)(A);

43831 (B) presenting any portion of a document described in Subsection (12)(e)(i)(A);
43832 (C) procuring any portion of a document described in Subsection (12)(e)(i)(A);
43833 (D) advising in the preparation or presentation of any portion of a document described
43834 in Subsection (12)(e)(i)(A);
43835 (E) aiding in the preparation or presentation of any portion of a document described in
43836 Subsection (12)(e)(i)(A);
43837 (F) assisting in the preparation or presentation of any portion of a document described
43838 in Subsection (12)(e)(i)(A); or
43839 (G) counseling in the preparation or presentation of any portion of a document
43840 described in Subsection (12)(e)(i)(A).
43841 (iii) This Subsection (12)(e) applies:
43842 (A) regardless of whether the person for which the document described in Subsection
43843 (12)(e)(i)(A) is prepared or presented:
43844 (I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or
43845 (II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and
43846 (B) in addition to any other penalty provided by law.
43847 (iv) Notwithstanding Section 76-3-301, for purposes of this Subsection (12)(e), the
43848 penalty may not:
43849 (A) be less than $1,500; or
43850 (B) exceed $25,000.
43851 (v) The commission may seek a court order to enjoin a person from engaging in
43852 conduct that is subject to a penalty under this Subsection (12)(e).
43853 (vi) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
43854 Administrative Rulemaking Act, the commission may make rules prescribing the documents
43855 that are similar to Subsections (12)(e)(i)(A)(I) through (III).
43856 (f) The statute of limitations for prosecution for a violation of this Subsection (12) is
43857 the later of six years:
43858 (i) from the date the tax should have been remitted; or
43859 (ii) after the day on which the person commits the criminal offense.
43860 (13) Upon making a record of its actions, and upon reasonable cause shown, the
43861 commission may waive, reduce, or compromise any of the penalties or interest imposed under

43862 this part.
43863 Section 953. Section **59-1-403** is amended to read:
43864 **59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.**
43865 (1) (a) Any of the following may not divulge or make known in any manner any
43866 information gained by that person from any return filed with the commission:
43867 (i) a tax commissioner;
43868 (ii) an agent, clerk, or other officer or employee of the commission; or
43869 (iii) a representative, agent, clerk, or other officer or employee of any county, city, or
43870 town.
43871 (b) An official charged with the custody of a return filed with the commission is not
43872 required to produce the return or evidence of anything contained in the return in any action or
43873 proceeding in any court, except:
43874 (i) in accordance with judicial order;
43875 (ii) on behalf of the commission in any action or proceeding under:
43876 (A) this title; or
43877 (B) other law under which persons are required to file returns with the commission;
43878 (iii) on behalf of the commission in any action or proceeding to which the commission
43879 is a party; or
43880 (iv) on behalf of any party to any action or proceeding under this title if the report or
43881 facts shown by the return are directly involved in the action or proceeding.
43882 (c) Notwithstanding Subsection (1)(b), a court may require the production of, and may
43883 admit in evidence, any portion of a return or of the facts shown by the return, as are specifically
43884 pertinent to the action or proceeding.
43885 (2) This section does not prohibit:
43886 (a) a person or that person's duly authorized representative from receiving a copy of
43887 any return or report filed in connection with that person's own tax;
43888 (b) the publication of statistics as long as the statistics are classified to prevent the
43889 identification of particular reports or returns; and
43890 (c) the inspection by the attorney general or other legal representative of the state of the
43891 report or return of any taxpayer:
43892 (i) who brings action to set aside or review a tax based on the report or return;

43893 (ii) against whom an action or proceeding is contemplated or has been instituted under
43894 this title; or
43895 (iii) against whom the state has an unsatisfied money judgment.
43896 (3) (a) Notwithstanding Subsection (1) and for purposes of administration, the
43897 commission may by rule, made in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter
43898 3, Utah Administrative Rulemaking Act, provide for a reciprocal exchange of information
43899 with:
43900 (i) the United States Internal Revenue Service; or
43901 (ii) the revenue service of any other state.
43902 (b) Notwithstanding Subsection (1) and for all taxes except individual income tax and
43903 corporate franchise tax, the commission may by rule, made in accordance with [~~Title 63,~~
43904 ~~Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information
43905 gathered from returns and other written statements with the federal government, any other
43906 state, any of the political subdivisions of another state, or any political subdivision of this state,
43907 except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state,
43908 or the federal government grant substantially similar privileges to this state.
43909 (c) Notwithstanding Subsection (1) and for all taxes except individual income tax and
43910 corporate franchise tax, the commission may by rule, in accordance with [~~Title 63, Chapter~~
43911 ~~46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of
43912 information concerning the identity and other information of taxpayers who have failed to file
43913 tax returns or to pay any tax due.
43914 (d) Notwithstanding Subsection (1), the commission shall provide to the Solid and
43915 Hazardous Waste Control Board executive secretary, as defined in Section 19-6-102, as
43916 requested by the executive secretary, any records, returns, or other information filed with the
43917 commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5
43918 regarding the environmental assurance program participation fee.
43919 (e) Notwithstanding Subsection (1), at the request of any person the commission shall
43920 provide that person sales and purchase volume data reported to the commission on a report,
43921 return, or other information filed with the commission under:
43922 (i) Chapter 13, Part 2, Motor Fuel; or
43923 (ii) Chapter 13, Part 4, Aviation Fuel.

43924 (f) Notwithstanding Subsection (1), upon request from a tobacco product manufacturer,
43925 as defined in Section 59-22-202, the commission shall report to the manufacturer:
43926 (i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
43927 manufacturer and reported to the commission for the previous calendar year under Section
43928 59-14-407; and
43929 (ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
43930 manufacturer for which a tax refund was granted during the previous calendar year under
43931 Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).
43932 (g) Notwithstanding Subsection (1), the commission shall notify manufacturers,
43933 distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited
43934 from selling cigarettes to consumers within the state under Subsection 59-14-210(2).
43935 (h) Notwithstanding Subsection (1), the commission may:
43936 (i) provide to the Division of Consumer Protection within the Department of
43937 Commerce and the attorney general data:
43938 (A) reported to the commission under Section 59-14-212; or
43939 (B) related to a violation under Section 59-14-211; and
43940 (ii) upon request provide to any person data reported to the commission under
43941 Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).
43942 (i) Notwithstanding Subsection (1), the commission shall, at the request of a committee
43943 of the Legislature, Office of the Legislative Fiscal Analyst, or Governor's Office of Planning
43944 and Budget, provide to the committee or office the total amount of revenues collected by the
43945 commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period
43946 specified by the committee or office.
43947 (j) Notwithstanding Subsection (1), the commission shall at the request of the
43948 Legislature provide to the Legislature the total amount of sales or uses exempt under
43949 Subsection 59-12-104(46) reported to the commission in accordance with Section 59-12-105.
43950 (k) Notwithstanding Subsection (1), the commission shall make the directory required
43951 by Section 59-14-603 available for public inspection.
43952 (l) Notwithstanding Subsection (1), the commission may share information with
43953 federal, state, or local agencies as provided in Subsection 59-14-606(3).
43954 (m) (i) Notwithstanding Subsection (1), the commission shall provide the Office of

43955 Recovery Services within the Department of Human Services any relevant information
43956 obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer
43957 who has become obligated to the Office of Recovery Services.
43958 (ii) The information described in Subsection (3)(m)(i) may be provided by the Office
43959 of Recovery Services to any other state's child support collection agency involved in enforcing
43960 that support obligation.
43961 (n) (i) Notwithstanding Subsection (1), upon request from the state court administrator,
43962 the commission shall provide to the state court administrator, the name, address, telephone
43963 number, county of residence, and Social Security number on resident returns filed under
43964 Chapter 10, Individual Income Tax Act.
43965 (ii) The state court administrator may use the information described in Subsection
43966 (3)(n)(i) only as a source list for the master jury list described in Section 78-46-10.
43967 (o) Notwithstanding Subsection (1), the commission shall at the request of a
43968 committee, commission, or task force of the Legislature provide to the committee, commission,
43969 or task force of the Legislature any information relating to a tax imposed under Chapter 9,
43970 Taxation of Admitted Insurers, relating to the study required by Section 59-9-101.
43971 (p) (i) As used in this Subsection (3)(p), "office" means the:
43972 (A) Office of the Legislative Fiscal Analyst; or
43973 (B) Office of Legislative Research and General Counsel.
43974 (ii) Notwithstanding Subsection (1) and except as provided in Subsection (3)(p)(iii),
43975 the commission shall at the request of an office provide to the office all information:
43976 (A) gained by the commission; and
43977 (B) required to be attached to or included in returns filed with the commission.
43978 (iii) (A) An office may not request and the commission may not provide to an office a
43979 person's:
43980 (I) address;
43981 (II) name;
43982 (III) Social Security number; or
43983 (IV) taxpayer identification number.
43984 (B) The commission shall in all instances protect the privacy of a person as required by
43985 Subsection (3)(p)(iii)(A).

43986 (iv) An office may provide information received from the commission in accordance
43987 with this Subsection (3)(p) only:
43988 (A) as:
43989 (I) a fiscal estimate;
43990 (II) fiscal note information; or
43991 (III) statistical information; and
43992 (B) if the information is classified to prevent the identification of a particular return.
43993 (v) (A) A person may not request information from an office under [~~Title 63, Chapter~~
43994 ~~2~~] Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if
43995 that office received the information from the commission in accordance with this Subsection
43996 (3)(p).
43997 (B) An office may not provide to a person that requests information in accordance with
43998 Subsection (3)(p)(v)(A) any information other than the information the office provides in
43999 accordance with Subsection (3)(p)(iv).
44000 (4) (a) Reports and returns shall be preserved for at least three years.
44001 (b) After the three-year period provided in Subsection (4)(a) the commission may
44002 destroy a report or return.
44003 (5) (a) Any person who violates this section is guilty of a class A misdemeanor.
44004 (b) If the person described in Subsection (5)(a) is an officer or employee of the state,
44005 the person shall be dismissed from office and be disqualified from holding public office in this
44006 state for a period of five years thereafter.
44007 (c) Notwithstanding Subsection (5)(a) or (b), an office that requests information in
44008 accordance with Subsection (3)(p)(iii) or a person that requests information in accordance with
44009 Subsection (3)(p)(v):
44010 (i) is not guilty of a class A misdemeanor; and
44011 (ii) is not subject to:
44012 (A) dismissal from office in accordance with Subsection (5)(b); or
44013 (B) disqualification from holding public office in accordance with Subsection (5)(b).
44014 (6) Except as provided in Section 59-1-404, this part does not apply to the property tax.
44015 Section 954. Section **59-1-404** is amended to read:
44016 **59-1-404. Definitions -- Confidentiality of commercial information obtained from**

44017 **a property taxpayer or derived from the commercial information -- Rulemaking**
44018 **authority -- Exceptions -- Written explanation -- Signature requirements -- Retention of**
44019 **signed explanation by employer -- Penalty.**
44020 (1) As used in this section:
44021 (a) "Appraiser" means an individual who holds an appraiser's certificate or license
44022 issued by the Division of Real Estate under Title 61, Chapter 2b, Real Estate Appraiser
44023 Licensing and Certification Act and includes an individual associated with an appraiser who
44024 assists the appraiser in preparing an appraisal.
44025 (b) "Appraisal" means an appraisal as defined in Section 61-2b-2.
44026 (c) (i) "Commercial information" means:
44027 (A) information of a commercial nature obtained from a property taxpayer regarding
44028 the property taxpayer's property; or
44029 (B) information derived from the information described in this Subsection (1)(c)(i).
44030 (ii) (A) "Commercial information" does not include information regarding a property
44031 taxpayer's property if the information is intended for public use.
44032 (B) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
44033 Administrative Rulemaking Act, for purposes of Subsection (1)(c)(ii)(A), the commission may
44034 by rule prescribe the circumstances under which information is intended for public use.
44035 (d) "Consultation service" means a consultation service as defined in Section 61-2b-2.
44036 (e) "Locally assessed property" means property that is assessed by a county assessor in
44037 accordance with Chapter 2, Part 3, County Assessment.
44038 (f) "Property taxpayer" means a person that:
44039 (i) is a property owner; or
44040 (ii) has in effect a contract with a property owner to:
44041 (A) make filings on behalf of the property owner;
44042 (B) process appeals on behalf of the property owner; or
44043 (C) pay a tax under Chapter 2, Property Tax Act, on the property owner's property.
44044 (g) "Property taxpayer's property" means property with respect to which a property
44045 taxpayer:
44046 (i) owns the property;
44047 (ii) makes filings relating to the property;

44048 (iii) processes appeals relating to the property; or
44049 (iv) pays a tax under Chapter 2, Property Tax Act, on the property.
44050 (h) "Protected commercial information" means commercial information that:
44051 (i) identifies a specific property taxpayer; or
44052 (ii) would reasonably lead to the identity of a specific property taxpayer.
44053 (2) An individual listed under Subsection 59-1-403(1)(a) may not disclose commercial
44054 information:
44055 (a) obtained in the course of performing any duty that the individual listed under
44056 Subsection 59-1-403(1)(a) performs under Chapter 2, Property Tax Act; or
44057 (b) relating to an action or proceeding:
44058 (i) with respect to a tax imposed on property in accordance with Chapter 2, Property
44059 Tax Act; and
44060 (ii) that is filed in accordance with:
44061 (A) this chapter;
44062 (B) Chapter 2, Property Tax Act; or
44063 (C) this chapter and Chapter 2, Property Tax Act.
44064 (3) (a) Notwithstanding Subsection (2) and subject to Subsection (3)(b), an individual
44065 listed under Subsection 59-1-403(1)(a) may disclose the following information:
44066 (i) the assessed value of property;
44067 (ii) the tax rate imposed on property;
44068 (iii) a legal description of property;
44069 (iv) the physical description or characteristics of property, including a street address or
44070 parcel number for the property;
44071 (v) the square footage or acreage of property;
44072 (vi) the square footage of improvements on property;
44073 (vii) the name of a property taxpayer;
44074 (viii) the mailing address of a property taxpayer;
44075 (ix) the amount of a property tax:
44076 (A) assessed on property;
44077 (B) due on property;
44078 (C) collected on property;

44079 (D) abated on property; or
44080 (E) deferred on property;
44081 (x) the amount of the following relating to property taxes due on property:
44082 (A) interest;
44083 (B) costs; or
44084 (C) other charges;
44085 (xi) the tax status of property, including:
44086 (A) an exemption;
44087 (B) a property classification;
44088 (C) a bankruptcy filing; or
44089 (D) whether the property is the subject of an action or proceeding under this title;
44090 (xii) information relating to a tax sale of property; or
44091 (xiii) information relating to single-family residential property.
44092 (b) (i) Subject to Subsection (3)(b)(ii), a person may receive the information described
44093 in Subsection (3)(a) in written format.
44094 (ii) The following may charge a reasonable fee to cover the actual cost of providing the
44095 information described in Subsection (3)(a) in written format:
44096 (A) the commission;
44097 (B) a county;
44098 (C) a city; or
44099 (D) a town.
44100 (4) (a) Notwithstanding Subsection (2) and except as provided in Subsection (4)(c), an
44101 individual listed under Subsection 59-1-403(1)(a) shall disclose commercial information:
44102 (i) in accordance with judicial order;
44103 (ii) on behalf of the commission in any action or proceeding:
44104 (A) under this title;
44105 (B) under another law under which a property taxpayer is required to disclose
44106 commercial information; or
44107 (C) to which the commission is a party;
44108 (iii) on behalf of any party to any action or proceeding under this title if the commercial
44109 information is directly involved in the action or proceeding; or

44110 (iv) if the requirements of Subsection (4)(b) are met, that is:
44111 (A) relevant to an action or proceeding:
44112 (I) filed in accordance with this title; and
44113 (II) involving property; or
44114 (B) in preparation for an action or proceeding involving property.
44115 (b) Commercial information shall be disclosed in accordance with Subsection
44116 (4)(a)(iv):
44117 (i) if the commercial information is obtained from:
44118 (A) a real estate agent if the real estate agent is not a property taxpayer of the property
44119 that is the subject of the action or proceeding;
44120 (B) an appraiser if the appraiser:
44121 (I) is not a property taxpayer of the property that is the subject of the action or
44122 proceeding; and
44123 (II) did not receive the commercial information pursuant to Subsection (8);
44124 (C) a property manager if the property manager is not a property taxpayer of the
44125 property that is the subject of the action or proceeding; or
44126 (D) a property taxpayer other than a property taxpayer of the property that is the subject
44127 of the action or proceeding;
44128 (ii) regardless of whether the commercial information is disclosed in more than one
44129 action or proceeding; and
44130 (iii) (A) if a county board of equalization conducts the action or proceeding, the county
44131 board of equalization takes action to provide that any commercial information disclosed during
44132 the action or proceeding may not be disclosed by any person conducting or participating in the
44133 action or proceeding except as specifically allowed by this section;
44134 (B) if the commission conducts the action or proceeding, the commission enters a
44135 protective order or, in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
44136 Administrative Rulemaking Act, makes rules specifying that any commercial information
44137 disclosed during the action or proceeding may not be disclosed by any person conducting or
44138 participating in the action or proceeding except as specifically allowed by this section; or
44139 (C) if a court of competent jurisdiction conducts the action or proceeding, the court
44140 enters a protective order specifying that any commercial information disclosed during the

44141 action or proceeding may not be disclosed by any person conducting or participating in the
44142 action or proceeding except as specifically allowed by this section.
44143 (c) Notwithstanding Subsection (4)(a), a court may require the production of, and may
44144 admit in evidence, commercial information that is specifically pertinent to the action or
44145 proceeding.
44146 (5) Notwithstanding Subsection (2), this section does not prohibit:
44147 (a) the following from receiving a copy of any commercial information relating to the
44148 basis for assessing a tax that is charged to a property taxpayer:
44149 (i) the property taxpayer;
44150 (ii) a duly authorized representative of the property taxpayer;
44151 (iii) a person that has in effect a contract with the property taxpayer to:
44152 (A) make filings on behalf of the property taxpayer;
44153 (B) process appeals on behalf of the property taxpayer; or
44154 (C) pay a tax under Chapter 2, Property Tax Act, on the property taxpayer's property;
44155 (iv) a property taxpayer that purchases property from another property taxpayer; or
44156 (v) a person that the property taxpayer designates in writing as being authorized to
44157 receive the commercial information;
44158 (b) the publication of statistics as long as the statistics are classified to prevent the
44159 identification of a particular property taxpayer's commercial information; or
44160 (c) the inspection by the attorney general or other legal representative of the state or a
44161 legal representative of a political subdivision of the state of the commercial information of a
44162 property taxpayer:
44163 (i) that brings action to set aside or review a tax or property valuation based on the
44164 commercial information;
44165 (ii) against which an action or proceeding is contemplated or has been instituted under
44166 this title; or
44167 (iii) against which the state or a political subdivision of the state has an unsatisfied
44168 money judgment.
44169 (6) Notwithstanding Subsection (2), in accordance with [~~Title 63, Chapter 46a~~] Title
44170 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule establish
44171 standards authorizing an individual listed under Subsection 59-1-403(1)(a) to disclose

44172 commercial information:
44173 (a) (i) in a published decision; or
44174 (ii) in carrying out official duties; and
44175 (b) if that individual listed under Subsection 59-1-403(1)(a) consults with the property
44176 taxpayer that provided the commercial information.
44177 (7) Notwithstanding Subsection (2):
44178 (a) an individual listed under Subsection 59-1-403(1)(a) may share commercial
44179 information with the following:
44180 (i) another individual listed in Subsection 59-1-403(1)(a)(i) or (ii); or
44181 (ii) a representative, agent, clerk, or other officer or employee of a county as required
44182 to fulfill an obligation created by Chapter 2, Property Tax Act;
44183 (b) an individual listed under Subsection 59-1-403(1)(a) may perform the following to
44184 fulfill an obligation created by Chapter 2, Property Tax Act:
44185 (i) publish notice;
44186 (ii) provide notice; or
44187 (iii) file a lien; or
44188 (c) the commission may by rule, made in accordance with [~~Title 63, Chapter 46a~~] Title
44189 63G, Chapter 3, Utah Administrative Rulemaking Act, share commercial information gathered
44190 from returns and other written statements with the federal government, any other state, any of
44191 the political subdivisions of another state, or any political subdivision of this state, if these
44192 political subdivisions or the federal government grant substantially similar privileges to this
44193 state.
44194 (8) Notwithstanding Subsection (2):
44195 (a) subject to the limitations in this section, an individual described in Subsection
44196 59-1-403(1)(a) may share the following commercial information with an appraiser:
44197 (i) the sales price of locally assessed property and the related financing terms;
44198 (ii) capitalization rates and related rates and ratios related to the valuation of locally
44199 assessed property; and
44200 (iii) income and expense information related to the valuation of locally assessed
44201 property; and
44202 (b) except as provided in Subsection (4), an appraiser who receives commercial

44203 information:
44204 (i) may disclose the commercial information:
44205 (A) to an individual described in Subsection 59-1-403(1)(a);
44206 (B) to an appraiser;
44207 (C) in an appraisal if protected commercial information is removed to protect its
44208 confidential nature; or
44209 (D) in performing a consultation service if protected commercial information is not
44210 disclosed; and
44211 (ii) may not use the commercial information:
44212 (A) for a purpose other than to prepare an appraisal or perform a consultation service;
44213 or
44214 (B) for a purpose intended to be, or which could reasonably be foreseen to be,
44215 anti-competitive to a property taxpayer.
44216 (9) (a) The commission shall:
44217 (i) prepare a written explanation of this section; and
44218 (ii) make the written explanation described in Subsection (9)(a)(i) available to the
44219 public.
44220 (b) An employer of a person described in Subsection 59-1-403(1)(a) shall:
44221 (i) provide the written explanation described in Subsection (9)(a)(i) to each person
44222 described in Subsection 59-1-403(1)(a) who is reasonably likely to receive commercial
44223 information;
44224 (ii) require each person who receives a written explanation in accordance with
44225 Subsection (9)(b)(i) to:
44226 (A) read the written explanation; and
44227 (B) sign the written explanation; and
44228 (iii) retain each written explanation that is signed in accordance with Subsection
44229 (9)(b)(ii) for a time period:
44230 (A) beginning on the day on which a person signs the written explanation in
44231 accordance with Subsection (9)(b)(ii); and
44232 (B) ending six years after the day on which the employment of the person described in
44233 Subsection (9)(b)(iii)(A) by the employer terminates.

44234 (c) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
44235 Administrative Rulemaking Act, the commission shall by rule define "employer."
44236 (10) (a) An individual described in Subsection (1)(a) or 59-1-403(1)(a), or an
44237 individual that violates a protective order or similar limitation entered pursuant to Subsection
44238 (4)(b)(iii), is guilty of a class A misdemeanor if that person:
44239 (i) intentionally discloses commercial information in violation of this section; and
44240 (ii) knows that the disclosure described in Subsection (10)(a)(i) is prohibited by this
44241 section.
44242 (b) If the individual described in Subsection (10)(a) is an officer or employee of the
44243 state or a county and is convicted of violating this section, the individual shall be dismissed
44244 from office and be disqualified from holding public office in this state for a period of five years
44245 thereafter.
44246 (c) If the individual described in Subsection (10)(a) is an appraiser, the appraiser shall
44247 forfeit any certification or license received under Title 61, Section 2b, Real Estate Appraiser
44248 Licensing and Certification Act, for a period of five years.
44249 (d) If the individual described in Subsection (10)(a) is an individual associated with an
44250 appraiser who assists the appraiser in preparing appraisals, the individual shall be prohibited
44251 from becoming licensed or certified under Title 61, Section 2b, Real Estate Appraiser
44252 Licensing and Certification Act, for a period of five years.
44253 Section 955. Section **59-1-502.5** is amended to read:
44254 **59-1-502.5. Initial hearing.**
44255 (1) At least 30 days before any formal hearing is held in response to a party's request
44256 for agency action, an initial hearing shall be held before one or more tax commissioners or an
44257 administrative law judge designated by the commission at which proffers of evidence,
44258 including testimony, documents, and other exhibits may be made and oral or written argument
44259 on legal issues may be received.
44260 (2) Any party participating in an initial hearing shall have the right to informal
44261 discovery under any rules established by the commission.
44262 (3) Parties may appear at the initial hearing in person or through agents, employees, or
44263 other representatives, but any person appearing on behalf of another party or entity shall have
44264 full settlement authority on behalf of the party [~~he~~] the person is representing.

44265 (4) A record may not be kept of the initial hearing and all initial hearing proceedings
44266 are privileged and do not constitute admissions against interest of any party participating in the
44267 hearing.
44268 (5) At the initial hearing, or as soon thereafter as reasonably practicable, the
44269 commission may take any action it deems appropriate to settle, compromise, or reduce the
44270 deficiency, or adjust the assessed valuation of any property.
44271 (6) Nothing in this section may limit a party's right to a formal hearing under [~~Title 63,~~
44272 ~~Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
44273 Section 956. Section **59-1-601** is amended to read:
44274 **59-1-601. District court jurisdiction.**
44275 (1) In addition to the jurisdiction granted in Section [~~63-46b-15~~] 63G-4-402, beginning
44276 July 1, 1994, the district court shall have jurisdiction to review by trial de novo all decisions
44277 issued by the commission after that date resulting from formal adjudicative proceedings.
44278 (2) As used in this section, "trial de novo" means an original, independent proceeding,
44279 and does not mean a trial de novo on the record.
44280 (3) (a) In any appeal to the district court pursuant to this section taken after January 1,
44281 1997, the commission shall certify a record of its proceedings to the district court.
44282 (b) This Subsection (3) supercedes Section [~~63-46b-16~~] 63G-4-403 pertaining to
44283 judicial review of formal adjudicative proceedings.
44284 Section 957. Section **59-1-602** is amended to read:
44285 **59-1-602. Right to appeal -- Venue -- County as party in interest.**
44286 (1) (a) Any aggrieved party appearing before the commission or county whose tax
44287 revenues are affected by the decision may at that party's option petition for judicial review in
44288 the district court pursuant to this section, or in the Supreme Court or the Court of Appeals
44289 pursuant to Section 59-1-610.
44290 (b) Judicial review of formal or informal adjudicative proceedings in the district is in
44291 the district court located in the county of residence or principal place of business of the affected
44292 taxpayer or, in the case of a taxpayer whose taxes are assessed on a statewide basis, to the
44293 Third Judicial District Court in and for Salt Lake County.
44294 (c) Notwithstanding Section [~~63-46b-15~~] 63G-4-402, a petition for review made to the
44295 district court under this section shall conform to the Utah Rules of Appellate Procedure.

44296 (2) A county whose tax revenues are affected by the decision being reviewed shall be
44297 allowed to be a party in interest in the proceeding before the court.
44298 Section 958. Section **59-1-610** is amended to read:
44299 **59-1-610. Standard of review of appellate court.**
44300 (1) When reviewing formal adjudicative proceedings commenced before the
44301 commission, the Court of Appeals or Supreme Court shall:
44302 (a) grant the commission deference concerning its written findings of fact, applying a
44303 substantial evidence standard on review; and
44304 (b) grant the commission no deference concerning its conclusions of law, applying a
44305 correction of error standard, unless there is an explicit grant of discretion contained in a statute
44306 at issue before the appellate court.
44307 (2) This section supercedes Section [~~63-46b-16~~] 63G-4-403 pertaining to judicial
44308 review of formal adjudicative proceedings.
44309 Section 959. Section **59-1-1302** is amended to read:
44310 **59-1-1302. Definitions.**
44311 (1) "Gross income" is as defined in Section 61, Internal Revenue Code.
44312 (2) "Income tax" means a tax imposed under:
44313 (a) Chapter 7, Corporate Franchise and Income Taxes; or
44314 (b) Chapter 10, Individual Income Tax Act.
44315 (3) "Income tax return" means a return filed under:
44316 (a) Chapter 7, Corporate Franchise and Income Taxes; or
44317 (b) Chapter 10, Individual Income Tax Act.
44318 (4) "Listed transaction" means a reportable transaction that is the same as, or
44319 substantially similar to, a transaction or arrangement specifically identified as a listed
44320 transaction by the:
44321 (a) United States Secretary of the Treasury in written materials interpreting the
44322 requirements of Section 6011, Internal Revenue Code; or
44323 (b) commission by rule made in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
44324 Chapter 3, Utah Administrative Rulemaking Act.
44325 (5) "Material advisor" is as defined in Section 6111, Internal Revenue Code.
44326 (6) "Reportable transaction" means a transaction or arrangement that:

44327 (a) is carried out through or invested in by one or more entities that:
44328 (i) are organized in this state;
44329 (ii) do business in this state;
44330 (iii) derive gross income from sources within this state;
44331 (iv) are subject to income tax; or
44332 (v) are otherwise subject to the jurisdiction of this state; and
44333 (b) is:
44334 (i) a transaction or arrangement described in 26 C.F.R. Sec. 1.6011-4(b)(2) through (7);
44335 or
44336 (ii) a reportable transaction as described by the commission by rule made in accordance
44337 with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
44338 (7) "Taxpayer" means a person that is required to file an income tax return.
44339 (8) "Unitary group" is as defined in Section 59-7-101.
44340 Section 960. Section **59-1-1303** is amended to read:
44341 **59-1-1303. Taxpayer disclosure of reportable transactions.**
44342 (1) A taxpayer is subject to this section for each taxable year in which:
44343 (a) the taxpayer participates in a reportable transaction;
44344 (b) the taxpayer:
44345 (i) is included in a federal consolidated return under Sections 1501 and 1504(b),
44346 Internal Revenue Code; and
44347 (ii) participates in a reportable transaction; or
44348 (c) the taxpayer is a member of a group that:
44349 (i) is a unitary group; and
44350 (ii) participates in a reportable transaction.
44351 (2) (a) A taxpayer described in Subsection (1) shall disclose a reportable transaction to
44352 the commission in a manner required by the commission by rule made in accordance with
44353 [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
44354 (b) If a taxpayer described in Subsection (1) is required to file a disclosure statement
44355 under 26 C.F.R. Sec. 1.6011-4, the taxpayer shall provide the commission a copy of that
44356 disclosure statement in a manner required by the commission by rule made in accordance with
44357 [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

44358 (3) (a) For a listed transaction entered into on or after January 1, 2004, but on or before
44359 December 31, 2006, a disclosure statement required by this section shall be attached to:
44360 (i) (A) the taxpayer's income tax return for the taxable year beginning on or after
44361 January 1, 2007, but beginning on or before December 31, 2007; and
44362 (B) any amended income tax return that the taxpayer files for the taxable year
44363 beginning on or after January 1, 2007, but beginning on or before December 31, 2007; and
44364 (ii) subject to Subsection (3)(b):
44365 (A) the taxpayer's income tax return for any taxable year after the taxable year
44366 beginning on or after January 1, 2007, but beginning on or before December 31, 2007, for
44367 which there is a reduction in income tax as a result of the listed transaction; and
44368 (B) any amended income tax return for any taxable year after the taxable year
44369 beginning on or after January 1, 2007, but beginning on or before December 31, 2007, for
44370 which there is a reduction in income tax as a result of the listed transaction.
44371 (b) For purposes of Subsection (3)(a)(ii), a reduction in income tax as a result of a
44372 listed transaction includes a loss, credit, or deduction if the loss, credit, or deduction results
44373 from a listed transaction that is carried forward or carried back.
44374 (4) For a reportable transaction entered into on or after January 1, 2004, a disclosure
44375 statement required by this section shall be attached to an amended income tax return filed on or
44376 after January 1, 2007, if the filing of the amended income tax return reflects a determination by
44377 the Internal Revenue Service of the federal income tax treatment of the reportable transaction.
44378 (5) (a) For a reportable transaction entered into on or after January 1, 2007, a disclosure
44379 statement required by this section shall be attached to:
44380 (i) (A) the taxpayer's income tax return for the taxable year during which the
44381 transaction was entered into; and
44382 (B) any amended income tax return that the taxpayer files for the taxable year during
44383 which the transaction was entered into; and
44384 (ii) subject to Subsection (5)(b):
44385 (A) the taxpayer's income tax return for any taxable year after the taxable year during
44386 which the transaction was entered into, for which there is a reduction in income tax as a result
44387 of the reportable transaction; and
44388 (B) any amended income tax return for any taxable year after the taxable year during

44389 which the transaction was entered into, for which there is a reduction in income tax as a result
44390 of the reportable transaction.
44391 (b) For purposes of Subsection (5)(a)(ii), a reduction in income tax as a result of a
44392 reportable transaction includes a loss, credit, or deduction if the loss, credit, or deduction
44393 results from a reportable transaction that is carried forward or carried back.
44394 Section 961. Section **59-1-1306** is amended to read:
44395 **59-1-1306. Material advisor disclosure of reportable transactions.**
44396 (1) (a) A material advisor shall disclose a reportable transaction to the commission on a
44397 form provided by the commission.
44398 (b) The disclosure described in Subsection (1)(a):
44399 (i) shall include information:
44400 (A) identifying and describing the transaction; and
44401 (B) describing any potential tax benefits expected to result from the transaction; and
44402 (ii) may include information other than the information described in Subsection
44403 (1)(b)(i) as required by the commission.
44404 (2) If a material advisor described in Subsection (1) is required to file a return
44405 disclosing a reportable transaction under Section 6111, Internal Revenue Code, the material
44406 advisor shall provide the commission a copy of that return.
44407 (3) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
44408 Administrative Rulemaking Act, the commission shall make rules prescribing:
44409 (a) the date a:
44410 (i) disclosure required by Subsection (1) shall be filed with the commission; and
44411 (ii) copy of a return required by Subsection (2) shall be filed with the commission;
44412 (b) that only one person may be required to meet the requirements of Subsection (1) or
44413 (2) if two or more persons would otherwise be required to meet the requirements of Subsection
44414 (1) or (2); and
44415 (c) exemptions from Subsection (1) or (2).
44416 Section 962. Section **59-1-1307** is amended to read:
44417 **59-1-1307. Material advisor maintenance of list.**
44418 (1) For each reportable transaction, a material advisor shall maintain a list of the
44419 persons to which the material advisor provides material aid, assistance, or advice with respect

44420 to organizing, managing, promoting, selling, implementing, insuring, or carrying out a
44421 reportable transaction.
44422 (2) The list described in Subsection (1) shall include:
44423 (a) the name of each person described in Subsection (1) that is:
44424 (i) a taxpayer;
44425 (ii) (A) a taxpayer; and
44426 (B) a member of a unitary group; or
44427 (iii) (A) a taxpayer; and
44428 (B) included in a federal consolidated return under Sections 1501 and 1504(b), Internal
44429 Revenue Code;
44430 (b) the same information required to be contained in the list described in 26 C.F.R.
44431 Sec. 301.6112-1; and
44432 (c) any additional information required by the commission by rule made in accordance
44433 with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
44434 (3) The list described in Subsection (1) shall be maintained in the same form and
44435 manner as the list described in 26 C.F.R. Sec. 301.6112-1.
44436 (4) A material advisor required to maintain a list under Subsection (1) shall:
44437 (a) make the list available to the commission upon written request by the commission;
44438 and
44439 (b) retain the information that is required to be included on the list for seven years.
44440 (5) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
44441 Administrative Rulemaking Act, the commission shall make rules prescribing that only one
44442 person may be required to meet the requirements of this section if two or more persons would
44443 otherwise be required to meet the requirements of this section.
44444 Section 963. Section **59-2-102** is amended to read:
44445 **59-2-102. Definitions.**
44446 As used in this chapter and title:
44447 (1) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of
44448 engaging in dispensing activities directly affecting agriculture or horticulture with an
44449 airworthiness certificate from the Federal Aviation Administration certifying the aircraft or
44450 rotorcraft's use for agricultural and pest control purposes.

44451 (2) "Air charter service" means an air carrier operation which requires the customer to
44452 hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled
44453 trip.
44454 (3) "Air contract service" means an air carrier operation available only to customers
44455 who engage the services of the carrier through a contractual agreement and excess capacity on
44456 any trip and is not available to the public at large.
44457 (4) "Aircraft" is as defined in Section 72-10-102.
44458 (5) "Airline" means any air carrier operating interstate routes on a scheduled basis
44459 which offers to fly passengers or cargo on the basis of available capacity on regularly scheduled
44460 routes.
44461 (6) "Assessment roll" means a permanent record of the assessment of property as
44462 assessed by the county assessor and the commission and may be maintained manually or as a
44463 computerized file as a consolidated record or as multiple records by type, classification, or
44464 categories.
44465 (7) (a) "Certified revenue levy" means a property tax levy that provides the same
44466 amount of ad valorem property tax revenue as was collected for the prior year, plus new
44467 growth, but exclusive of revenue from collections from redemptions, interest, and penalties.
44468 (b) For purposes of this Subsection (7), "ad valorem property tax revenue" does not
44469 include property tax revenue received by a taxing entity from personal property that is:
44470 (i) assessed by a county assessor in accordance with Part 3, County Assessment; and
44471 (ii) semiconductor manufacturing equipment.
44472 (8) "County-assessed commercial vehicle" means:
44473 (a) any commercial vehicle, trailer, or semitrailer which is not apportioned under
44474 Section 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or
44475 property in furtherance of the owner's commercial enterprise;
44476 (b) any passenger vehicle owned by a business and used by its employees for
44477 transportation as a company car or vanpool vehicle; and
44478 (c) vehicles which are:
44479 (i) especially constructed for towing or wrecking, and which are not otherwise used to
44480 transport goods, merchandise, or people for compensation;
44481 (ii) used or licensed as taxicabs or limousines;

44482 (iii) used as rental passenger cars, travel trailers, or motor homes;
44483 (iv) used or licensed in this state for use as ambulances or hearses;
44484 (v) especially designed and used for garbage and rubbish collection; or
44485 (vi) used exclusively to transport students or their instructors to or from any private,
44486 public, or religious school or school activities.
44487 (9) (a) Except as provided in Subsection (9)(b), for purposes of Section 59-2-801,
44488 "designated tax area" means a tax area created by the overlapping boundaries of only the
44489 following taxing entities:
44490 (i) a county; and
44491 (ii) a school district.
44492 (b) Notwithstanding Subsection (9)(a), "designated tax area" includes a tax area created
44493 by the overlapping boundaries of:
44494 (i) the taxing entities described in Subsection (9)(a); and
44495 (ii) (A) a city or town if the boundaries of the school district under Subsection (9)(a)
44496 and the boundaries of the city or town are identical; or
44497 (B) a special service district if the boundaries of the school district under Subsection
44498 (9)(a) are located entirely within the special service district.
44499 (10) "Eligible judgment" means a final and unappealable judgment or order under
44500 Section 59-2-1330:
44501 (a) that became a final and unappealable judgment or order no more than 14 months
44502 prior to the day on which the notice required by Subsection 59-2-919(4) is required to be
44503 mailed; and
44504 (b) for which a taxing entity's share of the final and unappealable judgment or order is
44505 greater than or equal to the lesser of:
44506 (i) $5,000; or
44507 (ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the
44508 previous fiscal year.
44509 (11) (a) "Escaped property" means any property, whether personal, land, or any
44510 improvements to the property, subject to taxation and is:
44511 (i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed
44512 to the wrong taxpayer by the assessing authority;

44513 (ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to
44514 comply with the reporting requirements of this chapter; or
44515 (iii) undervalued because of errors made by the assessing authority based upon
44516 incomplete or erroneous information furnished by the taxpayer.
44517 (b) Property which is undervalued because of the use of a different valuation
44518 methodology or because of a different application of the same valuation methodology is not
44519 "escaped property."
44520 (12) "Fair market value" means the amount at which property would change hands
44521 between a willing buyer and a willing seller, neither being under any compulsion to buy or sell
44522 and both having reasonable knowledge of the relevant facts. For purposes of taxation, "fair
44523 market value" shall be determined using the current zoning laws applicable to the property in
44524 question, except in cases where there is a reasonable probability of a change in the zoning laws
44525 affecting that property in the tax year in question and the change would have an appreciable
44526 influence upon the value.
44527 (13) "Farm machinery and equipment," for purposes of the exemption provided under
44528 Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities, feed
44529 handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage
44530 tools, scales, combines, spreaders, sprayers, haying equipment, and any other machinery or
44531 equipment used primarily for agricultural purposes; but does not include vehicles required to be
44532 registered with the Motor Vehicle Division or vehicles or other equipment used for business
44533 purposes other than farming.
44534 (14) "Geothermal fluid" means water in any form at temperatures greater than 120
44535 degrees centigrade naturally present in a geothermal system.
44536 (15) "Geothermal resource" means:
44537 (a) the natural heat of the earth at temperatures greater than 120 degrees centigrade;
44538 and
44539 (b) the energy, in whatever form, including pressure, present in, resulting from, created
44540 by, or which may be extracted from that natural heat, directly or through a material medium.
44541 (16) (a) "Goodwill" means:
44542 (i) acquired goodwill that is reported as goodwill on the books and records:
44543 (A) of a taxpayer; and

44544 (B) that are maintained for financial reporting purposes; or
44545 (ii) the ability of a business to:
44546 (A) generate income:
44547 (I) that exceeds a normal rate of return on assets; and
44548 (II) resulting from a factor described in Subsection (16)(b); or
44549 (B) obtain an economic or competitive advantage resulting from a factor described in
44550 Subsection (16)(b).
44551 (b) The following factors apply to Subsection (16)(a)(ii):
44552 (i) superior management skills;
44553 (ii) reputation;
44554 (iii) customer relationships;
44555 (iv) patronage; or
44556 (v) a factor similar to Subsections (16)(b)(i) through (iv).
44557 (c) "Goodwill" does not include:
44558 (i) the intangible property described in Subsection (20)(a) or (b);
44559 (ii) locational attributes of real property, including:
44560 (A) zoning;
44561 (B) location;
44562 (C) view;
44563 (D) a geographic feature;
44564 (E) an easement;
44565 (F) a covenant;
44566 (G) proximity to raw materials;
44567 (H) the condition of surrounding property; or
44568 (I) proximity to markets;
44569 (iii) value attributable to the identification of an improvement to real property,
44570 including:
44571 (A) reputation of the designer, builder, or architect of the improvement;
44572 (B) a name given to, or associated with, the improvement; or
44573 (C) the historic significance of an improvement; or
44574 (iv) the enhancement or assemblage value specifically attributable to the interrelation

44575 of the existing tangible property in place working together as a unit.
44576 (17) "Governing body" means:
44577 (a) for a county, city, or town, the legislative body of the county, city, or town;
44578 (b) for a local district under Title 17B, Limited Purpose Local Government Entities -
44579 Local Districts, the local district's board of trustees;
44580 (c) for a school district, the local board of education; or
44581 (d) for a special service district under Title 17A, Chapter 2, Part 13, Utah Special
44582 Service District Act:
44583 (i) the legislative body of the county or municipality that created the special service
44584 district, to the extent that the county or municipal legislative body has not delegated authority
44585 to an administrative control board established under Section 17A-2-1326; or
44586 (ii) the administrative control board, to the extent that the county or municipal
44587 legislative body has delegated authority to an administrative control board established under
44588 Section 17A-2-1326.
44589 (18) (a) For purposes of Section 59-2-103:
44590 (i) "household" means the association of persons who live in the same dwelling,
44591 sharing its furnishings, facilities, accommodations, and expenses; and
44592 (ii) "household" includes married individuals, who are not legally separated, that have
44593 established domiciles at separate locations within the state.
44594 (b) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
44595 Administrative Rulemaking Act, the commission may make rules defining the term "domicile."
44596 (19) (a) Except as provided in Subsection (19)(c), "improvement" means a building,
44597 structure, fixture, fence, or other item that is permanently attached to land, regardless of
44598 whether the title has been acquired to the land, if:
44599 (i) (A) attachment to land is essential to the operation or use of the item; and
44600 (B) the manner of attachment to land suggests that the item will remain attached to the
44601 land in the same place over the useful life of the item; or
44602 (ii) removal of the item would:
44603 (A) cause substantial damage to the item; or
44604 (B) require substantial alteration or repair of a structure to which the item is attached.
44605 (b) "Improvement" includes:

44606 (i) an accessory to an item described in Subsection (19)(a) if the accessory is:
44607 (A) essential to the operation of the item described in Subsection (19)(a); and
44608 (B) installed solely to serve the operation of the item described in Subsection (19)(a);
44609 and
44610 (ii) an item described in Subsection (19)(a) that:
44611 (A) is temporarily detached from the land for repairs; and
44612 (B) remains located on the land.
44613 (c) Notwithstanding Subsections (19)(a) and (b), "improvement" does not include:
44614 (i) an item considered to be personal property pursuant to rules made in accordance
44615 with Section 59-2-107;
44616 (ii) a moveable item that is attached to land:
44617 (A) for stability only; or
44618 (B) for an obvious temporary purpose;
44619 (iii) (A) manufacturing equipment and machinery; or
44620 (B) essential accessories to manufacturing equipment and machinery;
44621 (iv) an item attached to the land in a manner that facilitates removal without substantial
44622 damage to:
44623 (A) the land; or
44624 (B) the item; or
44625 (v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that
44626 transportable factory-built housing unit is considered to be personal property under Section
44627 59-2-1503.
44628 (20) "Intangible property" means:
44629 (a) property that is capable of private ownership separate from tangible property,
44630 including:
44631 (i) moneys;
44632 (ii) credits;
44633 (iii) bonds;
44634 (iv) stocks;
44635 (v) representative property;
44636 (vi) franchises;

44637 (vii) licenses;
44638 (viii) trade names;
44639 (ix) copyrights; and
44640 (x) patents;
44641 (b) a low-income housing tax credit; or
44642 (c) goodwill.
44643 (21) "Low-income housing tax credit" means:
44644 (a) a federal low-income housing tax credit under Section 42, Internal Revenue Code;
44645 or
44646 (b) a low-income housing tax credit under:
44647 (i) Section 59-7-607; or
44648 (ii) Section 59-10-1010.
44649 (22) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.
44650 (23) "Mine" means a natural deposit of either metalliferous or nonmetalliferous
44651 valuable mineral.
44652 (24) "Mining" means the process of producing, extracting, leaching, evaporating, or
44653 otherwise removing a mineral from a mine.
44654 (25) (a) "Mobile flight equipment" means tangible personal property that is:
44655 (i) owned or operated by an:
44656 (A) air charter service;
44657 (B) air contract service; or
44658 (C) airline; and
44659 (ii) (A) capable of flight;
44660 (B) attached to an aircraft that is capable of flight; or
44661 (C) contained in an aircraft that is capable of flight if the tangible personal property is
44662 intended to be used:
44663 (I) during multiple flights;
44664 (II) during a takeoff, flight, or landing; and
44665 (III) as a service provided by an air charter service, air contract service, or airline.
44666 (b) (i) "Mobile flight equipment" does not include a spare part other than a spare
44667 engine that is rotated:

44668 (A) at regular intervals; and
44669 (B) with an engine that is attached to the aircraft.
44670 (ii) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
44671 Administrative Rulemaking Act, the commission may make rules defining the term "regular
44672 intervals."
44673 (26) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts,
44674 sand, rock, gravel, and all carboniferous materials.
44675 (27) "Personal property" includes:
44676 (a) every class of property as defined in Subsection (28) which is the subject of
44677 ownership and not included within the meaning of the terms "real estate" and "improvements";
44678 (b) gas and water mains and pipes laid in roads, streets, or alleys;
44679 (c) bridges and ferries;
44680 (d) livestock which, for the purposes of the exemption provided under Section
44681 59-2-1112, means all domestic animals, honeybees, poultry, fur-bearing animals, and fish; and
44682 (e) outdoor advertising structures as defined in Section 72-7-502.
44683 (28) (a) "Property" means property that is subject to assessment and taxation according
44684 to its value.
44685 (b) "Property" does not include intangible property as defined in this section.
44686 (29) "Public utility," for purposes of this chapter, means the operating property of a
44687 railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline
44688 company, electrical corporation, telephone corporation, sewerage corporation, or heat
44689 corporation where the company performs the service for, or delivers the commodity to, the
44690 public generally or companies serving the public generally, or in the case of a gas corporation
44691 or an electrical corporation, where the gas or electricity is sold or furnished to any member or
44692 consumers within the state for domestic, commercial, or industrial use. Public utility also
44693 means the operating property of any entity or person defined under Section 54-2-1 except water
44694 corporations.
44695 (30) "Real estate" or "real property" includes:
44696 (a) the possession of, claim to, ownership of, or right to the possession of land;
44697 (b) all mines, minerals, and quarries in and under the land, all timber belonging to
44698 individuals or corporations growing or being on the lands of this state or the United States, and

44699 all rights and privileges appertaining to these; and
44700 (c) improvements.
44701 (31) "Residential property," for the purposes of the reductions and adjustments under
44702 this chapter, means any property used for residential purposes as a primary residence. It does
44703 not include property used for transient residential use or condominiums used in rental pools.
44704 (32) For purposes of Subsection 59-2-801(1)(e), "route miles" means the number of
44705 miles calculated by the commission that is:
44706 (a) measured in a straight line by the commission; and
44707 (b) equal to the distance between a geographical location that begins or ends:
44708 (i) at a boundary of the state; and
44709 (ii) where an aircraft:
44710 (A) takes off; or
44711 (B) lands.
44712 (33) (a) "State-assessed commercial vehicle" means:
44713 (i) any commercial vehicle, trailer, or semitrailer which operates interstate or intrastate
44714 to transport passengers, freight, merchandise, or other property for hire; or
44715 (ii) any commercial vehicle, trailer, or semitrailer which operates interstate and
44716 transports the vehicle owner's goods or property in furtherance of the owner's commercial
44717 enterprise.
44718 (b) "State-assessed commercial vehicle" does not include vehicles used for hire which
44719 are specified in Subsection (8)(c) as county-assessed commercial vehicles.
44720 (34) "Taxable value" means fair market value less any applicable reduction allowed for
44721 residential property under Section 59-2-103.
44722 (35) "Tax area" means a geographic area created by the overlapping boundaries of one
44723 or more taxing entities.
44724 (36) "Taxing entity" means any county, city, town, school district, special taxing
44725 district, local district under Title 17B, Limited Purpose Local Government Entities - Local
44726 Districts, or other political subdivision of the state with the authority to levy a tax on property.
44727 (37) "Tax roll" means a permanent record of the taxes charged on property, as extended
44728 on the assessment roll and may be maintained on the same record or records as the assessment
44729 roll or may be maintained on a separate record properly indexed to the assessment roll. It

44730 includes tax books, tax lists, and other similar materials.
44731 Section 964. Section **59-2-103.5** is amended to read:
44732 **59-2-103.5. Procedures to obtain an exemption for residential property.**
44733 (1) Subject to the other provisions of this section, a county legislative body may by
44734 ordinance require that in order for residential property to be allowed a residential exemption in
44735 accordance with Section 59-2-103, an owner of the residential property shall file with the
44736 county board of equalization a statement:
44737 (a) on a form prescribed by the commission by rule;
44738 (b) signed by all of the owners of the residential property;
44739 (c) certifying that the residential property is residential property; and
44740 (d) containing other information as required by the commission by rule.
44741 (2) (a) Subject to Section 59-2-103 and except as provided in Subsection (3), a county
44742 board of equalization shall allow an owner described in Subsection (1) a residential exemption
44743 for the residential property described in Subsection (1) if:
44744 (i) the county legislative body enacts the ordinance described in Subsection (1); and
44745 (ii) the county board of equalization determines that the requirements of Subsection (1)
44746 are met.
44747 (b) A county board of equalization may require an owner of the residential property
44748 described in Subsection (1) to file the statement described in Subsection (1) only if:
44749 (i) that residential property was ineligible for the residential exemption authorized
44750 under Section 59-2-103 during the calendar year immediately preceding the calendar year for
44751 which the owner is seeking to claim the residential exemption for that residential property;
44752 (ii) an ownership interest in that residential property changes; or
44753 (iii) the county board of equalization determines that there is reason to believe that that
44754 residential property no longer qualifies for the residential exemption in accordance with
44755 Section 59-2-103.
44756 (3) Notwithstanding Subsection (2)(a), if a county legislative body does not enact an
44757 ordinance requiring an owner to file a statement in accordance with this section, the county
44758 board of equalization:
44759 (a) may not require an owner to file a statement for residential property to be eligible
44760 for a residential exemption in accordance with Section 59-2-103; and

44761 (b) shall allow a residential exemption for residential property in accordance with
44762 Section 59-2-103.
44763 (4) (a) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
44764 Administrative Rulemaking Act, the commission shall make rules providing:
44765 (i) the form for the statement described in Subsection (1); and
44766 (ii) the contents of the form for the statement described in Subsection (1).
44767 (b) The commission shall make the form described in Subsection (4)(a) available to
44768 counties.
44769 Section 965. Section **59-2-107** is amended to read:
44770 **59-2-107. Classes of personal property -- Rulemaking authority.**
44771 The commission shall make rules:
44772 (1) in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
44773 Administrative Rulemaking Act;
44774 (2) defining classes of items considered to be personal property for purposes of this
44775 chapter;
44776 (3) defining items that fall into the classes established under Subsection (2); and
44777 (4) defining any class or item as personal property if the commission defined that class
44778 or item as personal property prior to January 1, 2004, by:
44779 (a) a rule made in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
44780 Administrative Rulemaking Act;
44781 (b) a published decision of the commission; or
44782 (c) an official schedule published by the commission.
44783 Section 966. Section **59-2-202** is amended to read:
44784 **59-2-202. Statement of taxpayer -- Extension of time for filing -- Assessment**
44785 **without statement -- Penalty for failure to file statement or information -- Waiver,**
44786 **reduction, or compromise of penalty -- Appeals.**
44787 (1) (a) A person, or an officer or agent of that person, owning or operating property
44788 described in Subsection (1)(b) shall, on or before March 1 of each year, file with the
44789 commission a statement:
44790 (i) signed and sworn to by the person, officer, or agent;
44791 (ii) showing in detail all real property and tangible personal property located in the

44792 state that the person owns or operates;
44793 (iii) containing the number of miles of taxable tangible personal property in each
44794 county:
44795 (A) that the person owns or operates; and
44796 (B) as valued on January 1 of the year for which the person, officer, or agent is
44797 furnishing the statement; and
44798 (iv) containing any other information the commission requires.
44799 (b) Subsection (1)(a) applies to:
44800 (i) the following property located in the state:
44801 (A) a public utility;
44802 (B) an airline;
44803 (C) an air charter service; or
44804 (D) an air contract service; or
44805 (ii) the following property located in more than one county in the state:
44806 (A) a pipeline company;
44807 (B) a power company;
44808 (C) a canal company;
44809 (D) an irrigation company; or
44810 (E) a telephone company.
44811 (c) (i) The commission may allow an extension for filing the statement under
44812 Subsection (1)(a) for a time period not exceeding 30 days, unless the commission determines
44813 that extraordinary circumstances require a longer period of extension.
44814 (ii) The commission shall grant a person, or an officer or agent of that person, an
44815 extension for filing the statement under Subsection (1)(a) for a time period not exceeding 15
44816 days if:
44817 (A) a federal regulatory agency requires the taxpayer to file a statement that contains
44818 the same information as the statement under Subsection (1)(a); and
44819 (B) the person, or an officer or agent of that person, requests the commission to grant
44820 the extension.
44821 (2) The commission shall assess and list the property described in Subsection (1)(b)
44822 using the best information obtainable by the commission if a person, or an officer or agent of

44823 that person, fails to file the statement required under Subsection (1)(a) on or before the later of:
44824 (a) March 1; or
44825 (b) if the commission allows an extension under Subsection (1)(c) for filing the
44826 statement, the day after the last day of the extension period.
44827 (3) (a) Except as provided in Subsection (3)(c), the commission shall assess a person a
44828 penalty as provided in Subsection (3)(b), if the person, or an officer or agent of that person,
44829 fails to file:
44830 (i) the statement required under Subsection (1)(a) on or before the later of:
44831 (A) March 1; or
44832 (B) if the commission allows an extension under Subsection (1)(c) for filing the
44833 statement, the day after the last day of the extension period; or
44834 (ii) any other information the commission determines to be necessary to:
44835 (A) establish valuations for assessment purposes; or
44836 (B) apportion an assessment.
44837 (b) The penalty described in Subsection (3)(a) is an amount equal to the greater of:
44838 (i) 10% of the person's estimated tax liability under this chapter for the current calendar
44839 year not to exceed $50,000; or
44840 (ii) $100.
44841 (c) (i) Notwithstanding Subsections (3)(a) and (4), the commission may waive, reduce,
44842 or compromise a penalty imposed under this section if the commission finds there are
44843 reasonable grounds for the waiver, reduction, or compromise.
44844 (ii) If the commission waives, reduces, or compromises a penalty under Subsection
44845 (3)(c)(i), the commission shall make a record of the grounds for waiving, reducing, or
44846 compromising the penalty.
44847 (4) The county treasurer shall collect the penalty imposed under Subsection (3) as
44848 provided in Section 59-2-1308.
44849 (5) A person subject to a penalty under Subsection (3) may appeal the penalty
44850 according to procedures and requirements of [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
44851 Administrative Procedures Act.
44852 Section 967. Section **59-2-207** is amended to read:
44853 **59-2-207. Statements for mines -- Penalty for failure to file statement or**

44854 **information -- Assessment without statement -- Penalty -- Waiver, reduction, or**
44855 **compromise of penalty -- Extension of time for filing statement -- Appeals.**
44856 (1) (a) A person, or an officer or agent of that person, owning or operating property
44857 described in Subsection (1)(b) shall file with the commission, on a form prescribed by the
44858 commission, a sworn statement on or before March 1 of each year:
44859 (i) showing in detail all real property and tangible personal property located in the state
44860 that the person owns or operates; and
44861 (ii) containing any other information the commission requires.
44862 (b) Subsection (1)(a) applies to the following property:
44863 (i) a mine;
44864 (ii) a mining claim; or
44865 (iii) a valuable mineral deposit, including lands containing coal or hydrocarbons.
44866 (c) (i) The commission may allow an extension for filing the statement under
44867 Subsection (1)(a) for a time period not exceeding 30 days, unless the commission determines
44868 that extraordinary circumstances require a longer period of extension.
44869 (ii) The commission shall grant a person, or an officer or agent of that person, an
44870 extension for filing the statement under Subsection (1)(a) for a time period not exceeding 15
44871 days if:
44872 (A) a federal regulatory agency requires the taxpayer to file a statement that contains
44873 the same information as the statement under Subsection (1)(a); and
44874 (B) the person, or an officer or agent of that person, requests the commission to grant
44875 the extension.
44876 (2) The commission shall assess and list the property described in Subsection (1)(b)
44877 using the best information obtainable by the commission if a person, or an officer or agent of
44878 that person, fails to file the statement required under Subsection (1)(a) on or before the later of:
44879 (a) March 1; or
44880 (b) if the commission allows an extension under Subsection (1)(c) for filing the
44881 statement, the day after the last day of the extension period.
44882 (3) (a) Except as provided in Subsection (3)(c), the commission shall assess a person a
44883 penalty as provided in Subsection (3)(b), if the person, or an officer or agent of that person,
44884 fails to file:

44885 (i) the statement required under Subsection (1)(a) on or before the later of:
44886 (A) March 1; or
44887 (B) if the commission allows an extension under Subsection (1)(c) for filing the
44888 statement, the day after the last day of the extension period; or
44889 (ii) any other information the commission determines to be necessary to:
44890 (A) establish valuations for assessment purposes; or
44891 (B) apportion an assessment.
44892 (b) The penalty described in Subsection (3)(a) is an amount equal to the greater of:
44893 (i) 10% of the person's estimated tax liability under this chapter for the current calendar
44894 year not to exceed $50,000; or
44895 (ii) $100.
44896 (c) (i) Notwithstanding Subsections (3)(a) and (4), the commission may waive, reduce,
44897 or compromise a penalty imposed under this section if the commission finds there are
44898 reasonable grounds for the waiver, reduction, or compromise.
44899 (ii) If the commission waives, reduces, or compromises a penalty under Subsection
44900 (3)(c)(i), the commission shall make a record of the grounds for waiving, reducing, or
44901 compromising the penalty.
44902 (4) The county treasurer shall collect the penalty imposed under Subsection (3) as
44903 provided in Section 59-2-1308.
44904 (5) A person subject to a penalty under Subsection (3) may appeal the penalty
44905 according to the procedures and requirements of [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
44906 Administrative Procedures Act.
44907 Section 968. Section **59-2-307** is amended to read:
44908 **59-2-307. Refusal by taxpayer to file signed statement -- Penalty -- Assessor to**
44909 **estimate value -- Reporting information to other counties.**
44910 (1) (a) Each person who fails to file the signed statement required by Section 59-2-306,
44911 fails to file the signed statement with respect to name and place of residence, or fails to appear
44912 and testify when requested by the assessor, shall pay a penalty equal to 10% of the estimated
44913 tax due, but not less than $100 for each failure to file a signed and completed statement.
44914 (b) Each penalty under Subsection (1)(a) shall be collected in the manner provided by
44915 Sections 59-2-1302 and 59-2-1303, except as otherwise provided for in this section, or by a

44916 judicial proceeding brought in the name of the assessor.
44917 (c) All money recovered by any assessor under this section shall be paid into the county
44918 treasury.
44919 (2) (a) The penalty imposed by Subsection (1)(a) may not be waived or reduced by the
44920 assessor, county, county Board of Equalization, or commission except pursuant to a procedure
44921 for the review and approval of reductions and waivers adopted by county ordinance, or by
44922 administrative rule adopted in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
44923 Utah Administrative Rulemaking Act.
44924 (b) The penalty under Subsection (1)(a) for failure to appear and testify when requested
44925 by the assessor may not be imposed until 30 days after the certified postmark date of mailing of
44926 a subsequent certified notice.
44927 (3) (a) If any owner neglects or refuses to file the signed statement within 30 days of
44928 the date the first county request was sent as required under Section 59-2-306, the assessor shall:
44929 (i) make:
44930 (A) a subsequent request by certified mail for the signed statement, informing the
44931 owner of the consequences of not filing a signed statement; and
44932 (B) a record of the failure to file and an estimate of the value of the property of the
44933 owner based on known facts and circumstances; and
44934 (ii) impose a fee for the actual and necessary expenses of the certified mailing under
44935 Subsection (3)(a)(i)(A).
44936 (b) The value fixed by the assessor may not be reduced by the county board of
44937 equalization or by the commission.
44938 (4) If the signed statement discloses property in any other county, the assessor shall file
44939 the signed statement and send a certified copy to the assessor of each county in which the
44940 property is located.
44941 Section 969. Section **59-2-309** is amended to read:
44942 **59-2-309. Property escaping assessment -- Duties of assessing authority --**
44943 **Property willfully concealed -- Penalties.**
44944 (1) Any escaped property may be assessed by the original assessing authority at any
44945 time as far back as five years prior to the time of discovery, in which case the assessor shall
44946 enter the assessments on the tax rolls and follow the procedures established under Part 13 of

44947 this chapter.
44948 (2) Any property found to be willfully concealed, removed, transferred, or
44949 misrepresented by its owner or agent in order to evade taxation is subject to a penalty equal to
44950 the tax on its value, and neither the penalty nor assessment may be reduced or waived by the
44951 assessor, county, county Board of Equalization, or the commission, except pursuant to a
44952 procedure for the review and approval of waivers adopted by county ordinance, or by
44953 administrative rule adopted in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
44954 Utah Administrative Rulemaking Act.
44955 Section 970. Section **59-2-405.2** is amended to read:
44956 **59-2-405.2. Definitions -- Uniform statewide fee on certain tangible personal**
44957 **property -- Distribution of revenues -- Rulemaking authority -- Determining the length of**
44958 **a vessel.**
44959 (1) As used in this section:
44960 (a) (i) Except as provided in Subsection (1)(a)(ii), "all-terrain vehicle" means a motor
44961 vehicle that:
44962 (A) is an:
44963 (I) all-terrain type I vehicle as defined in Section 41-22-2; or
44964 (II) all-terrain type II vehicle as defined in Section 41-22-2;
44965 (B) is required to be registered in accordance with Title 41, Chapter 22, Off-Highway
44966 Vehicles; and
44967 (C) has:
44968 (I) an engine with more than 150 cubic centimeters displacement;
44969 (II) a motor that produces more than five horsepower; or
44970 (III) an electric motor; and
44971 (ii) notwithstanding Subsection (1)(a)(i), "all-terrain vehicle" does not include a
44972 snowmobile.
44973 (b) "Camper" means a camper:
44974 (i) as defined in Section 41-1a-102; and
44975 (ii) that is required to be registered in accordance with Title 41, Chapter 1a, Part 2,
44976 Registration.
44977 (c) (i) "Canoe" means a vessel that:

44978 (A) is long and narrow;
44979 (B) has curved sides; and
44980 (C) is tapered:
44981 (I) to two pointed ends; or
44982 (II) to one pointed end and is blunt on the other end; and
44983 (ii) "canoe" includes:
44984 (A) a collapsible inflatable canoe;
44985 (B) a kayak;
44986 (C) a racing shell; or
44987 (D) a rowing scull.
44988 (d) "Dealer" is as defined in Section 41-1a-102.
44989 (e) "Jon boat" means a vessel that:
44990 (i) has a square bow; and
44991 (ii) has a flat bottom.
44992 (f) "Motor vehicle" is as defined in Section 41-22-2.
44993 (g) "Other motorcycle" means a motor vehicle that:
44994 (i) is:
44995 (A) a motorcycle as defined in Section 41-1a-102; and
44996 (B) designed primarily for use and operation over unimproved terrain;
44997 (ii) is required to be registered in accordance with Title 41, Chapter 1a, Part 2,
44998 Registration; and
44999 (iii) has:
45000 (A) an engine with more than 150 cubic centimeters displacement; or
45001 (B) a motor that produces more than five horsepower.
45002 (h) (i) "Other trailer" means a portable vehicle without motive power that is primarily
45003 used:
45004 (A) to transport tangible personal property; and
45005 (B) for a purpose other than a commercial purpose; and
45006 (ii) in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
45007 Administrative Rulemaking Act, for purposes of Subsection (1)(h)(i)(B), the commission may
45008 by rule define what constitutes a purpose other than a commercial purpose.

45009 (i) "Outboard motor" is as defined in Section 41-1a-102.
45010 (j) "Personal watercraft" means a personal watercraft:
45011 (i) as defined in Section 73-18-2; and
45012 (ii) that is required to be registered in accordance with Title 73, Chapter 18, State
45013 Boating Act.
45014 (k) (i) "Pontoon" means a vessel that:
45015 (A) is:
45016 (I) supported by one or more floats; and
45017 (II) propelled by either inboard or outboard power; and
45018 (B) is not:
45019 (I) a houseboat; or
45020 (II) a collapsible inflatable vessel; and
45021 (ii) in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
45022 Administrative Rulemaking Act, the commission may by rule define the term "houseboat".
45023 (l) "Qualifying adjustment, exemption, or reduction" means an adjustment, exemption,
45024 or reduction:
45025 (i) of all or a portion of a qualifying payment;
45026 (ii) granted by a county during the refund period; and
45027 (iii) received by a qualifying person.
45028 (m) (i) "Qualifying payment" means the payment made:
45029 (A) of a uniform statewide fee in accordance with this section:
45030 (I) by a qualifying person;
45031 (II) to a county; and
45032 (III) during the refund period; and
45033 (B) on an item of qualifying tangible personal property; and
45034 (ii) if a qualifying person received a qualifying adjustment, exemption, or reduction for
45035 an item of qualifying tangible personal property, the qualifying payment for that qualifying
45036 tangible personal property is equal to the difference between:
45037 (A) the payment described in this Subsection (1)(m) for that item of qualifying tangible
45038 personal property; and
45039 (B) the amount of the qualifying adjustment, exemption, or reduction.

45040 (n) "Qualifying person" means a person that paid a uniform statewide fee:
45041 (i) during the refund period;
45042 (ii) in accordance with this section; and
45043 (iii) on an item of qualifying tangible personal property.
45044 (o) "Qualifying tangible personal property" means a:
45045 (i) qualifying vehicle; or
45046 (ii) qualifying watercraft.
45047 (p) "Qualifying vehicle" means:
45048 (i) an all-terrain vehicle with an engine displacement that is 100 or more cubic
45049 centimeters but 150 or less cubic centimeters;
45050 (ii) an other motorcycle with an engine displacement that is 100 or more cubic
45051 centimeters but 150 or less cubic centimeters;
45052 (iii) a small motor vehicle with an engine displacement that is 100 or more cubic
45053 centimeters but 150 or less cubic centimeters;
45054 (iv) a snowmobile with an engine displacement that is 100 or more cubic centimeters
45055 but 150 or less cubic centimeters; or
45056 (v) a street motorcycle with an engine displacement that is 100 or more cubic
45057 centimeters but 150 or less cubic centimeters.
45058 (q) "Qualifying watercraft" means a:
45059 (i) canoe;
45060 (ii) collapsible inflatable vessel;
45061 (iii) jon boat;
45062 (iv) pontoon;
45063 (v) sailboat; or
45064 (vi) utility boat.
45065 (r) "Refund period" means the time period:
45066 (i) beginning on January 1, 2006; and
45067 (ii) ending on December 29, 2006.
45068 (s) "Sailboat" means a sailboat as defined in Section 73-18-2.
45069 (t) (i) "Small motor vehicle" means a motor vehicle that:
45070 (A) is required to be registered in accordance with Title 41, Motor Vehicles; and

45071 (B) has:
45072 (I) an engine with 150 or less cubic centimeters displacement; or
45073 (II) a motor that produces five or less horsepower; and
45074 (ii) in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
45075 Administrative Rulemaking Act, the commission may by rule develop a process for an owner
45076 of a motor vehicle to certify whether the motor vehicle has:
45077 (A) an engine with 150 or less cubic centimeters displacement; or
45078 (B) a motor that produces five or less horsepower.
45079 (u) "Snowmobile" means a motor vehicle that:
45080 (i) is a snowmobile as defined in Section 41-22-2;
45081 (ii) is required to be registered in accordance with Title 41, Chapter 22, Off-Highway
45082 Vehicles; and
45083 (iii) has:
45084 (A) an engine with more than 150 cubic centimeters displacement; or
45085 (B) a motor that produces more than five horsepower.
45086 (v) "Street motorcycle" means a motor vehicle that:
45087 (i) is:
45088 (A) a motorcycle as defined in Section 41-1a-102; and
45089 (B) designed primarily for use and operation on highways;
45090 (ii) is required to be registered in accordance with Title 41, Chapter 1a, Part 2,
45091 Registration; and
45092 (iii) has:
45093 (A) an engine with more than 150 cubic centimeters displacement; or
45094 (B) a motor that produces more than five horsepower.
45095 (w) "Tangible personal property owner" means a person that owns an item of
45096 qualifying tangible personal property.
45097 (x) "Tent trailer" means a portable vehicle without motive power that:
45098 (i) is constructed with collapsible side walls that:
45099 (A) fold for towing by a motor vehicle; and
45100 (B) unfold at a campsite;
45101 (ii) is designed as a temporary dwelling for travel, recreational, or vacation use;

45102 (iii) is required to be registered in accordance with Title 41, Chapter 1a, Part 2,
45103 Registration; and
45104 (iv) does not require a special highway movement permit when drawn by a
45105 self-propelled motor vehicle.
45106 (y) (i) Except as provided in Subsection (1)(y)(ii), "travel trailer" means a travel trailer:
45107 (A) as defined in Section 41-1a-102; and
45108 (B) that is required to be registered in accordance with Title 41, Chapter 1a, Part 2,
45109 Registration; and
45110 (ii) notwithstanding Subsection (1)(y)(i), "travel trailer" does not include:
45111 (A) a camper; or
45112 (B) a tent trailer.
45113 (z) (i) "Utility boat" means a vessel that:
45114 (A) has:
45115 (I) two or three bench seating;
45116 (II) an outboard motor; and
45117 (III) a hull made of aluminum, fiberglass, or wood; and
45118 (B) does not have:
45119 (I) decking;
45120 (II) a permanent canopy; or
45121 (III) a floor other than the hull; and
45122 (ii) notwithstanding Subsection (1)(z)(i), "utility boat" does not include a collapsible
45123 inflatable vessel.
45124 (aa) "Vessel" means a vessel:
45125 (i) as defined in Section 73-18-2, including an outboard motor of the vessel; and
45126 (ii) that is required to be registered in accordance with Title 73, Chapter 18, State
45127 Boating Act.
45128 (2) (a) In accordance with Utah Constitution Article XIII, Section 2, Subsection (6),
45129 beginning on January 1, 2006, the tangible personal property described in Subsection (2)(b) is:
45130 (i) exempt from the tax imposed by Section 59-2-103; and
45131 (ii) in lieu of the tax imposed by Section 59-2-103, subject to uniform statewide fees as
45132 provided in this section.

45133 (b) The following tangible personal property applies to Subsection (2)(a) if that
45134 tangible personal property is required to be registered with the state:
45135 (i) an all-terrain vehicle;
45136 (ii) a camper;
45137 (iii) an other motorcycle;
45138 (iv) an other trailer;
45139 (v) a personal watercraft;
45140 (vi) a small motor vehicle;
45141 (vii) a snowmobile;
45142 (viii) a street motorcycle;
45143 (ix) a tent trailer;
45144 (x) a travel trailer; and
45145 (xi) a vessel if that vessel is less than 31 feet in length as determined under Subsection
45146 (6).
45147 (3) For purposes of this section, the uniform statewide fees are:
45148 (a) for an all-terrain vehicle, an other motorcycle, or a snowmobile:

Age of All-Terrain Vehicle, Other Motorcycle, or Snowmobile	Uniform Statewide Fee
12 or more years	$10
9 or more years but less than 12 years	$20
6 or more years but less than 9 years	$30
3 or more years but less than 6 years	$35
Less than 3 years	$45

45155 (b) for a camper or a tent trailer:

Age of Camper or Tent Trailer	Uniform Statewide Fee
12 or more years	$10
9 or more years but less than 12 years	$25
6 or more years but less than 9 years	$35
3 or more years but less than 6 years	$50
Less than 3 years	$70

45162 (c) for an other trailer:

Age of Other Trailer	Uniform Statewide Fee

45164 12 or more years $10
45165 9 or more years but less than 12 years $15
45166 6 or more years but less than 9 years $20
45167 3 or more years but less than 6 years $25
45168 Less than 3 years $30
45169 (d) for a personal watercraft:
45170 Age of Personal Watercraft Uniform Statewide Fee
45171 12 or more years $10
45172 9 or more years but less than 12 years $25
45173 6 or more years but less than 9 years $35
45174 3 or more years but less than 6 years $45
45175 Less than 3 years $55
45176 (e) for a small motor vehicle:
45177 Age of Small Motor Vehicle Uniform Statewide Fee
45178 6 or more years $10
45179 3 or more years but less than 6 years $15
45180 Less than 3 years $25
45181 (f) for a street motorcycle:
45182 Age of Street Motorcycle Uniform Statewide Fee
45183 12 or more years $10
45184 9 or more years but less than 12 years $35
45185 6 or more years but less than 9 years $50
45186 3 or more years but less than 6 years $70
45187 Less than 3 years $95
45188 (g) for a travel trailer:
45189 Age of Travel Trailer Uniform Statewide Fee
45190 12 or more years $20
45191 9 or more years but less than 12 years $65
45192 6 or more years but less than 9 years $90
45193 3 or more years but less than 6 years $135
45194 Less than 3 years $175

45195 (h) $10 regardless of the age of the vessel if the vessel is:
45196 (i) less than 15 feet in length;
45197 (ii) a canoe;
45198 (iii) a jon boat; or
45199 (iv) a utility boat;
45200 (i) for a collapsible inflatable vessel, pontoon, or sailboat, regardless of age:

Length of Vessel	Uniform Statewide Fee
15 feet or more in length but less than 19 feet in length	$15
19 feet or more in length but less than 23 feet in length	$25
23 feet or more in length but less than 27 feet in length	$40
27 feet or more in length but less than 31 feet in length	$75

45206 (j) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon,
45207 sailboat, or utility boat, that is 15 feet or more in length but less than 19 feet in length:

Age of Vessel	Uniform Statewide Fee
12 or more years	$25
9 or more years but less than 12 years	$65
6 or more years but less than 9 years	$80
3 or more years but less than 6 years	$110
Less than 3 years	$150

45214 (k) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon,
45215 sailboat, or utility boat, that is 19 feet or more in length but less than 23 feet in length:

Age of Vessel	Uniform Statewide Fee
12 or more years	$50
9 or more years but less than 12 years	$120
6 or more years but less than 9 years	$175
3 or more years but less than 6 years	$220
Less than 3 years	$275

45222 (l) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon,
45223 sailboat, or utility boat, that is 23 feet or more in length but less than 27 feet in length:

Age of Vessel	Uniform Statewide Fee
12 or more years	$100

45226 9 or more years but less than 12 years $180
45227 6 or more years but less than 9 years $240
45228 3 or more years but less than 6 years $310
45229 Less than 3 years $400
45230 (m) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon,
45231 sailboat, or utility boat, that is 27 feet or more in length but less than 31 feet in length:

Age of Vessel	Uniform Statewide Fee
12 or more years	$120
9 or more years but less than 12 years	$250
6 or more years but less than 9 years	$350
3 or more years but less than 6 years	$500
Less than 3 years	$700

45238 (4) Notwithstanding Section 59-2-407, tangible personal property subject to the
45239 uniform statewide fees imposed by this section that is brought into the state shall, as a
45240 condition of registration, be subject to the uniform statewide fees unless all property taxes or
45241 uniform fees imposed by the state of origin have been paid for the current calendar year.
45242 (5) (a) The revenues collected in each county from the uniform statewide fees imposed
45243 by this section shall be distributed by the county to each taxing entity in which each item of
45244 tangible personal property subject to the uniform statewide fees is located in the same
45245 proportion in which revenues collected from the ad valorem property tax are distributed.
45246 (b) Each taxing entity described in Subsection (5)(a) that receives revenues from the
45247 uniform statewide fees imposed by this section shall distribute the revenues in the same
45248 proportion in which revenues collected from the ad valorem property tax are distributed.
45249 (6) (a) For purposes of the uniform statewide fee imposed by this section, the length of
45250 a vessel shall be determined as provided in this Subsection (6).
45251 (b) (i) Except as provided in Subsection (6)(b)(ii), the length of a vessel shall be
45252 measured as follows:
45253 (A) the length of a vessel shall be measured in a straight line; and
45254 (B) the length of a vessel is equal to the distance between the bow of the vessel and the
45255 stern of the vessel.
45256 (ii) Notwithstanding Subsection (6)(b)(i), the length of a vessel may not include the

45257 length of:
45258 (A) a swim deck;
45259 (B) a ladder;
45260 (C) an outboard motor; or
45261 (D) an appurtenance or attachment similar to Subsections (6)(b)(ii)(A) through (C) as
45262 determined by the commission by rule.
45263 (iii) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
45264 Administrative Rulemaking Act, the commission may by rule define what constitutes an
45265 appurtenance or attachment similar to Subsections (6)(b)(ii)(A) through (C).
45266 (c) The length of a vessel:
45267 (i) (A) for a new vessel, is the length:
45268 (I) listed on the manufacturer's statement of origin if the length of the vessel measured
45269 under Subsection (6)(b) is equal to the length of the vessel listed on the manufacturer's
45270 statement of origin; or
45271 (II) listed on a form submitted to the commission by a dealer in accordance with
45272 Subsection (6)(d) if the length of the vessel measured under Subsection (6)(b) is not equal to
45273 the length of the vessel listed on the manufacturer's statement of origin; or
45274 (B) for a vessel other than a new vessel, is the length:
45275 (I) corresponding to the model number if the length of the vessel measured under
45276 Subsection (6)(b) is equal to the length of the vessel determined by reference to the model
45277 number; or
45278 (II) listed on a form submitted to the commission by an owner of the vessel in
45279 accordance with Subsection (6)(d) if the length of the vessel measured under Subsection (6)(b)
45280 is not equal to the length of the vessel determined by reference to the model number; and
45281 (ii) (A) is determined at the time of the:
45282 (I) first registration as defined in Section 41-1a-102 that occurs on or after January 1,
45283 2006; or
45284 (II) first renewal of registration that occurs on or after January 1, 2006; and
45285 (B) may be determined after the time described in Subsection (6)(c)(ii)(A) only if the
45286 commission requests that a dealer or an owner submit a form to the commission in accordance
45287 with Subsection (6)(d).

45288 (d) (i) A form under Subsection (6)(c) shall:
45289 (A) be developed by the commission;
45290 (B) be provided by the commission to:
45291 (I) a dealer; or
45292 (II) an owner of a vessel;
45293 (C) provide for the reporting of the length of a vessel;
45294 (D) be submitted to the commission at the time the length of the vessel is determined in
45295 accordance with Subsection (6)(c)(ii);
45296 (E) be signed by:
45297 (I) if the form is submitted by a dealer, that dealer; or
45298 (II) if the form is submitted by an owner of the vessel, an owner of the vessel; and
45299 (F) include a certification that the information set forth in the form is true.
45300 (ii) A certification made under Subsection (6)(d)(i)(F) is considered as if made under
45301 oath and subject to the same penalties as provided by law for perjury.
45302 (iii) (A) A dealer or an owner that submits a form to the commission under Subsection
45303 (6)(c) is considered to have given the dealer's or owner's consent to an audit or review by:
45304 (I) the commission;
45305 (II) the county assessor; or
45306 (III) the commission and the county assessor.
45307 (B) The consent described in Subsection (6)(d)(iii)(A) is a condition to the acceptance
45308 of any form.
45309 (7) (a) A county that collected a qualifying payment from a qualifying person during
45310 the refund period shall issue a refund to the qualifying person as described in Subsection (7)(b)
45311 if:
45312 (i) the difference described in Subsection (7)(b) is $1 or more; and
45313 (ii) the qualifying person submitted a form in accordance with Subsections (7)(c) and
45314 (d).
45315 (b) The refund amount shall be calculated as follows:
45316 (i) for a qualifying vehicle, the refund amount is equal to the difference between:
45317 (A) the qualifying payment the qualifying person paid on the qualifying vehicle during
45318 the refund period; and

45319 (B) the amount of the statewide uniform fee:
45320 (I) for that qualifying vehicle; and
45321 (II) that the qualifying person would have been required to pay:
45322 (Aa) during the refund period; and
45323 (Bb) in accordance with this section had Section 1, Chapter 3, Laws of Utah 2006,
45324 Fifth Special Session, been in effect during the refund period; and
45325 (ii) for a qualifying watercraft, the refund amount is equal to the difference between:
45326 (A) the qualifying payment the qualifying person paid on the qualifying watercraft
45327 during the refund period; and
45328 (B) the amount of the statewide uniform fee:
45329 (I) for that qualifying watercraft;
45330 (II) that the qualifying person would have been required to pay:
45331 (Aa) during the refund period; and
45332 (Bb) in accordance with this section had Section 1, Chapter 3, Laws of Utah 2006,
45333 Fifth Special Session, been in effect during the refund period.
45334 (c) Before the county issues a refund to the qualifying person in accordance with
45335 Subsection (7)(a) the qualifying person shall submit a form to the county to verify the
45336 qualifying person is entitled to the refund.
45337 (d) (i) A form under Subsection (7)(c) or (8) shall:
45338 (A) be developed by the commission;
45339 (B) be provided by the commission to the counties;
45340 (C) be provided by the county to the qualifying person or tangible personal property
45341 owner;
45342 (D) provide for the reporting of the following:
45343 (I) for a qualifying vehicle:
45344 (Aa) the type of qualifying vehicle; and
45345 (Bb) the amount of cubic centimeters displacement;
45346 (II) for a qualifying watercraft:
45347 (Aa) the length of the qualifying watercraft;
45348 (Bb) the age of the qualifying watercraft; and
45349 (Cc) the type of qualifying watercraft;

45350 (E) be signed by the qualifying person or tangible personal property owner; and
45351 (F) include a certification that the information set forth in the form is true.
45352 (ii) A certification made under Subsection (7)(d)(i)(F) is considered as if made under
45353 oath and subject to the same penalties as provided by law for perjury.
45354 (iii) (A) A qualifying person or tangible personal property owner that submits a form to
45355 a county under Subsection (7)(c) or (8) is considered to have given the qualifying person's
45356 consent to an audit or review by:
45357 (I) the commission;
45358 (II) the county assessor; or
45359 (III) the commission and the county assessor.
45360 (B) The consent described in Subsection (7)(d)(iii)(A) is a condition to the acceptance
45361 of any form.
45362 (e) The county shall make changes to the commission's records with the information
45363 received by the county from the form submitted in accordance with Subsection (7)(c).
45364 (8) A county shall change its records regarding an item of qualifying tangible personal
45365 property if the tangible personal property owner submits a form to the county in accordance
45366 with Subsection (7)(d).
45367 (9) (a) For purposes of this Subsection (9) "owner of tangible personal property" means
45368 a person that was required to pay a uniform statewide fee:
45369 (i) during the refund period;
45370 (ii) in accordance with this section; and
45371 (iii) on an item of tangible personal property subject to the uniform statewide fees
45372 imposed by this section.
45373 (b) A county that collected revenues from uniform statewide fees imposed by this
45374 section during the refund period shall notify an owner of tangible personal property:
45375 (i) of the tangible personal property classification changes made to this section
45376 pursuant to Section 1, Chapter 3, Laws of Utah 2006, Fifth Special Session;
45377 (ii) that the owner of tangible personal property may obtain and file a form to modify
45378 the county's records regarding the owner's tangible personal property; and
45379 (iii) that the owner may be entitled to a refund pursuant to Subsection (7).
45380 Section 971. Section **59-2-406** is amended to read:

45381 **59-2-406. Collection of uniform fees and other motor vehicle fees.**
45382 (1) (a) For the purposes of efficiency in the collection of the uniform fee required by
45383 this section, the commission shall enter into a contract for the collection of the uniform fees
45384 required under Sections 59-2-405, 59-2-405.1, 59-2-405.2, and 59-2-405.3, and certain fees
45385 required by Title 41, Motor Vehicles.
45386 (b) The contract required by this section shall, at the county's option, provide for one of
45387 the following collection agreements:
45388 (i) the collection by the commission of:
45389 (A) the uniform fees required under Sections 59-2-405, 59-2-405.1, 59-2-405.2, and
45390 59-2-405.3; and
45391 (B) all fees listed in Subsection (1)(c); or
45392 (ii) the collection by the county of:
45393 (A) the uniform fees required under Sections 59-2-405, 59-2-405.1, 59-2-405.2, and
45394 59-2-405.3; and
45395 (B) all fees listed in Subsection (1)(c).
45396 (c) For purposes of Subsections (1)(b)(i)(B) and (1)(b)(ii)(B), the fees that are subject to
45397 the contractual agreement required by this section are the following fees imposed by Title 41,
45398 Motor Vehicles:
45399 (i) registration fees for vehicles, mobile homes, manufactured homes, boats, and
45400 off-highway vehicles, with the exception of fleet and proportional registration;
45401 (ii) title fees for vehicles, mobile homes, manufactured homes, boats, and off-highway
45402 vehicles;
45403 (iii) plate fees for vehicles;
45404 (iv) permit fees; and
45405 (v) impound fees.
45406 (d) A county may change the election it makes pursuant to Subsection (1)(b) by
45407 providing written notice of the change to the commission at least 18 months before the change
45408 shall take effect.
45409 (2) The contract shall provide that the party contracting to perform services shall:
45410 (a) be responsible for the collection of:
45411 (i) the uniform fees under Sections 59-2-405, 59-2-405.1, 59-2-405.2, and 59-2-405.3;

45412 and
45413 (ii) any fees described in Subsection (1)(c) as agreed to in the contract;
45414 (b) utilize the documents and forms, guidelines, practices, and procedures that meet the
45415 contract specifications;
45416 (c) meet the performance standards and comply with applicable training requirements
45417 specified in the rules made under Subsection (8)(a); and
45418 (d) be subject to a penalty of 1/2 the difference between the reimbursement fee
45419 specified under Subsection (3) and the reimbursement fee for fiscal year 1997-98 if
45420 performance is below the performance standards specified in the rules made under Subsection
45421 (8)(a).
45422 (3) (a) The commission shall recommend a reimbursement fee for collecting the fees as
45423 provided in Subsection (2)(a), except that the commission may not collect a reimbursement fee
45424 on a state-assessed commercial vehicle described in Subsection 59-2-405.1(2)(a)(ii).
45425 (b) The reimbursement fee shall be based on two dollars per standard unit for the first
45426 5,000 standard units in each county and one dollar per standard unit for all other standard units
45427 and shall be annually adjusted by the commission beginning July 1, 1999.
45428 (c) The adjustment shall be equal to any increase in the Consumer Price Index for all
45429 urban consumers, prepared by the United States Bureau of Labor Statistics, during the
45430 preceding calendar year.
45431 (d) The reimbursement fees under this Subsection (3) shall be appropriated by the
45432 Legislature.
45433 (4) All counties that elect to collect the uniform fees described in Subsection
45434 (1)(b)(ii)(A) and any other fees described in Subsection (1)(c) as provided by contract shall be
45435 subject to similar contractual terms.
45436 (5) The party performing the collection services by contract shall use appropriate
45437 automated systems software and equipment compatible with the system used by the other
45438 contracting party in order to ensure the integrity of the current motor vehicle data base and
45439 county tax systems, or successor data bases and systems.
45440 (6) If the county elects not to collect the uniform fees described in Subsection
45441 (1)(b)(ii)(A) and the fees described in Subsection (1)(c):
45442 (a) the commission shall:

45443 (i) collect the uniform fees described in Subsection (1)(b)(ii)(A) and the fees described
45444 in Subsection (1)(c) in each county or regional center as negotiated by the counties with the
45445 commission in accordance with the requirements of this section; and
45446 (ii) provide information to the county in a format and media consistent with the
45447 county's requirements; and
45448 (b) the county shall pay the commission a reimbursement fee as provided in Subsection
45449 (3).
45450 (7) This section shall not limit the authority given to the county in Section 59-2-1302.
45451 (8) (a) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
45452 Administrative Rulemaking Act, the commission shall make rules specifying the performance
45453 standards and applicable training requirements for all contracts required by this section.
45454 (b) Beginning on July 1, 1998, each new contract entered into under this section shall
45455 be subject to the rules made under Subsection (8)(a).
45456 Section 972. Section **59-2-503** is amended to read:
45457 **59-2-503. Qualifications for agricultural use assessment.**
45458 (1) For general property tax purposes, land may be assessed on the basis of the value
45459 that the land has for agricultural use if the land:
45460 (a) is not less than five contiguous acres in area, except that land may be assessed on
45461 the basis of the value that the land has for agricultural use:
45462 (i) if:
45463 (A) the land is devoted to agricultural use in conjunction with other eligible acreage;
45464 and
45465 (B) the land and the other eligible acreage described in Subsection (1)(a)(i)(A) have
45466 identical legal ownership; or
45467 (ii) as provided under Subsection (4); and
45468 (b) except as provided in Subsection (5):
45469 (i) is actively devoted to agricultural use; and
45470 (ii) has been actively devoted to agricultural use for at least two successive years
45471 immediately preceding the tax year for which the land is being assessed under this part.
45472 (2) In determining whether land is actively devoted to agricultural use, production per
45473 acre for a given county or area and a given type of land shall be determined by using the first

45474 applicable of the following:
45475 (a) production levels reported in the current publication of the Utah Agricultural
45476 Statistics;
45477 (b) current crop budgets developed and published by Utah State University; and
45478 (c) other acceptable standards of agricultural production designated by the commission
45479 by rule adopted in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
45480 Administrative Rulemaking Act.
45481 (3) Land may be assessed on the basis of the land's agricultural value if the land:
45482 (a) is subject to the privilege tax imposed by Section 59-4-101;
45483 (b) is owned by the state or any of the state's political subdivisions; and
45484 (c) meets the requirements of Subsection (1).
45485 (4) Notwithstanding Subsection (1)(a), the commission or a county board of
45486 equalization may grant a waiver of the acreage limitation for land upon:
45487 (a) appeal by the owner; and
45488 (b) submission of proof that:
45489 (i) 80% or more of the owner's, purchaser's, or lessee's income is derived from
45490 agricultural products produced on the property in question; or
45491 (ii) (A) the failure to meet the acreage requirement arose solely as a result of an
45492 acquisition by a governmental entity by:
45493 (I) eminent domain; or
45494 (II) the threat or imminence of an eminent domain proceeding;
45495 (B) the land is actively devoted to agricultural use; and
45496 (C) no change occurs in the ownership of the land.
45497 (5) (a) Notwithstanding Subsection (1)(b), the commission or a county board of
45498 equalization may grant a waiver of the requirement that the land is actively devoted to
45499 agricultural use for the tax year for which the land is being assessed under this part upon:
45500 (i) appeal by the owner; and
45501 (ii) submission of proof that:
45502 (A) the land was assessed on the basis of agricultural use for at least two years
45503 immediately preceding that tax year; and
45504 (B) the failure to meet the agricultural production requirements for that tax year was

45505 due to no fault or act of the owner, purchaser, or lessee.
45506 (b) As used in Subsection (5)(a), "fault" does not include:
45507 (i) intentional planting of crops or trees which, because of the maturation period, do
45508 not give the owner, purchaser, or lessee a reasonable opportunity to satisfy the production
45509 levels required for land actively devoted to agricultural use; or
45510 (ii) implementation of a bona fide range improvement program, crop rotation program,
45511 or other similar accepted cultural practices which do not give the owner, purchaser, or lessee a
45512 reasonable opportunity to satisfy the production levels required for land actively devoted to
45513 agricultural use.
45514 Section 973. Section **59-2-703** is amended to read:
45515 **59-2-703. Commission to assist county assessors -- Appraisers provided upon**
45516 **request -- Costs of services -- Contingency fee arrangements prohibited.**
45517 (1) The commission shall, upon request and pursuant to mutual agreement, provide
45518 county assessors with technical assistance and appraisal aid. It shall provide certified or
45519 licensed appraisers who, upon request of the county assessor and pursuant to mutual
45520 agreement, shall perform appraisals of property and other technical services as needed by the
45521 county assessor. The costs of these services shall be computed by the commission upon the
45522 basis of the number of days of services rendered. Each county shall pay to the commission
45523 50% of the cost of the services which they receive.
45524 (2) (a) Both the commission and counties may contract with a private firm or an
45525 individual to conduct appraisals.
45526 (b) Notwithstanding [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records
45527 Access and Management Act, the commission and counties may disclose the name of the
45528 taxpayer and the taxpayer's address to the contract appraiser. A private appraiser is subject to
45529 the confidentiality requirements and penalty provisions provided in [~~Title 63, Chapter 2~~] Title
45530 63G, Chapter 2, Part 8, Remedies.
45531 (c) Neither the commission nor a county may contract with a private firm or an
45532 individual under a contingency fee arrangement to assess property or prosecute or defend an
45533 appeal. An appraisal that has been prepared on a contingency fee basis may not be allowed in
45534 any proceeding before a county board of equalization or the commission.
45535 Section 974. Section **59-2-704.5** is amended to read:

45536 **59-2-704.5. Commission to adopt rules -- Legislative review.**
45537 (1) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
45538 Administrative Rulemaking Act, and after receiving the advice of the Utah Assessors
45539 Association, the commission shall by rule adopt standards for determining acceptable
45540 assessment levels and valuation deviations within each county. The standards shall be used for
45541 determining whether factoring or corrective action is required under Subsection 59-2-704(2).
45542 (2) As part of its review of the standards for determining acceptable assessment levels
45543 and valuation deviations within each county, the commission shall consider any relevant
45544 standards promulgated by the International Association of Assessing Officers.
45545 (3) By October 1, 1998, and every five years thereafter, the Revenue and Taxation
45546 Interim Committee shall review the commission's standards and determine whether the
45547 standards should be modified.
45548 Section 975. Section **59-2-801** is amended to read:
45549 **59-2-801. Apportionment of property assessed by commission.**
45550 (1) Before May 25 of each year, the commission shall apportion to each tax area the
45551 total assessment of all of the property the commission assesses as provided in Subsections
45552 (1)(a) through (f).
45553 (a) (i) The commission shall apportion the assessments of the property described in
45554 Subsection (1)(a)(ii):
45555 (A) to each tax area through which the public utility or company described in
45556 Subsection (1)(a)(ii) operates; and
45557 (B) in proportion to the property's value in each tax area.
45558 (ii) Subsection (1)(a)(i) applies to property owned by:
45559 (A) a public utility, except for the rolling stock of a public utility;
45560 (B) a pipeline company;
45561 (C) a power company;
45562 (D) a canal company; or
45563 (E) an irrigation company.
45564 (b) The commission shall apportion the assessments of the rolling stock of a railroad:
45565 (i) to the tax areas through which railroads operate; and
45566 (ii) in the proportion that the length of the main tracks, sidetracks, passing tracks,

45567 switches, and tramways of the railroads in each tax area bears to the total length of the main
45568 tracks, sidetracks, passing tracks, switches, and tramways in the state.
45569 (c) The commission shall apportion the assessments of the property of a car company
45570 to:
45571 (i) each tax area in which a railroad is operated; and
45572 (ii) in the proportion that the length of the main tracks, passing tracks, sidetracks,
45573 switches, and tramways of all of the railroads in each tax area bears to the total length of the
45574 main tracks, passing tracks, sidetracks, switches, and tramways of all of the railroads in the
45575 state.
45576 (d) (i) The commission shall apportion the assessments of the property described in
45577 Subsection (1)(d)(ii) to each tax area in which the property is located.
45578 (ii) Subsection (1)(d)(i) applies to the following property:
45579 (A) mines;
45580 (B) mining claims; or
45581 (C) mining property.
45582 (e) (i) The commission shall apportion the assessments of the property described in
45583 Subsection (1)(e)(ii) to:
45584 (A) each designated tax area; and
45585 (B) in the proportion that the route miles in each designated tax area bear to the total
45586 route miles in the state.
45587 (ii) Subsection (1)(e)(i) applies to the mobile flight equipment owned by an:
45588 (A) air charter service;
45589 (B) air contract service; or
45590 (C) airline.
45591 (f) (i) The commission shall apportion the assessments of the property described in
45592 Subsection (1)(f)(ii) to each tax area in which the property is located as of January 1 of each
45593 year.
45594 (ii) Subsection (1)(f)(i) applies to the real and tangible personal property, other than
45595 mobile flight equipment, owned by an:
45596 (A) air charter service;
45597 (B) air contract service; or

45598 (C) airline.
45599 (2) (a) (i) (A) State-assessed commercial vehicles that weigh 12,001 pounds or more
45600 shall be taxed at a statewide average rate which is calculated from the overall county average
45601 tax rates from the preceding year, exclusive of the property subject to the statewide uniform
45602 fee, weighted by lane miles of principal routes in each county.
45603 (B) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
45604 Administrative Rulemaking Act, the commission shall adopt rules to define "principal routes."
45605 (ii) State-assessed commercial vehicles that weigh 12,000 pounds or less are subject to
45606 the uniform fee provided in Section 59-2-405.1.
45607 (b) The combined revenue from all state-assessed commercial vehicles shall be
45608 apportioned to the counties based on:
45609 (i) 40% by the percentage of lane miles of principal routes within each county as
45610 determined by the commission; and
45611 (ii) 60% by the percentage of total state-assessed vehicles having business situs in each
45612 county.
45613 (c) At least quarterly, the commission shall apportion the total taxes paid on
45614 state-assessed commercial vehicles to the counties.
45615 (d) Each county shall apportion its share of the revenues under this Subsection (2) to
45616 the taxing entities within its boundaries in the same proportion as the assessments of other:
45617 (i) real property;
45618 (ii) tangible personal property; and
45619 (iii) property assessed by the commission.
45620 Section 976. Section **59-2-924** is amended to read:
45621 **59-2-924. Report of valuation of property to county auditor and commission --**
45622 **Transmittal by auditor to governing bodies -- Certified tax rate -- Calculation of certified**
45623 **tax rate -- Rulemaking authority -- Adoption of tentative budget.**
45624 (1) (a) Before June 1 of each year, the county assessor of each county shall deliver to
45625 the county auditor and the commission the following statements:
45626 (i) a statement containing the aggregate valuation of all taxable property in each taxing
45627 entity; and
45628 (ii) a statement containing the taxable value of any additional personal property

45629 estimated by the county assessor to be subject to taxation in the current year.
45630 (b) The county auditor shall, on or before June 8, transmit to the governing body of
45631 each taxing entity:
45632 (i) the statements described in Subsections (1)(a)(i) and (ii);
45633 (ii) an estimate of the revenue from personal property;
45634 (iii) the certified tax rate; and
45635 (iv) all forms necessary to submit a tax levy request.
45636 (2) (a) (i) The "certified tax rate" means a tax rate that will provide the same ad
45637 valorem property tax revenues for a taxing entity as were budgeted by that taxing entity for the
45638 prior year.
45639 (ii) For purposes of this Subsection (2), "ad valorem property tax revenues" do not
45640 include:
45641 (A) collections from redemptions;
45642 (B) interest;
45643 (C) penalties; and
45644 (D) revenue received by a taxing entity from personal property that is:
45645 (I) assessed by a county assessor in accordance with Part 3, County Assessment; and
45646 (II) semiconductor manufacturing equipment.
45647 (iii) (A) Except as otherwise provided in this section, the certified tax rate shall be
45648 calculated by dividing the ad valorem property tax revenues budgeted for the prior year by the
45649 taxing entity by the amount calculated under Subsection (2)(a)(iii)(B).
45650 (B) For purposes of Subsection (2)(a)(iii)(A), the legislative body of a taxing entity
45651 shall calculate an amount as follows:
45652 (I) calculate for the taxing entity the difference between:
45653 (Aa) the aggregate taxable value of all property taxed; and
45654 (Bb) any redevelopment adjustments for the current calendar year;
45655 (II) after making the calculation required by Subsection (2)(a)(iii)(B)(I), calculate an
45656 amount determined by increasing or decreasing the amount calculated under Subsection
45657 (2)(a)(iii)(B)(I) by the average of the percentage net change in the value of taxable property for
45658 the equalization period for the three calendar years immediately preceding the current calendar
45659 year;

45660 (III) after making the calculation required by Subsection (2)(a)(iii)(B)(II), calculate the
45661 product of:
45662 (Aa) the amount calculated under Subsection (2)(a)(iii)(B)(II); and
45663 (Bb) the percentage of property taxes collected for the five calendar years immediately
45664 preceding the current calendar year; and
45665 (IV) after making the calculation required by Subsection (2)(a)(iii)(B)(III), calculate an
45666 amount determined by subtracting from the amount calculated under Subsection
45667 (2)(a)(iii)(B)(III) any new growth as defined in this section:
45668 (Aa) within the taxing entity; and
45669 (Bb) for the current calendar year.
45670 (C) For purposes of Subsection (2)(a)(iii)(B)(I), the aggregate taxable value of all
45671 property taxed:
45672 (I) except as provided in Subsection (2)(a)(iii)(C)(II), includes the total taxable value of
45673 the real and personal property contained on the tax rolls of the taxing entity; and
45674 (II) does not include the total taxable value of personal property contained on the tax
45675 rolls of the taxing entity that is:
45676 (Aa) assessed by a county assessor in accordance with Part 3, County Assessment; and
45677 (Bb) semiconductor manufacturing equipment.
45678 (D) For purposes of Subsection (2)(a)(iii)(B)(II), for calendar years beginning on or
45679 after January 1, 2007, the value of taxable property does not include the value of personal
45680 property that is:
45681 (I) within the taxing entity assessed by a county assessor in accordance with Part 3,
45682 County Assessment; and
45683 (II) semiconductor manufacturing equipment.
45684 (E) For purposes of Subsection (2)(a)(iii)(B)(III)(Bb), for calendar years beginning on
45685 or after January 1, 2007, the percentage of property taxes collected does not include property
45686 taxes collected from personal property that is:
45687 (I) within the taxing entity assessed by a county assessor in accordance with Part 3,
45688 County Assessment; and
45689 (II) semiconductor manufacturing equipment.
45690 (F) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah

45691 Administrative Rulemaking Act, the commission may prescribe rules for calculating
45692 redevelopment adjustments for a calendar year.
45693 (iv) (A) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
45694 Administrative Rulemaking Act, the commission shall make rules determining the calculation
45695 of ad valorem property tax revenues budgeted by a taxing entity.
45696 (B) For purposes of Subsection (2)(a)(iv)(A), ad valorem property tax revenues
45697 budgeted by a taxing entity shall be calculated in the same manner as budgeted property tax
45698 revenues are calculated for purposes of Section 59-2-913.
45699 (v) The certified tax rates for the taxing entities described in this Subsection (2)(a)(v)
45700 shall be calculated as follows:
45701 (A) except as provided in Subsection (2)(a)(v)(B), for new taxing entities the certified
45702 tax rate is zero;
45703 (B) for each municipality incorporated on or after July 1, 1996, the certified tax rate is:
45704 (I) in a county of the first, second, or third class, the levy imposed for municipal-type
45705 services under Sections 17-34-1 and 17-36-9; and
45706 (II) in a county of the fourth, fifth, or sixth class, the levy imposed for general county
45707 purposes and such other levies imposed solely for the municipal-type services identified in
45708 Section 17-34-1 and Subsection 17-36-3(22); and
45709 (C) for debt service voted on by the public, the certified tax rate shall be the actual levy
45710 imposed by that section, except that the certified tax rates for the following levies shall be
45711 calculated in accordance with Section 59-2-913 and this section:
45712 (I) school leeways provided for under Sections 11-2-7, 53A-16-110, 53A-17a-125,
45713 53A-17a-127, 53A-17a-133, 53A-17a-134, 53A-17a-143, 53A-17a-145, and 53A-21-103; and
45714 (II) levies to pay for the costs of state legislative mandates or judicial or administrative
45715 orders under Section 59-2-906.3.
45716 (vi) (A) A judgment levy imposed under Section 59-2-1328 or 59-2-1330 shall be
45717 established at that rate which is sufficient to generate only the revenue required to satisfy one
45718 or more eligible judgments, as defined in Section 59-2-102.
45719 (B) The ad valorem property tax revenue generated by the judgment levy shall not be
45720 considered in establishing the taxing entity's aggregate certified tax rate.
45721 (b) (i) For the purpose of calculating the certified tax rate, the county auditor shall use

45722 the taxable value of property on the assessment roll.
45723 (ii) For purposes of Subsection (2)(b)(i), the taxable value of property on the
45724 assessment roll does not include:
45725 (A) new growth as defined in Subsection (2)(b)(iii); or
45726 (B) the total taxable value of personal property contained on the tax rolls of the taxing
45727 entity that is:
45728 (I) assessed by a county assessor in accordance with Part 3, County Assessment; and
45729 (II) semiconductor manufacturing equipment.
45730 (iii) "New growth" means:
45731 (A) the difference between the increase in taxable value of the taxing entity from the
45732 previous calendar year to the current year; minus
45733 (B) the amount of an increase in taxable value described in Subsection (2)(b)(v).
45734 (iv) For purposes of Subsection (2)(b)(iii), the taxable value of the taxing entity does
45735 not include the taxable value of personal property that is:
45736 (A) contained on the tax rolls of the taxing entity if that property is assessed by a
45737 county assessor in accordance with Part 3, County Assessment; and
45738 (B) semiconductor manufacturing equipment.
45739 (v) Subsection (2)(b)(iii)(B) applies to the following increases in taxable value:
45740 (A) the amount of increase to locally assessed real property taxable values resulting
45741 from factoring, reappraisal, or any other adjustments; or
45742 (B) the amount of an increase in the taxable value of property assessed by the
45743 commission under Section 59-2-201 resulting from a change in the method of apportioning the
45744 taxable value prescribed by:
45745 (I) the Legislature;
45746 (II) a court;
45747 (III) the commission in an administrative rule; or
45748 (IV) the commission in an administrative order.
45749 (c) Beginning January 1, 1997, if a taxing entity receives increased revenues from
45750 uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1,
45751 59-2-405.2, or 59-2-405.3 as a result of any county imposing a sales and use tax under Chapter
45752 12, Part 11, County Option Sales and Use Tax, the taxing entity shall decrease its certified tax

45753 rate to offset the increased revenues.
45754 (d) (i) Beginning July 1, 1997, if a county has imposed a sales and use tax under
45755 Chapter 12, Part 11, County Option Sales and Use Tax, the county's certified tax rate shall be:
45756 (A) decreased on a one-time basis by the amount of the estimated sales and use tax
45757 revenue to be distributed to the county under Subsection 59-12-1102(3); and
45758 (B) increased by the amount necessary to offset the county's reduction in revenue from
45759 uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1,
45760 59-2-405.2, or 59-2-405.3 as a result of the decrease in the certified tax rate under Subsection
45761 (2)(d)(i)(A).
45762 (ii) The commission shall determine estimates of sales and use tax distributions for
45763 purposes of Subsection (2)(d)(i).
45764 (e) Beginning January 1, 1998, if a municipality has imposed an additional resort
45765 communities sales tax under Section 59-12-402, the municipality's certified tax rate shall be
45766 decreased on a one-time basis by the amount necessary to offset the first 12 months of
45767 estimated revenue from the additional resort communities sales and use tax imposed under
45768 Section 59-12-402.
45769 (f) (i) (A) For fiscal year 2000, the certified tax rate of each county required under
45770 Subsection 17-34-1(4)(a) to provide advanced life support and paramedic services to the
45771 unincorporated area of the county shall be decreased by the amount necessary to reduce
45772 revenues in that fiscal year by an amount equal to the difference between the amount the county
45773 budgeted in its 2000 fiscal year budget for advanced life support and paramedic services
45774 countywide and the amount the county spent during fiscal year 2000 for those services,
45775 excluding amounts spent from a municipal services fund for those services.
45776 (B) For fiscal year 2001, the certified tax rate of each county to which Subsection
45777 (2)(f)(i)(A) applies shall be decreased by the amount necessary to reduce revenues in that fiscal
45778 year by the amount that the county spent during fiscal year 2000 for advanced life support and
45779 paramedic services countywide, excluding amounts spent from a municipal services fund for
45780 those services.
45781 (ii) (A) A city or town located within a county of the first class to which Subsection
45782 (2)(f)(i) applies may increase its certified tax rate by the amount necessary to generate within
45783 the city or town the same amount of revenues as the county would collect from that city or

45784 town if the decrease under Subsection (2)(f)(i) did not occur.
45785 (B) An increase under Subsection (2)(f)(ii)(A), whether occurring in a single fiscal year
45786 or spread over multiple fiscal years, is not subject to the notice and hearing requirements of
45787 Sections 59-2-918 and 59-2-919.
45788 (g) (i) The certified tax rate of each county required under Subsection 17-34-1(4)(b) to
45789 provide detective investigative services to the unincorporated area of the county shall be
45790 decreased:
45791 (A) in fiscal year 2001 by the amount necessary to reduce revenues in that fiscal year
45792 by at least $4,400,000; and
45793 (B) in fiscal year 2002 by the amount necessary to reduce revenues in that fiscal year
45794 by an amount equal to the difference between $9,258,412 and the amount of the reduction in
45795 revenues under Subsection (2)(g)(i)(A).
45796 (ii) (A) (I) Beginning with municipal fiscal year 2002, a city or town located within a
45797 county to which Subsection (2)(g)(i) applies may increase its certified tax rate to generate
45798 within the city or town the same amount of revenue as the county would have collected during
45799 county fiscal year 2001 from within the city or town except for Subsection (2)(g)(i)(A).
45800 (II) Beginning with municipal fiscal year 2003, a city or town located within a county
45801 to which Subsection (2)(g)(i) applies may increase its certified tax rate to generate within the
45802 city or town the same amount of revenue as the county would have collected during county
45803 fiscal year 2002 from within the city or town except for Subsection (2)(g)(i)(B).
45804 (B) (I) Except as provided in Subsection (2)(g)(ii)(B)(II), an increase in the city or
45805 town's certified tax rate under Subsection (2)(g)(ii)(A), whether occurring in a single fiscal year
45806 or spread over multiple fiscal years, is subject to the notice and hearing requirements of
45807 Sections 59-2-918 and 59-2-919.
45808 (II) For an increase under this Subsection (2)(g)(ii) that generates revenue that does not
45809 exceed the same amount of revenue as the county would have collected except for Subsection
45810 (2)(g)(i), the requirements of Sections 59-2-918 and 59-2-919 do not apply if the city or town:
45811 (Aa) publishes a notice that meets the size, type, placement, and frequency
45812 requirements of Section 59-2-919, reflects that the increase is a shift of a tax from one imposed
45813 by the county to one imposed by the city or town, and explains how the revenues from the tax
45814 increase will be used; and

45815 (Bb) holds a public hearing on the tax shift that may be held in conjunction with the
45816 city or town's regular budget hearing.
45817 (h) (i) This Subsection (2)(h) applies to each county that:
45818 (A) establishes a countywide special service district under Title 17A, Chapter 2, Part
45819 13, Utah Special Service District Act, to provide jail service, as provided in Subsection
45820 17A-2-1304(1)(a)(x); and
45821 (B) levies a property tax on behalf of the special service district under Section
45822 17A-2-1322.
45823 (ii) (A) The certified tax rate of each county to which this Subsection (2)(h) applies
45824 shall be decreased by the amount necessary to reduce county revenues by the same amount of
45825 revenues that will be generated by the property tax imposed on behalf of the special service
45826 district.
45827 (B) Each decrease under Subsection (2)(h)(ii)(A) shall occur contemporaneously with
45828 the levy on behalf of the special service district under Section 17A-2-1322.
45829 (i) (i) As used in this Subsection (2)(i):
45830 (A) "Annexing county" means a county whose unincorporated area is included within a
45831 fire district by annexation.
45832 (B) "Annexing municipality" means a municipality whose area is included within a fire
45833 district by annexation.
45834 (C) "Equalized fire protection tax rate" means the tax rate that results from:
45835 (I) calculating, for each participating county and each participating municipality, the
45836 property tax revenue necessary to cover all of the costs associated with providing fire
45837 protection, paramedic, and emergency services:
45838 (Aa) for a participating county, in the unincorporated area of the county; and
45839 (Bb) for a participating municipality, in the municipality; and
45840 (II) adding all the amounts calculated under Subsection (2)(i)(i)(C)(I) for all
45841 participating counties and all participating municipalities and then dividing that sum by the
45842 aggregate taxable value of the property, as adjusted in accordance with Section 59-2-913:
45843 (Aa) for participating counties, in the unincorporated area of all participating counties;
45844 and
45845 (Bb) for participating municipalities, in all the participating municipalities.

45846 (D) "Fire district" means a service area under Title 17B, Chapter 2a, Part 9, Service
45847 Area Act, in the creation of which an election was not required under Subsection
45848 17B-1-214(3)(c).
45849 (E) "Fire protection tax rate" means:
45850 (I) for an annexing county, the property tax rate that, when applied to taxable property
45851 in the unincorporated area of the county, generates enough property tax revenue to cover all the
45852 costs associated with providing fire protection, paramedic, and emergency services in the
45853 unincorporated area of the county; and
45854 (II) for an annexing municipality, the property tax rate that generates enough property
45855 tax revenue in the municipality to cover all the costs associated with providing fire protection,
45856 paramedic, and emergency services in the municipality.
45857 (F) "Participating county" means a county whose unincorporated area is included
45858 within a fire district at the time of the creation of the fire district.
45859 (G) "Participating municipality" means a municipality whose area is included within a
45860 fire district at the time of the creation of the fire district.
45861 (ii) In the first year following creation of a fire district, the certified tax rate of each
45862 participating county and each participating municipality shall be decreased by the amount of
45863 the equalized fire protection tax rate.
45864 (iii) In the first year following annexation to a fire district, the certified tax rate of each
45865 annexing county and each annexing municipality shall be decreased by the fire protection tax
45866 rate.
45867 (iv) Each tax levied under this section by a fire district shall be considered to be levied
45868 by:
45869 (A) each participating county and each annexing county for purposes of the county's
45870 tax limitation under Section 59-2-908; and
45871 (B) each participating municipality and each annexing municipality for purposes of the
45872 municipality's tax limitation under Section 10-5-112, for a town, or Section 10-6-133, for a
45873 city.
45874 (j) For the calendar year beginning on January 1, 2007, the calculation of a taxing
45875 entity's certified tax rate shall be adjusted by the amount necessary to offset any change in the
45876 certified tax rate that may result from excluding the following from the certified tax rate under

45877 Subsection (2)(a) enacted by the Legislature during the 2007 General Session:
45878 (i) personal property tax revenue:
45879 (A) received by a taxing entity;
45880 (B) assessed by a county assessor in accordance with Part 3, County Assessment; and
45881 (C) for personal property that is semiconductor manufacturing equipment; or
45882 (ii) the taxable value of personal property:
45883 (A) contained on the tax rolls of a taxing entity;
45884 (B) assessed by a county assessor in accordance with Part 3, County Assessment; and
45885 (C) that is semiconductor manufacturing equipment.
45886 (3) (a) On or before June 22, each taxing entity shall annually adopt a tentative budget.
45887 (b) If the taxing entity intends to exceed the certified tax rate, it shall notify the county
45888 auditor of:
45889 (i) its intent to exceed the certified tax rate; and
45890 (ii) the amount by which it proposes to exceed the certified tax rate.
45891 (c) The county auditor shall notify all property owners of any intent to exceed the
45892 certified tax rate in accordance with Subsection 59-2-919(2).
45893 (4) (a) The taxable value for the base year under Subsection 17C-1-102(6) shall be
45894 reduced for any year to the extent necessary to provide a community development and renewal
45895 agency established under Title 17C, Limited Purpose Local Government Entities - Community
45896 Development and Renewal Agencies, with approximately the same amount of money the
45897 agency would have received without a reduction in the county's certified tax rate if:
45898 (i) in that year there is a decrease in the certified tax rate under Subsection (2)(c) or
45899 (2)(d)(i);
45900 (ii) the amount of the decrease is more than 20% of the county's certified tax rate of the
45901 previous year; and
45902 (iii) the decrease results in a reduction of the amount to be paid to the agency under
45903 Section 17C-1-403 or 17C-1-404.
45904 (b) The base taxable value under Subsection 17C-1-102(6) shall be increased in any
45905 year to the extent necessary to provide a community development and renewal agency with
45906 approximately the same amount of money as the agency would have received without an
45907 increase in the certified tax rate that year if:

45908 (i) in that year the base taxable value under Subsection 17C-1-102(6) is reduced due to
45909 a decrease in the certified tax rate under Subsection (2)(c) or (2)(d)(i); and
45910 (ii) The certified tax rate of a city, school district, local district, or special service
45911 district increases independent of the adjustment to the taxable value of the base year.
45912 (c) Notwithstanding a decrease in the certified tax rate under Subsection (2)(c) or
45913 (2)(d)(i), the amount of money allocated and, when collected, paid each year to a community
45914 development and renewal agency established under Title 17C, Limited Purpose Local
45915 Government Entities - Community Development and Renewal Agencies, for the payment of
45916 bonds or other contract indebtedness, but not for administrative costs, may not be less than that
45917 amount would have been without a decrease in the certified tax rate under Subsection (2)(c) or
45918 (2)(d)(i).
45919 Section 977. Section **59-2-1004** is amended to read:
45920 **59-2-1004. Appeal to county board of equalization -- Real property -- Time**
45921 **period for appeal -- Decision of board -- Extensions approved by commission -- Appeal to**
45922 **commission.**
45923 (1) (a) A taxpayer dissatisfied with the valuation or the equalization of the taxpayer's
45924 real property may make an application to appeal by:
45925 (i) filing the application with the county board of equalization within the time period
45926 described in Subsection (2); or
45927 (ii) making an application by telephone or other electronic means within the time period
45928 described in Subsection (2) if the county legislative body passes a resolution under Subsection
45929 (5) authorizing applications to be made by telephone or other electronic means.
45930 (b) The contents of the application shall be prescribed by rule of the county board of
45931 equalization.
45932 (2) (a) Except as provided in Subsection (2)(b), for purposes of Subsection (1), a
45933 taxpayer shall make an application to appeal the valuation or the equalization of the taxpayer's
45934 real property on or before the later of:
45935 (i) September 15 of the current calendar year; or
45936 (ii) the last day of a 45-day period beginning on the day on which the county auditor
45937 mails the notice under Subsection 59-2-919(4).
45938 (b) Notwithstanding Subsection (2)(a), in accordance with [~~Title 63, Chapter 46a~~] Title

45939 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules
45940 providing for circumstances under which the county board of equalization is required to accept
45941 an application to appeal that is filed after the time period prescribed in Subsection (2)(a).
45942 (3) The owner shall include in the application under Subsection (1)(a)(i) the owner's
45943 estimate of the fair market value of the property and any evidence which may indicate that the
45944 assessed valuation of the owner's property is improperly equalized with the assessed valuation
45945 of comparable properties.
45946 (4) (a) The county board of equalization shall meet and hold public hearings as
45947 prescribed in Section 59-2-1001.
45948 (b) The county board of equalization shall make a decision on each appeal filed in
45949 accordance with this section within a 60-day period after the day on which the application is
45950 made.
45951 (c) The commission may approve the extension of a time period provided for in
45952 Subsection (4)(b) for a county board of equalization to make a decision on an appeal.
45953 (d) The decision of the board shall contain a determination of the valuation of the
45954 property based on fair market value, and a conclusion that the fair market value is properly
45955 equalized with the assessed value of comparable properties.
45956 (e) If no evidence is presented before the county board of equalization, it will be
45957 presumed that the equalization issue has been met.
45958 (f) (i) If the fair market value of the property that is the subject of the appeal deviates
45959 plus or minus 5% from the assessed value of comparable properties, the valuation of the
45960 appealed property shall be adjusted to reflect a value equalized with the assessed value of
45961 comparable properties.
45962 (ii) The equalized value established under Subsection (4)(f)(i) shall be the assessed
45963 value for property tax purposes until the county assessor is able to evaluate and equalize the
45964 assessed value of all comparable properties to bring them all into conformity with full fair
45965 market value.
45966 (5) If any taxpayer is dissatisfied with the decision of the county board of equalization,
45967 the taxpayer may file an appeal with the commission as prescribed in Section 59-2-1006.
45968 (6) A county legislative body may pass a resolution authorizing taxpayers owing taxes
45969 on property assessed by that county to file property tax appeals applications under this section

45970 by telephone or other electronic means.
45971 Section 978. Section **59-2-1004.5** is amended to read:
45972 **59-2-1004.5. Valuation adjustment for decrease in taxable value caused by a**
45973 **natural disaster.**
45974 (1) For purposes of this section:
45975 (a) "natural disaster" means:
45976 (i) an explosion;
45977 (ii) fire;
45978 (iii) a flood;
45979 (iv) a storm;
45980 (v) a tornado;
45981 (vi) winds;
45982 (vii) an earthquake;
45983 (viii) lightning;
45984 (ix) any adverse weather event; or
45985 (x) any event similar to an event described in this Subsection (1), as determined by the
45986 commission by rule made in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
45987 Utah Administrative Rulemaking Act; and
45988 (b) "natural disaster damage" means any physical harm to property caused by a natural
45989 disaster.
45990 (2) Except as provided in Subsection (3), if, during a calendar year, property sustains a
45991 decrease in taxable value that is caused by natural disaster damage, the owner of the property
45992 may apply to the county board of equalization for an adjustment in the taxable value of the
45993 owner's property as provided in Subsection (4).
45994 (3) Notwithstanding Subsection (2), an owner may not receive the valuation adjustment
45995 described in this section if the decrease in taxable value described in Subsection (2) is:
45996 (a) due to the intentional action or inaction of the owner; or
45997 (b) less than 30% of the taxable value of the property described in Subsection (2)
45998 before the decrease in taxable value described in Subsection (2).
45999 (4) (a) To receive the valuation adjustment described in Subsection (2), the owner of
46000 the property shall file an application for the valuation adjustment with the county board of

46001 equalization on or before the later of:
46002 (i) the deadline described in Subsection 59-2-1004(2); or
46003 (ii) 45 days after the day on which the natural disaster damage described in Subsection
46004 (2) occurs.
46005 (b) The county board of equalization shall hold a hearing:
46006 (i) within 30 days of the day on which the application described in Subsection (4)(a) is
46007 received by the board of equalization; and
46008 (ii) following the procedures and requirements of Section 59-2-1001.
46009 (c) At the hearing described in Subsection (4)(b), the applicant shall have the burden of
46010 proving, by a preponderance of the evidence:
46011 (i) that the property sustained a decrease in taxable value, that:
46012 (A) was caused by natural disaster damage; and
46013 (B) is at least 30% of the taxable value of the property described in this Subsection
46014 (4)(c)(i) before the decrease in taxable value described in this Subsection (4)(c)(i);
46015 (ii) the amount of the decrease in taxable value described in Subsection (4)(c)(i); and
46016 (iii) that the decrease in taxable value described in Subsection (4)(c)(i) is not due to the
46017 action or inaction of the applicant.
46018 (d) If the county board of equalization determines that the applicant has met the burden
46019 of proof described in Subsection (4)(c), the county board of equalization shall reduce the
46020 valuation of the property described in Subsection (4)(c)(i) by an amount equal to the decrease
46021 in taxable value of the property multiplied by the percentage of the calendar year remaining
46022 after the natural disaster damage occurred.
46023 (e) The decision of the board of equalization shall be provided to the applicant, in
46024 writing, within 30 days of the day on which the hearing described in Subsection (4)(b) is
46025 concluded.
46026 (5) An applicant that is dissatisfied with a decision of the board of equalization under
46027 this section may appeal that decision under Section 59-2-1006.
46028 Section 979. Section **59-2-1004.6** is amended to read:
46029 **59-2-1004.6. Tax relief for decrease in fair market value due to access**
46030 **interruption.**
46031 (1) For purposes of this section "access interruption" means interruption of the normal

46032 access to or from property due to any circumstance beyond the control of the owner, including:
46033 (a) road construction;
46034 (b) traffic diversion;
46035 (c) an accident;
46036 (d) vandalism;
46037 (e) an explosion;
46038 (f) fire;
46039 (g) a flood;
46040 (h) a storm;
46041 (i) a tornado;
46042 (j) winds;
46043 (k) an earthquake;
46044 (l) lightning;
46045 (m) any adverse weather event; or
46046 (n) any event similar to the events described in this Subsection (1), as determined by
46047 the commission by rule made in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
46048 Utah Administrative Rulemaking Act.
46049 (2) Except as provided in Subsection (3), if, during a calendar year, property sustains a
46050 decrease in fair market value that is caused by access interruption, the owner of the property
46051 may apply to the county board of equalization for an adjustment in the fair market value of the
46052 owner's property as provided in Subsection (4).
46053 (3) Notwithstanding Subsection (2), an owner may not receive the tax relief described
46054 in this section if the decrease in fair market value described in Subsection (2) is due to the
46055 intentional action or inaction of the owner.
46056 (4) (a) To receive the tax relief described in Subsection (2), the owner of the property
46057 shall file an application for tax relief with the county board of equalization on or before
46058 September 30.
46059 (b) The county board of equalization shall hold a hearing:
46060 (i) within 30 days of the day on which the application described in Subsection (4)(a) is
46061 received by the board of equalization; and
46062 (ii) in the manner described in Section 59-2-1001.

46063 (c) At the hearing described in Subsection (4)(b), the applicant shall have the burden of
46064 proving, by a preponderance of the evidence:
46065 (i) that the property sustained a decrease in fair market value, during the applicable
46066 calendar year, that was caused by access interruption;
46067 (ii) the amount of the decrease in fair market value described in Subsection (4)(c)(i);
46068 and
46069 (iii) that the decrease in fair market value described in Subsection (4)(c)(i) is not due to
46070 the action or inaction of the applicant.
46071 (d) If the county board of equalization determines that the applicant has met the burden
46072 of proof described in Subsection (4)(c), the county board of equalization shall reduce the
46073 valuation of the property described in Subsection (4)(c)(i) by an amount equal to the decrease
46074 in fair market value of the property multiplied by the portion of the calendar year that the fair
46075 market value of the property was decreased.
46076 (e) The decision of the board of equalization shall be provided to the applicant, in
46077 writing, within 30 days of the day on which the hearing described in Subsection (4)(b) is
46078 concluded.
46079 (5) An applicant that is dissatisfied with a decision of the board of equalization under
46080 this section may appeal that decision under Section 59-2-1006.
46081 Section 980. Section **59-2-1007** is amended to read:
46082 **59-2-1007. Objection to assessment by commission -- Application -- Contents of**
46083 **application -- Amending an application -- Hearings -- Appeals.**
46084 (1) (a) If the owner of any property assessed by the commission, or any county upon a
46085 showing of reasonable cause, objects to the assessment, the owner or the county may, on or
46086 before the later of June 1 or a day within 30 days of the date the notice of assessment is mailed
46087 by the commission pursuant to Section 59-2-201, apply to the commission for a hearing.
46088 (b) The commission shall allow the following to be a party at a hearing under this
46089 section:
46090 (i) the owner; and
46091 (ii) the county upon a showing of reasonable cause.
46092 (2) The owner or county shall include in the application under Subsection (1)(a):
46093 (a) a written statement setting forth the known facts and legal basis supporting a

46094 different fair market value than the value assessed by the commission; and
46095 (b) the owner's or county's estimate of the fair market value of the property.
46096 (3) (a) An owner's or a county's estimate on an application under Subsection (2) of the
46097 fair market value of the property may be amended prior to the hearing as provided by rule.
46098 (b) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
46099 Administrative Rulemaking Act, the commission may make rules governing the procedures for
46100 amending an estimate of fair market value under Subsection (3)(a).
46101 (4) (a) An owner applying to the commission for a hearing in accordance with
46102 Subsection (1) shall for the property for which the owner objects to the commission's
46103 assessment file a copy of the application with the county auditor of each county in which the
46104 property is located.
46105 (b) A county auditor receiving a copy of an application in accordance with Subsection
46106 (4)(a) shall provide a copy of the application to the county:
46107 (i) assessor;
46108 (ii) attorney;
46109 (iii) legislative body; and
46110 (iv) treasurer.
46111 (5) (a) On or before August 1, the commission shall conduct a scheduling conference
46112 with all parties to a hearing under this section.
46113 (b) At the scheduling conference under Subsection (5)(a), the commission shall
46114 establish dates for:
46115 (i) the completion of discovery;
46116 (ii) the filing of prehearing motions; and
46117 (iii) conducting a hearing on the objection to the assessment.
46118 (6) (a) The commission shall issue a written decision no later than 120 days after the
46119 later of:
46120 (i) the hearing described in Subsection (5)(b) is completed; or
46121 (ii) all posthearing briefs are submitted.
46122 (b) Any applications not resolved by the commission within a two-year period from the
46123 date of filing are considered to be denied, unless the parties stipulate to a different time period
46124 for resolving an application.

46125 (c) A party may appeal to the district court pursuant to Section 59-1-601 within 30 days
46126 from the day on which an application is considered to be denied.
46127 (7) At the hearing on the application, the commission may increase, lower, or sustain
46128 the assessment if:
46129 (a) the commission finds an error in the assessment; or
46130 (b) the commission determines that increasing, lowering, or sustaining the assessment
46131 is necessary to equalize the assessment with other similarly assessed property.
46132 (8) (a) (i) The commission shall send notice of a commission action under Subsection
46133 (7) to a county auditor if:
46134 (A) the commission proposes to adjust an assessment which was made pursuant to
46135 Section 59-2-201;
46136 (B) the county's tax revenues may be affected by the commission's decision; and
46137 (C) the county has not already been made a party pursuant to Subsection (1).
46138 (ii) The written notice sent by the commission under Subsection (8)(a)(i):
46139 (A) may be transmitted by:
46140 (I) any form of electronic communication;
46141 (II) first class mail; or
46142 (III) private carrier; and
46143 (B) shall request the county to show good cause why the commission should not adjust
46144 the assessment by requesting the county to provide to the commission a written statement:
46145 (I) setting forth the known facts and legal basis for not adjusting the assessment; and
46146 (II) within 30 days from the date of the notice.
46147 (b) If a county provides to the commission a written statement in accordance with
46148 Subsection (8)(a)(ii)(B), the commission shall:
46149 (i) hold a hearing or take other appropriate action to consider the good cause alleged by
46150 the county; and
46151 (ii) issue a written decision increasing, lowering, or sustaining the assessment.
46152 (c) If a county does not provide to the commission a written statement in accordance
46153 with Subsection (8)(a)(ii)(B), within 30 days after the commission sends the notice described in
46154 Subsection (8)(a), the commission shall adjust the assessment and send a copy of the
46155 commission's written decision to the county.

46156 (9) Subsection (8) does not limit the rights of any county as described in Subsection
46157 (1).
46158 Section 981. Section **59-2-1102** is amended to read:
46159 **59-2-1102. Determination of exemptions by board of equalization -- Appeal --**
46160 **Application for exemption -- Annual statement -- Exceptions.**
46161 (1) (a) For property assessed under Part 3, County Assessment, the county board of
46162 equalization may, after giving notice in a manner prescribed by rule, determine whether certain
46163 property within the county is exempt from taxation.
46164 (b) The decision of the county board of equalization described in Subsection (1)(a)
46165 shall:
46166 (i) be in writing; and
46167 (ii) include:
46168 (A) a statement of facts; and
46169 (B) the statutory basis for its decision.
46170 (c) Except as provided in Subsection (11)(a), a copy of the decision described in
46171 Subsection (1)(a) shall be sent on or before May 15 to the person applying for the exemption.
46172 (2) The county board of equalization shall notify an owner of exempt property that has
46173 previously received an exemption but failed to file an annual statement in accordance with
46174 Subsection (9)(c), of the county board of equalization's intent to revoke the exemption on or
46175 before April 1.
46176 (3) (a) Except as provided in Subsection (8) and subject to Subsection (9), a reduction
46177 may not be made under this part in the value of property and an exemption may not be granted
46178 under this part unless the party affected or the party's agent:
46179 (i) makes and files with the county board of equalization a written application for the
46180 reduction or exemption, verified by signed statement; and
46181 (ii) appears before the county board of equalization and shows facts upon which it is
46182 claimed the reduction should be made, or exemption granted.
46183 (b) Notwithstanding Subsection (9), the county board of equalization may waive:
46184 (i) the application or personal appearance requirements of Subsection (3)(a), (4)(b), or
46185 (9)(a); or
46186 (ii) the annual statement requirements of Subsection (9)(c).

46187 (4) (a) Before the county board of equalization grants any application for exemption or
46188 reduction, the county board of equalization may examine under oath the person or agent
46189 making the application.
46190 (b) Except as provided in Subsection (3)(b), a reduction may not be made or exemption
46191 granted unless the person or the agent making the application attends and answers all questions
46192 pertinent to the inquiry.
46193 (5) For the hearing on the application, the county board of equalization may subpoena
46194 any witnesses, and hear and take any evidence in relation to the pending application.
46195 (6) Except as provided in Subsection (11)(b), the county board of equalization shall
46196 hold hearings and render a written decision to determine any exemption on or before May 1 in
46197 each year.
46198 (7) Any property owner dissatisfied with the decision of the county board of
46199 equalization regarding any reduction or exemption may appeal to the commission under
46200 Section 59-2-1006.
46201 (8) Notwithstanding Subsection (3)(a), a county board of equalization may not require
46202 an owner of property to file an application in accordance with this section in order to claim an
46203 exemption for the property under the following:
46204 (a) Subsections 59-2-1101(3)(a) through (c);
46205 (b) Subsection 59-2-1101(3)(f) or (g);
46206 (c) Section 59-2-1110;
46207 (d) Section 59-2-1111;
46208 (e) Section 59-2-1112;
46209 (f) Section 59-2-1113; or
46210 (g) Section 59-2-1114.
46211 (9) (a) Except as provided in Subsections (3)(b) and (9)(b), for property described in
46212 Subsection 59-2-1101(3)(d) or (e), a county board of equalization shall, consistent with
46213 Subsection (10), require an owner of that property to file an application in accordance with this
46214 section in order to claim an exemption for that property.
46215 (b) Notwithstanding Subsection (9)(a), a county board of equalization may not require
46216 an owner of property described in Subsection 59-2-1101(3)(d) or (e) to file an application
46217 under Subsection (9)(a) if:

46218 (i) (A) the owner filed an application under Subsection (9)(a); or
46219 (B) the county board of equalization waived the application requirements in accordance
46220 with Subsection (3)(b);
46221 (ii) the county board of equalization determines that the owner may claim an
46222 exemption for that property; and
46223 (iii) the exemption described in Subsection (9)(b)(ii) is in effect.
46224 (c) (i) Except as provided in Subsection (3)(b), for the time period that an owner is
46225 granted an exemption in accordance with this section for property described in Subsection
46226 59-2-1101(3)(d) or (e), a county board of equalization shall require the owner to file an annual
46227 statement on a form prescribed by the commission establishing that the property continues to
46228 be eligible for the exemption.
46229 (ii) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
46230 Administrative Rulemaking Act, the commission shall make rules providing:
46231 (A) the form for the annual statement required by Subsection (9)(c)(i);
46232 (B) the contents of the form for the annual statement required by Subsection (9)(c)(i);
46233 and
46234 (C) procedures and requirements for making the annual statement required by
46235 Subsection (9)(c)(i).
46236 (iii) The commission shall make the form described in Subsection (9)(c)(ii)(A)
46237 available to counties.
46238 (10) (a) For purposes of this Subsection (10), "exclusive use exemption" is as defined
46239 in Section 59-2-1101.
46240 (b) (i) For purposes of Subsection (1)(a), and except as provided in Subsections
46241 (10)(b)(ii) and (iii), when a person acquires property on or after January 1 that qualifies for an
46242 exclusive use exemption, that person may apply for the exclusive use exemption on or before
46243 the later of:
46244 (A) the day set by rule as the deadline for filing a property tax exemption application;
46245 or
46246 (B) 30 days after the day on which the property is acquired.
46247 (ii) Notwithstanding Subsection (10)(b)(i), a person who acquires property on or after
46248 January 1, 2004, and before January 1, 2005, that qualifies for an exclusive use exemption, may

46249 apply for the exclusive use exemption for the 2004 calendar year on or before September 30,
46250 2005.
46251 (iii) Notwithstanding Subsection (10)(b)(i), a person who acquires property on or after
46252 January 1, 2005, and before January 1, 2006, that qualifies for an exclusive use exemption, may
46253 apply for the exclusive use exemption for the 2005 calendar year on or before the later of:
46254 (A) September 30, 2005; or
46255 (B) 30 days after the day on which the property is acquired.
46256 (11) (a) Notwithstanding Subsection (1)(c), if an application for an exemption is filed
46257 under Subsection (10), a county board of equalization shall send a copy of the decision
46258 described in Subsection (1)(c) to the person applying for the exemption on or before the later
46259 of:
46260 (i) May 15; or
46261 (ii) 45 days after the day on which the application for the exemption is filed.
46262 (b) Notwithstanding Subsection (6), if an application for an exemption is filed under
46263 Subsection (10), a county board of equalization shall hold the hearing and render the decision
46264 described in Subsection (6) on or before the later of:
46265 (i) May 1; or
46266 (ii) 30 days after the day on which the application for the exemption is filed.
46267 Section 982. Section **59-2-1105 (Effective 01/01/08)** is amended to read:
46268 **59-2-1105 (Effective 01/01/08). Application for veteran's exemption --**
46269 **Rulemaking authority -- Statement -- County authority to make refunds.**
46270 (1) (a) A veteran's exemption may be allowed only if the interest of the claimant is on
46271 record on January 1 of the year the exemption is claimed.
46272 (b) If the claimant has an interest in real property under a contract, the veteran's
46273 exemption may be allowed if it is proved to the satisfaction of the county that the claimant is:
46274 (i) the purchaser under the contract; and
46275 (ii) obligated to pay the taxes on the property beginning January 1 of the year the
46276 exemption is claimed.
46277 (c) If the claimant is the grantor of a trust holding title to real or tangible personal
46278 property on which a veteran's exemption is claimed, the claimant may claim the portion of the
46279 veteran's exemption under Section 59-2-1104 and be treated as the owner of that portion of the

46280 property held in trust for which the claimant proves to the satisfaction of the county that:
46281 (i) title to the portion of the trust will revest in the claimant upon the exercise of a
46282 power:
46283 (A) by:
46284 (I) the claimant as grantor of the trust;
46285 (II) a nonadverse party; or
46286 (III) both the claimant and a nonadverse party; and
46287 (B) regardless of whether the power is a power:
46288 (I) to revoke;
46289 (II) to terminate;
46290 (III) to alter;
46291 (IV) to amend; or
46292 (V) to appoint;
46293 (ii) the claimant is obligated to pay the taxes on that portion of the trust property
46294 beginning January 1 of the year the claimant claims the exemption; and
46295 (iii) the claimant meets the requirements under this part for the exemption.
46296 (2) (a) (i) A claimant applying for a veteran's exemption under this section shall file an
46297 application:
46298 (A) with the county in which that person resides; and
46299 (B) except as provided in Subsection (2)(b) or (e), on or before September 1 of the year
46300 in which that claimant is applying for the veteran's exemption in accordance with this section.
46301 (ii) A county shall provide a claimant who files an application for a veteran's
46302 exemption in accordance with this section with a receipt:
46303 (A) stating that the county received the claimant's application; and
46304 (B) no later than 30 days after the day on which the claimant filed the application in
46305 accordance with this section.
46306 (b) Notwithstanding Subsection (2)(a)(i)(B) or (2)(e):
46307 (i) subject to Subsection (2)(b)(iv), for a claimant who applies for a veteran's
46308 exemption on or after January 1, 2004, a county shall extend the deadline for filing the
46309 application required by Subsection (2)(a) to September 1 of the year after the year the claimant
46310 would otherwise be required to file the application under Subsection (2)(a)(i)(B) if:

46311 (A) on or after January 1, 2004, a military entity issues a written decision that the:
46312 (I) disabled veteran is disabled; or
46313 (II) deceased disabled veteran with respect to whom the claimant applies for a veteran's
46314 exemption was disabled at the time the deceased disabled veteran died; and
46315 (B) the date the written decision described in Subsection (2)(b)(i)(A) takes effect is in
46316 any year prior to the current calendar year;
46317 (ii) subject to Subsections (2)(b)(iv) and (2)(d), for a claimant who applies for a
46318 veteran's exemption on or after January 1, 2004, a county shall allow the claimant to amend the
46319 application required by Subsection (2)(a) on or before September 1 of the year after the year the
46320 claimant filed the application under Subsection (2)(a)(i)(B) if:
46321 (A) on or after January 1, 2004, a military entity issues a written decision that the
46322 percentage of disability has changed for the:
46323 (I) disabled veteran; or
46324 (II) deceased disabled veteran with respect to whom the claimant applies for a veteran's
46325 exemption; and
46326 (B) the date the written decision described in Subsection (2)(b)(ii)(A) takes effect is in
46327 any year prior to the current calendar year;
46328 (iii) subject to Subsections (2)(b)(iv) and (2)(d), for a claimant who applies for a
46329 veteran's exemption on or after January 1, 2004, a county shall extend the deadline for filing
46330 the application required by Subsection (2)(a) to September 1 of the year after the year the
46331 claimant would otherwise be required to file the application under Subsection (2)(a)(i)(B) if the
46332 county legislative body determines that:
46333 (A) the claimant or a member of the claimant's immediate family had an illness or
46334 injury that prevented the claimant from filing the application on or before the deadline for
46335 filing the application established in Subsection (2)(a)(i)(B);
46336 (B) a member of the claimant's immediate family died during the calendar year the
46337 claimant was required to file the application under Subsection (2)(a)(i)(B);
46338 (C) the claimant was not physically present in the state for a time period of at least six
46339 consecutive months during the calendar year the claimant was required to file the application
46340 under Subsection (2)(a)(i)(B); or
46341 (D) the failure of the claimant to file the application on or before the deadline for filing

46342 the application established in Subsection (2)(a)(i)(B):
46343 (I) would be against equity or good conscience; and
46344 (II) was beyond the reasonable control of the claimant; and
46345 (iv) a county may extend the deadline for filing an application or amending an
46346 application under this Subsection (2) until December 31 if the county finds that good cause
46347 exists to extend the deadline.
46348 (c) The following shall accompany the initial application for a veteran's exemption:
46349 (i) a copy of the veteran's certificate of discharge from the military service of:
46350 (A) the United States; or
46351 (B) this state; or
46352 (ii) other satisfactory evidence of eligible military service.
46353 (d) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
46354 Administrative Rulemaking Act, the commission may by rule:
46355 (i) establish procedures and requirements for amending an application under
46356 Subsection (2)(b)(ii);
46357 (ii) for purposes of Subsection (2)(b)(iii), define the terms:
46358 (A) "immediate family"; or
46359 (B) "physically present"; or
46360 (iii) for purposes of Subsection (2)(b)(iii), prescribe the circumstances under which the
46361 failure of a claimant to file an application on or before the deadline for filing the application
46362 established in Subsection (2)(a)(i)(B):
46363 (A) would be against equity or good conscience; and
46364 (B) is beyond the reasonable control of a claimant.
46365 (e) If a claimant has on file with the county the application described in Subsection
46366 (2)(a), the county may not require the claimant to file another application described in
46367 Subsection (2)(a) unless:
46368 (i) the claimant applies all or a portion of an exemption allowed by this section to any
46369 tangible personal property;
46370 (ii) the percentage of disability has changed for the:
46371 (A) disabled veteran; or
46372 (B) deceased disabled veteran with respect to whom a claimant applies for a veteran's

46373 exemption under this section;
46374 (iii) the disabled veteran dies;
46375 (iv) the claimant's ownership interest in the claimant's primary residence changes;
46376 (v) the claimant's occupancy of the primary residence for which the claimant claims an
46377 exemption under Section 59-2-1104 changes; or
46378 (vi) the claimant who files an application for a veteran's exemption with respect to a
46379 deceased disabled veteran or veteran who was killed in action or died in the line of duty is a
46380 person other than the claimant who filed the application described in Subsection (2)(a) for a
46381 veteran's exemption:
46382 (A) for the calendar year immediately preceding the current calendar year; and
46383 (B) with respect to that deceased disabled veteran or veteran who was killed in action
46384 or died in the line of duty.
46385 (f) The county may verify that the residential property for which the claimant claims an
46386 exemption under Section 59-2-1104 is the claimant's primary residence.
46387 (3) (a) (i) Subject to Subsection (3)(a)(ii), a claimant who files an application for a
46388 veteran's exemption shall have on file with the county a statement:
46389 (A) issued by a military entity; and
46390 (B) listing the percentage of disability for the disabled veteran or deceased disabled
46391 veteran with respect to whom a claimant applies for a veteran's exemption.
46392 (ii) If a claimant has on file with the county the statement described in Subsection
46393 (3)(a)(i), the county may not require the claimant to file another statement described in
46394 Subsection (3)(a)(i) unless:
46395 (A) the claimant who files an application under this section for a veteran's exemption
46396 with respect to a deceased disabled veteran or veteran who was killed in action or died in the
46397 line of duty is a person other than the claimant who filed the statement described in Subsection
46398 (3)(a)(i) for a veteran's exemption:
46399 (I) for the calendar year immediately preceding the current calendar year; and
46400 (II) with respect to that deceased disabled veteran or veteran who was killed in action
46401 or died in the line of duty; or
46402 (B) the percentage of disability has changed for a:
46403 (I) disabled veteran; or

46404 (II) deceased disabled veteran with respect to whom the claimant applies for a veteran's
46405 exemption under this section.
46406 (b) For a claimant filing an application in accordance with Subsection (2)(b)(i), the
46407 claimant shall include with the application required by Subsection (2) a statement issued by a
46408 military entity listing the date the written decision described in Subsection (2)(b)(i)(A) takes
46409 effect.
46410 (c) For a claimant amending an application in accordance with Subsection (2)(b)(ii),
46411 the claimant shall provide to the county a statement issued by a military entity listing the date
46412 the written decision described in Subsection (2)(b)(ii)(A) takes effect.
46413 (4) (a) For purposes of this Subsection (4):
46414 (i) "Property taxes due" means the taxes due on a claimant's property:
46415 (A) for which a veteran's exemption is granted by a county; and
46416 (B) for the calendar year for which the veteran's exemption is granted.
46417 (ii) "Property taxes paid" is an amount equal to the sum of:
46418 (A) the amount of the property taxes the claimant paid for the calendar year for which
46419 the claimant is applying for the veteran's exemption; and
46420 (B) the veteran's exemption the county granted for the calendar year described in
46421 Subsection (4)(a)(ii)(A).
46422 (b) A county granting a veteran's exemption to a claimant shall refund to that claimant
46423 an amount equal to the amount by which the claimant's property taxes paid exceed the
46424 claimant's property taxes due, if that amount is $1 or more.
46425 Section 983. Section **59-2-1115** is amended to read:
46426 **59-2-1115. Exemption of certain tangible personal property.**
46427 (1) (a) The taxable tangible personal property of a taxpayer is exempt from taxation if
46428 the taxable tangible personal property has a total aggregate fair market value of $3,500 or less.
46429 (b) For purposes of this section, "taxable tangible personal property" does not include:
46430 (i) tangible personal property required by law to be registered with the state before it is
46431 used:
46432 (A) on a public highway;
46433 (B) on a public waterway;
46434 (C) on public land; or

46435 (D) in the air;
46436 (ii) a mobile home as defined in Section 41-1a-102; or
46437 (iii) a manufactured home as defined in Section 41-1a-102.
46438 (2) (a) For calendar years beginning on or after January 1, 2008, the commission shall
46439 increase the dollar amount described in Subsection (1) by a percentage equal to the percentage
46440 difference between the consumer price index for the preceding calendar year and the consumer
46441 price index for calendar year 2006.
46442 (b) For purposes of this Subsection (2), the commission shall calculate the consumer
46443 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.
46444 (c) If the percentage difference under Subsection (2)(a) is zero or a negative
46445 percentage, the consumer price index increase for the year is zero.
46446 (3) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
46447 Administrative Rulemaking Act, the commission may make rules to administer this section and
46448 provide for uniform implementation.
46449 Section 984. Section **59-2-1202** is amended to read:
46450 **59-2-1202. Definitions.**
46451 As used in this part:
46452 (1) (a) "Claimant" means a homeowner or renter who:
46453 (i) has filed a claim under this part;
46454 (ii) is domiciled in this state for the entire calendar year for which a claim for relief is
46455 filed under this part; and
46456 (iii) on or before the December 31 of the year for which a claim for relief is filed under
46457 this part, is:
46458 (A) 65 years of age or older if the person was born on or before December 31, 1942;
46459 (B) 66 years of age or older if the person was born on or after January 1, 1943, but on
46460 or before December 31, 1959; or
46461 (C) 67 years of age or older if the person was born on or after January 1, 1960.
46462 (b) A surviving spouse, who otherwise qualifies under this section, is an eligible
46463 claimant regardless of age.
46464 (c) If two or more individuals of a household are able to meet the qualifications for a
46465 claimant, they may determine among them as to who the claimant shall be, but if they are

46466 unable to agree, the matter shall be referred to the county legislative body for a determination
46467 of the claimant of an owned residence and to the commission for a determination of the
46468 claimant of a rented residence.
46469 (2) (a) "Gross rent" means rental actually paid in cash or its equivalent solely for the
46470 right of occupancy, at arm's-length, of a residence, exclusive of charges for any utilities,
46471 services, furniture, furnishings, or personal appliances furnished by the landlord as a part of the
46472 rental agreement.
46473 (b) If a claimant occupies two or more residences in the year and does not own the
46474 residence as of the lien date, "gross rent" means the total rent paid for the residences during the
46475 one-year period for which the renter files a claim under this part.
46476 (3) "Homeowner's credit" means a credit against a claimant's property tax liability.
46477 (4) "Household" means the association of persons who live in the same dwelling,
46478 sharing its furnishings, facilities, accommodations, and expenses.
46479 (5) "Household income" means all income received by all persons of a household in:
46480 (a) the calendar year preceding the calendar year in which property taxes are due; or
46481 (b) for purposes of the renter's credit authorized by this part, the year for which a claim
46482 is filed.
46483 (6) (a) (i) "Income" means the sum of:
46484 (A) federal adjusted gross income as defined in Section 62, Internal Revenue Code;
46485 and
46486 (B) all nontaxable income as defined in Subsection (6)(b).
46487 (ii) "Income" does not include:
46488 (A) aid, assistance, or contributions from a tax-exempt nongovernmental source;
46489 (B) surplus foods;
46490 (C) relief in kind supplied by a public or private agency; or
46491 (D) relief provided under this part, Section 59-2-1108, or Section 59-2-1109.
46492 (b) For purposes of Subsection (6)(a)(i), "nontaxable income" means amounts excluded
46493 from adjusted gross income under the Internal Revenue Code, including:
46494 (i) capital gains;
46495 (ii) loss carry forwards claimed during the taxable year in which a claimant files for
46496 relief under this part, Section 59-2-1108, or Section 59-2-1109;

46497 (iii) depreciation claimed pursuant to the Internal Revenue Code by a claimant on the
46498 residence for which the claimant files for relief under this part, Section 59-2-1108, or Section
46499 59-2-1109;
46500 (iv) support money received;
46501 (v) nontaxable strike benefits;
46502 (vi) cash public assistance or relief;
46503 (vii) the gross amount of a pension or annuity, including benefits under the Railroad
46504 Retirement Act of 1974, 45 U.S.C. Sec. 231 et seq., and veterans disability pensions;
46505 (viii) payments received under the Social Security Act;
46506 (ix) state unemployment insurance amounts;
46507 (x) nontaxable interest received from any source;
46508 (xi) workers' compensation;
46509 (xii) the gross amount of "loss of time" insurance; and
46510 (xiii) voluntary contributions to a tax-deferred retirement plan.
46511 (7) (a) "Property taxes accrued" means property taxes, exclusive of special
46512 assessments, delinquent interest, and charges for service, levied on a claimant's residence in
46513 this state.
46514 (b) For a mobile home, "property taxes accrued" includes taxes imposed on both the
46515 land upon which the home is situated and on the structure of the home itself, whether classified
46516 as real property or personal property taxes.
46517 (c) (i) Beginning on January 1, 1999, for a claimant who owns a residence, "property
46518 taxes accrued" are the property taxes described in Subsection (7)(a) levied for the calendar year
46519 on 35% of the fair market value of the residence as reflected on the assessment roll.
46520 (ii) The amount described in Subsection (7)(c)(i) constitutes:
46521 (A) a tax abatement for the poor in accordance with Utah Constitution Article XIII,
46522 Section 3; and
46523 (B) the residential exemption provided for in Section 59-2-103.
46524 (d) (i) For purposes of this Subsection (7) property taxes accrued are levied on the lien
46525 date.
46526 (ii) If a claimant owns a residence on the lien date, property taxes accrued mean taxes
46527 levied on the lien date, even if that claimant does not own a residence for the entire year.

46528 (e) When a household owns and occupies two or more different residences in this state
46529 in the same calendar year, property taxes accrued shall relate only to the residence occupied on
46530 the lien date by the household as its principal place of residence.
46531 (f) (i) If a residence is an integral part of a large unit such as a farm or a multipurpose
46532 or multidwelling building, property taxes accrued shall be the same percentage of the total
46533 property taxes accrued as the value of the residence is of the total value.
46534 (ii) For purposes of this Subsection (7)(f), "unit" refers to the parcel of property
46535 covered by a single tax statement of which the residence is a part.
46536 (8) (a) As used in this section, "rental assistance payment" means any payment that:
46537 (i) is made by a:
46538 (A) governmental entity; or
46539 (B) (I) charitable organization; or
46540 (II) religious organization; and
46541 (ii) is specifically designated for the payment of rent of a claimant:
46542 (A) for the calendar year for which the claimant seeks a renter's credit under this part;
46543 and
46544 (B) regardless of whether the payment is made to the:
46545 (I) claimant; or
46546 (II) landlord; and
46547 (b) in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
46548 Administrative Rulemaking Act, the commission may make rules defining the terms:
46549 (i) "governmental entity";
46550 (ii) "charitable organization"; or
46551 (iii) "religious organization."
46552 (9) (a) "Residence" means the dwelling, whether owned or rented, and so much of the
46553 land surrounding it, not exceeding one acre, as is reasonably necessary for use of the dwelling
46554 as a home, and may consist of a part of a multidwelling or multipurpose building and a part of
46555 the land upon which it is built and includes a mobile home or houseboat.
46556 (b) "Residence" does not include personal property such as furniture, furnishings, or
46557 appliances.
46558 (c) For purposes of this Subsection (9), "owned" includes a vendee in possession under

46559 a land contract or one or more joint tenants or tenants in common.
46560 Section 985. Section **59-5-101** is amended to read:
46561 **59-5-101. Definitions.**
46562 As used in this part:
46563 (1) "Board" means the Board of Oil, Gas and Mining created in Section 40-6-4.
46564 (2) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.
46565 (3) "Condensate" means those hydrocarbons, regardless of gravity, that occur naturally
46566 in the gaseous phase in the reservoir that are separated from the natural gas as liquids through
46567 the process of condensation either in the reservoir, in the wellbore, or at the surface in field
46568 separators.
46569 (4) "Crude oil" means those hydrocarbons, regardless of gravity, that occur naturally in
46570 the liquid phase in the reservoir and are produced and recovered at the wellhead in liquid form.
46571 (5) "Development well" means any oil and gas producing well other than a wildcat
46572 well.
46573 (6) "Division" means the Division of Oil, Gas and Mining established under Title 40,
46574 Chapter 6.
46575 (7) "Enhanced recovery project" means:
46576 (a) the injection of liquids or hydrocarbon or nonhydrocarbon gases directly into a
46577 reservoir for the purpose of:
46578 (i) augmenting reservoir energy;
46579 (ii) modifying the properties of the fluids or gases in a reservoir; or
46580 (iii) changing the reservoir conditions to increase the recoverable oil, gas, or oil and
46581 gas through the joint use of two or more well bores; and
46582 (b) a project initially approved by the board as a new or expanded enhanced recovery
46583 project on or after January 1, 1996.
46584 (8) (a) "Gas" means:
46585 (i) natural gas;
46586 (ii) natural gas liquids; or
46587 (iii) any mixture of natural gas and natural gas liquids.
46588 (b) "Gas" does not include solid hydrocarbons.
46589 (9) "Incremental production" means that part of production, certified by the Division of

46590 Oil, Gas and Mining, which is achieved from an enhanced recovery project that would not have
46591 economically occurred under the reservoir conditions existing before the project and that has
46592 been approved by the division as incremental production.
46593 (10) "Natural gas" means those hydrocarbons, other than oil and other than natural gas
46594 liquids separated from natural gas, that occur naturally in the gaseous phase in the reservoir and
46595 are produced and recovered at the wellhead in gaseous form.
46596 (11) "Natural gas liquids" means those hydrocarbons initially in reservoir natural gas,
46597 regardless of gravity, that are separated in gas processing plants from the natural gas as liquids
46598 at the surface through the process of condensation, absorption, adsorption, or other methods.
46599 (12) (a) "Oil" means:
46600 (i) crude oil;
46601 (ii) condensate; or
46602 (iii) any mixture of crude oil and condensate.
46603 (b) "Oil" does not include solid hydrocarbons.
46604 (13) "Oil or gas field" means a geographical area overlying oil or gas structures. The
46605 boundaries of oil or gas fields shall conform with the boundaries as fixed by the Board and
46606 Division of Oil, Gas and Mining under Title 40, Chapter 6, Board and Division of Oil, Gas and
46607 Mining.
46608 (14) "Oil shale" means a group of fine black to dark brown shales containing
46609 bituminous material that yields petroleum upon distillation.
46610 (15) "Operator" means any person engaged in the business of operating an oil or gas
46611 well, regardless of whether the person is:
46612 (a) a working interest owner;
46613 (b) an independent contractor; or
46614 (c) acting in a capacity similar to Subsection (15)(a) or (b) as determined by the
46615 commission by rule made in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
46616 Utah Administrative Rulemaking Act.
46617 (16) "Owner" means any person having a working interest, royalty interest, payment
46618 out of production, or any other interest in the oil or gas produced or extracted from an oil or gas
46619 well in the state, or in the proceeds of this production.
46620 (17) (a) Subject to Subsections (17)(b) and (c), "processing costs" means the

46621 reasonable actual costs of processing oil or gas to remove:
46622 (i) natural gas liquids; or
46623 (ii) contaminants.
46624 (b) If processing costs are determined on the basis of an arm's-length contract,
46625 processing costs are the actual costs.
46626 (c) (i) If processing costs are determined on a basis other than an arm's-length contract,
46627 processing costs are those reasonable costs associated with:
46628 (A) actual operating and maintenance expenses, including oil or gas used or consumed
46629 in processing;
46630 (B) overhead directly attributable and allocable to the operation and maintenance; and
46631 (C) (I) depreciation and a return on undepreciated capital investment; or
46632 (II) a cost equal to a return on the investment in the processing facilities as determined
46633 by the commission.
46634 (ii) Subsection (17)(c)(i) includes situations where the producer performs the
46635 processing for the producer's product.
46636 (18) "Producer" means any working interest owner in any lands in any oil or gas field
46637 from which gas or oil is produced.
46638 (19) "Recompletion" means any downhole operation that is:
46639 (a) conducted to reestablish the producibility or serviceability of a well in any geologic
46640 interval; and
46641 (b) approved by the division as a recompletion.
46642 (20) "Research and development" means the process of inquiry or experimentation
46643 aimed at the discovery of facts, devices, technologies, or applications and the process of
46644 preparing those devices, technologies, or applications for marketing.
46645 (21) "Royalty interest owner" means the owner of an interest in oil or gas, or in the
46646 proceeds of production from the oil or gas who does not have the obligation to share in the
46647 expenses of developing and operating the property.
46648 (22) "Solid hydrocarbons" means:
46649 (a) coal;
46650 (b) gilsonite;
46651 (c) ozocerite;

46652 (d) elaterite;
46653 (e) oil shale;
46654 (f) tar sands; and
46655 (g) all other hydrocarbon substances that occur naturally in solid form.
46656 (23) "Stripper well" means:
46657 (a) an oil well whose average daily production for the days the well has produced has
46658 been 20 barrels or less of crude oil a day during any consecutive 12-month period; or
46659 (b) a gas well whose average daily production for the days the well has produced has
46660 been 60 MCF or less of natural gas a day during any consecutive 90-day period.
46661 (24) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon
46662 and require further processing other than mechanical blending before becoming finished
46663 petroleum products.
46664 (25) (a) Subject to Subsections (25)(b) and (c), "transportation costs" means the
46665 reasonable actual costs of transporting oil or gas products from the well to the point of sale.
46666 (b) If transportation costs are determined on the basis of an arm's-length contract,
46667 transportation costs are the actual costs.
46668 (c) (i) If transportation costs are determined on a basis other than an arm's-length
46669 contract, transportation costs are those reasonable costs associated with:
46670 (A) actual operating and maintenance expenses, including fuel used or consumed in
46671 transporting the oil or gas;
46672 (B) overhead costs directly attributable and allocable to the operation and maintenance;
46673 and
46674 (C) depreciation and a return on undepreciated capital investment.
46675 (ii) Subsection (25)(c)(i) includes situations where the producer performs the
46676 transportation for the producer's product.
46677 (d) Regardless of whether transportation costs are determined on the basis of an
46678 arm's-length contract or a basis other than an arm's-length contract, transportation costs
46679 include:
46680 (i) carbon dioxide removal;
46681 (ii) compression;
46682 (iii) dehydration;

46683 (iv) gathering;
46684 (v) separating;
46685 (vi) treating; or
46686 (vii) a process similar to Subsections (25)(d)(i) through (vi), as determined by the
46687 commission by rule made in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
46688 Utah Administrative Rulemaking Act.
46689 (26) "Tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.
46690 (27) "Well or wells" means any extractive means from which oil or gas is produced or
46691 extracted, located within an oil or gas field, and operated by one person.
46692 (28) "Wildcat well" means an oil and gas producing well which is drilled and
46693 completed in a pool, as defined under Section 40-6-2, in which a well has not been previously
46694 completed as a well capable of producing in commercial quantities.
46695 (29) "Working interest owner" means the owner of an interest in oil or gas burdened
46696 with a share of the expenses of developing and operating the property.
46697 (30) (a) "Workover" means any downhole operation that is:
46698 (i) conducted to sustain, restore, or increase the producibility or serviceability of a well
46699 in the geologic intervals in which the well is currently completed; and
46700 (ii) approved by the division as a workover.
46701 (b) "Workover" does not include operations that are conducted primarily as routine
46702 maintenance or to replace worn or damaged equipment.
46703 Section 986. Section **59-5-110** is amended to read:
46704 **59-5-110. Decisions of commission.**
46705 Every decision of the commission shall be in writing and notice of the decision shall be
46706 mailed to the taxpayer within ten days. All decisions become final upon the expiration of 30
46707 days after notice has been mailed to the taxpayer, unless proceedings are taken within such
46708 time for a review in accordance with [~~Title 63, Chapter 46b, the~~] Title 63G, Chapter 4,
46709 Administrative Procedures Act, in which case it becomes final as specified in the
46710 Administrative Procedures Act.
46711 Section 987. Section **59-5-203** is amended to read:
46712 **59-5-203. Determining taxable value.**
46713 (1) Except as provided in Subsection (3), the basis for computing the gross proceeds,

46714 prior to those deductions or adjustments specified in this chapter, in determining the taxable
46715 value of the metals or metalliferous minerals sold or otherwise disposed of, in the order of
46716 priority, is as follows:
46717 (a) If the metals or metalliferous mineral products are actually sold, the value of those
46718 metals or metalliferous mineral products shall be the gross amount the producer receives from
46719 that sale, provided that the metals or metalliferous mineral products are sold under a bona fide
46720 contract of sale between unaffiliated parties. In the case of a sale of uranium concentrates,
46721 gross proceeds shall be the gross amount the producer receives from the sale of processed
46722 uranium concentrate or "yellowcake," provided that the uranium concentrate is sold under a
46723 bona fide contract of sale between unaffiliated parties.
46724 (b) If the metals or metalliferous mineral products are not actually sold but are shipped,
46725 transported, or delivered out of state, the gross proceeds shall be the multiple of the recoverable
46726 units of finished metals, or of the finished metals contained in the metalliferous minerals
46727 shipped, and the average daily price per unit of contained metals as quoted by an established
46728 authority for market prices of metals for the period during which the tax imposed by this
46729 chapter is due. The established authority or authorities shall be designated by the commission
46730 by rule adopted in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
46731 Administrative Rulemaking Act.
46732 (c) In the case of metals or metalliferous minerals not sold, but otherwise disposed of,
46733 for which there is no established authority for market prices of metals for the period during
46734 which the tax imposed by this chapter is due, gross proceeds is determined by allocating to the
46735 state the same proportion of the producer's total sales of metals or metalliferous minerals sold
46736 or otherwise disposed of as the producer's total Utah costs bear to the total costs associated
46737 with sale or disposal of the metal or metalliferous mineral.
46738 (d) In the event of a sale of metals or metalliferous minerals between affiliated
46739 companies which is not a bona fide sale because the value received is not proportionate to the
46740 fair market value of the metals or metalliferous minerals or in the event that Subsection (1)(a),
46741 (b), or (c) are not applicable, the commission shall determine the value of such metals or
46742 metalliferous minerals in an equitable manner by reference to an objective standard as specified
46743 in a rule adopted in accordance with the provisions of [~~Title 63, Chapter 46a~~] Title 63G,
46744 Chapter 3, Utah Administrative Rulemaking Act.

46745 (2) For all metals except beryllium, the taxable value of the metalliferous mineral sold
46746 or otherwise disposed of is 30% of the gross proceeds received for the metals sold or otherwise
46747 disposed of by the producer of the metal.
46748 (3) (a) Beginning on January 1, 1990, through December 31, 2004, for beryllium sold
46749 or otherwise disposed of, the taxable value is 20% of the gross proceeds received for the
46750 beryllium sold or otherwise disposed of by the producer.
46751 (b) (i) Notwithstanding Subsection (1) or (4) and subject to Subsection (3)(b)(ii),
46752 beginning on January 1, 2005, the taxable value of beryllium sold or otherwise disposed of by
46753 the producer of the beryllium is equal to 125% of the direct mining costs incurred in mining the
46754 beryllium.
46755 (ii) For an action or proceeding filed on or after January 1, 2005, if the taxable value of
46756 beryllium is calculated under Subsection (3)(a) for purposes of imposing a tax on beryllium
46757 under this part, the taxable value of beryllium calculated under Subsection (3)(a) may not
46758 exceed the taxable value of beryllium calculated under Subsection (3)(b)(i).
46759 (4) Except as provided in Subsection (3), if the metalliferous mineral sold or otherwise
46760 disposed of is sold or shipped out of state in the form of ore, then the taxable value is 80% of
46761 the gross proceeds.
46762 Section 988. Section **59-5-204** is amended to read:
46763 **59-5-204. Statements filed -- Contents -- Verification -- Falsification as perjury.**
46764 (1) Every person engaged in the business of mining or extracting metalliferous
46765 minerals shall make and file with the commission, on or before June 1 of each year on forms
46766 furnished by the commission, a statement containing:
46767 (a) the name, description, and location of the mine owned and operated by the person
46768 during the preceding calendar year;
46769 (b) the number of tons of mineral mined during the preceding calendar year and the
46770 disposition of the mineral;
46771 (c) the total amount received during the preceding calendar year from the sale of
46772 minerals; and
46773 (d) such other reasonable and necessary information as the commission may require for
46774 the proper enforcement of this chapter as specified in a rule adopted under [~~Title 63, Chapter~~
46775 ~~46a~~] Title 63G, Chapter 3, the Administrative Rulemaking Act.

46776 (2) The owner of the mine shall be responsible for the statement or report required by
46777 this section, but the principal lessee, contractor, or operator may, with the consent of the
46778 commission, report and pay the tax as agent for the owner. The owner shall be entitled to
46779 deduct and remit to the commission any tax chargeable upon the operations conducted by the
46780 lessees or other parties.
46781 (3) The statements or reports required to be filed with the commission shall be signed
46782 and sworn to by the person required to file the statements or reports, by a partner if a
46783 partnership, or by the president, secretary, or managing officer, if a corporation. Any willful
46784 false swearing as to the purported material facts set out in this report constitutes the crime of
46785 perjury and shall be punished as such under Title 76, the Utah Criminal Code.
46786 Section 989. Section **59-5-210** is amended to read:
46787 **59-5-210. Decisions of commission.**
46788 Every decision of the commission shall be in writing and notice of the decision shall be
46789 mailed to the taxpayer within ten days. All decisions become final upon the expiration of 30
46790 days after notice has been mailed to the taxpayer, unless proceedings are taken within such
46791 time for a review in accordance with [~~Title 63, Chapter 46b, the~~] Title 63G, Chapter 4,
46792 Administrative Procedures Act, in which case it becomes final as specified in the
46793 Administrative Procedures Act.
46794 Section 990. Section **59-6-104** is amended to read:
46795 **59-6-104. State laws applicable to chapter -- Rules of commission.**
46796 (1) The provisions of Title 59, Chapter 10, applicable to withholding of taxes by
46797 employers under Title 59, Chapter 10, Part 4, relating to records, penalties, interest,
46798 deficiencies, overpayments, refunds, assessments, venue, and civil and criminal penalties are
46799 applicable to the withholding and payment of withheld taxes under this chapter to the extent
46800 that those provisions are consistent with this chapter.
46801 (2) The commission may adopt rules pursuant to [~~Title 63, Chapter 46a~~] Title 63G,
46802 Chapter 3, the Administrative Rulemaking Act, necessary to effectuate the purposes of this
46803 chapter.
46804 Section 991. Section **59-7-101** is amended to read:
46805 **59-7-101. Definitions.**
46806 As used in this chapter:

46807 (1) "Adjusted income" means unadjusted income as modified by Sections 59-7-105
46808 and 59-7-106.
46809 (2) (a) "Affiliated group" means one or more chains of corporations that are connected
46810 through stock ownership with a common parent corporation that meet the following
46811 requirements:
46812 (i) at least 80% of the stock of each of the corporations in the group, excluding the
46813 common parent corporation, is owned by one or more of the other corporations in the group;
46814 and
46815 (ii) the common parent directly owns at least 80% of the stock of at least one of the
46816 corporations in the group.
46817 (b) "Affiliated group" does not include corporations that are qualified to do business
46818 but are not otherwise doing business in this state.
46819 (c) For purposes of this Subsection (2), "stock" does not include nonvoting stock which
46820 is limited and preferred as to dividends.
46821 (3) "Apportionable income" means adjusted income less nonbusiness income net of
46822 related expenses, to the extent included in adjusted income.
46823 (4) "Apportioned income" means apportionable income multiplied by the
46824 apportionment fraction as determined in Section 59-7-311.
46825 (5) "Business income" is as defined in Section 59-7-302.
46826 (6) "Corporate return" or "return" includes a combined report.
46827 (7) (a) "Common ownership" means the direct or indirect control or ownership of more
46828 than 50% of the outstanding voting stock of:
46829 (i) a parent-subsidiary controlled group as defined in Section 1563, Internal Revenue
46830 Code, except that 50% shall be substituted for 80%;
46831 (ii) a brother-sister controlled group as defined in Section 1563, Internal Revenue
46832 Code, except that 50% shall be substituted for 80%; or
46833 (iii) three or more corporations each of which is a member of a group of corporations
46834 described in Subsection (2)(a)(i) or (2)(a)(ii), and one of which is:
46835 (A) a common parent corporation included in a group of corporations described in
46836 Subsection (2)(a)(i); and
46837 (B) included in a group of corporations described in Subsection (2)(a)(ii).

46838 (b) Ownership of outstanding voting stock shall be determined by Section 1563,
46839 Internal Revenue Code.
46840 (8) "Corporation" includes:
46841 (a) entities defined as corporations under Sections 7701(a) and 7704, Internal Revenue
46842 Code; and
46843 (b) other organizations that are taxed as corporations for federal income tax purposes
46844 under the Internal Revenue Code.
46845 (9) "Dividend" means any distribution, including money or other type of property,
46846 made by a corporation to its shareholders out of its earnings or profits accumulated after
46847 December 31, 1930.
46848 (10) (a) "Doing business" includes any transaction in the course of its business by a
46849 domestic corporation, or by a foreign corporation qualified to do or doing intrastate business in
46850 this state.
46851 (b) Except as provided in Subsection 59-7-102(2), "doing business" includes:
46852 (i) the right to do business through incorporation or qualification;
46853 (ii) the owning, renting, or leasing of real or personal property within this state; and
46854 (iii) the participation in joint ventures, working and operating agreements, the
46855 performance of which takes place in this state.
46856 (11) "Domestic corporation" means a corporation that is incorporated or organized
46857 under the laws of this state.
46858 (12) (a) "Farmers' cooperative" means an association, corporation, or other
46859 organization that is:
46860 (i) (A) an association, corporation, or other organization of:
46861 (I) farmers; or
46862 (II) fruit growers; or
46863 (B) an association, corporation, or other organization that is similar to an association,
46864 corporation, or organization described in Subsection (12)(a)(i)(A); and
46865 (ii) organized and operated on a cooperative basis to:
46866 (A) (I) market the products of members of the cooperative or the products of other
46867 producers; and
46868 (II) return to the members of the cooperative or other producers the proceeds of sales

46869 less necessary marketing expenses on the basis of the quantity of the products of a member or
46870 producer or the value of the products of a member or producer; or
46871 (B) (I) purchase supplies and equipment for the use of members of the cooperative or
46872 other persons; and
46873 (II) turn over the supplies and equipment described in Subsection (12)(a)(ii)(B)(I) at
46874 actual costs plus necessary expenses to the members of the cooperative or other persons.
46875 (b) (i) Subject to Subsection (12)(b)(ii), for purposes of this Subsection (12), the
46876 commission by rule, made in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
46877 Utah Administrative Rulemaking Act, shall define:
46878 (A) the terms:
46879 (I) "member"; and
46880 (II) "producer"; and
46881 (B) what constitutes an association, corporation, or other organization that is similar to
46882 an association, corporation, or organization described in Subsection (12)(a)(i)(A).
46883 (ii) The rules made under this Subsection (12)(b) shall be consistent with the filing
46884 requirements under federal law for a farmers' cooperative.
46885 (13) "Foreign corporation" means a corporation that is not incorporated or organized
46886 under the laws of this state.
46887 (14) (a) "Foreign operating company" means a corporation that:
46888 (i) is incorporated in the United States; and
46889 (ii) 80% or more of whose business activity, as determined under Section 59-7-401, is
46890 conducted outside the United States.
46891 (b) "Foreign operating company" does not include a corporation that qualifies for the
46892 Puerto Rico and Possession Tax Credit as provided in Section 936, Internal Revenue Code.
46893 (15) "Income" includes losses.
46894 (16) "Internal Revenue Code" means Title 26 of the United States Code as effective
46895 during the year in which Utah taxable income is determined.
46896 (17) "Nonbusiness income" is as defined in Section 59-7-302.
46897 (18) "Nonresident shareholder" means any shareholder of an S corporation who on the
46898 last day of the taxable year of the S corporation, is:
46899 (a) an individual not domiciled in Utah; or

46900 (b) a nonresident trust or nonresident estate, as defined in Section 59-10-103.
46901 (19) "Related expenses" means:
46902 (a) expenses directly attributable to nonbusiness income; and
46903 (b) the portion of interest or other expense indirectly attributable to both nonbusiness
46904 and business income which bears the same ratio to the aggregate amount of such interest or
46905 other expense, determined without regard to this Subsection (19), as the average amount of the
46906 asset producing the nonbusiness income bears to the average amount of all assets of the
46907 taxpayer within the taxable year.
46908 (20) "Resident shareholder" means any shareholder of an S corporation who is not a
46909 nonresident shareholder.
46910 (21) "S corporation" means an S corporation as defined in Section 1361, Internal
46911 Revenue Code.
46912 (22) "Safe harbor lease" means a lease that qualified as a safe harbor lease under
46913 Section 168, Internal Revenue Code.
46914 (23) "State of the United States" includes any of the 50 states or the District of
46915 Columbia and "United States" includes the 50 states and the District of Columbia.
46916 (24) (a) "Taxable year" means the calendar year or the fiscal year ending during such
46917 calendar year upon the basis of which the adjusted income is computed.
46918 (b) In the case of a return made for a fractional part of a year under this chapter or
46919 under rules prescribed by the commission, "taxable year" includes the period for which such
46920 return is made.
46921 (25) "Taxpayer" means any corporation subject to the tax imposed by this chapter.
46922 (26) "Threshold level of business activity" means business activity in the United States
46923 equal to or greater than 20% of the corporation's total business activity as determined under
46924 Section 59-7-401.
46925 (27) "Unadjusted income" means federal taxable income as determined on a separate
46926 return basis before intercompany eliminations as determined by the Internal Revenue Code,
46927 before the net operating loss deduction and special deductions for dividends received.
46928 (28) (a) "Unitary group" means a group of corporations that:
46929 (i) are related through common ownership; and
46930 (ii) by a preponderance of the evidence as determined by a court of competent

46931 jurisdiction or the commission, are economically interdependent with one another as
46932 demonstrated by the following factors:
46933 (A) centralized management;
46934 (B) functional integration; and
46935 (C) economies of scale.
46936 (b) "Unitary group" does not include S corporations.
46937 (29) "Utah net loss" means the current year Utah taxable income before Utah net loss
46938 deduction, if determined to be less than zero.
46939 (30) "Utah net loss deduction" means the amount of Utah net losses from other taxable
46940 years that may be carried back or carried forward to the current taxable year in accordance with
46941 Section 59-7-110.
46942 (31) (a) "Utah taxable income" means Utah taxable income before net loss deduction
46943 less Utah net loss deduction.
46944 (b) "Utah taxable income" includes income from tangible or intangible property located
46945 or having situs in this state, regardless of whether carried on in intrastate, interstate, or foreign
46946 commerce.
46947 (32) "Utah taxable income before net loss deduction" means apportioned income plus
46948 nonbusiness income allocable to Utah net of related expenses.
46949 (33) (a) "Water's edge combined report" means a report combining the income and
46950 activities of:
46951 (i) all members of a unitary group that are:
46952 (A) corporations organized or incorporated in the United States, including those
46953 corporations qualifying for the Puerto Rico and Possession Tax Credit as provided in Section
46954 936, Internal Revenue Code, in accordance with Subsection (33)(b); and
46955 (B) corporations organized or incorporated outside of the United States meeting the
46956 threshold level of business activity; and
46957 (ii) an affiliated group electing to file a water's edge combined report under Subsection
46958 59-7-402(2).
46959 (b) There is a rebuttable presumption that a corporation which qualifies for the Puerto
46960 Rico and Possession Tax Credit provided in Section 936, Internal Revenue Code, is part of a
46961 unitary group.

46962 (34) "Worldwide combined report" means the combination of the income and activities
46963 of all members of a unitary group irrespective of the country in which the corporations are
46964 incorporated or conduct business activity.
46965 Section 992. Section **59-7-311** is amended to read:
46966 **59-7-311. Method of apportionment of business income.**
46967 (1) All business income shall be apportioned to this state by multiplying the business
46968 income by a fraction calculated as provided in Subsection (2).
46969 (2) The fraction described in Subsection (1) is calculated as follows:
46970 (a) for a taxpayer that does not make an election authorized by Subsection (3):
46971 (i) the numerator of the fraction is the sum of:
46972 (A) the property factor as calculated under Section 59-7-312;
46973 (B) the payroll factor as calculated under Section 59-7-315; and
46974 (C) the sales factor as calculated under Section 59-7-317; and
46975 (ii) the denominator of the fraction is three; and
46976 (b) for a taxpayer that makes an election authorized by Subsection (3):
46977 (i) the numerator of the fraction is the sum of:
46978 (A) the property factor as calculated under Section 59-7-312;
46979 (B) the payroll factor as calculated under Section 59-7-315; and
46980 (C) the product of:
46981 (I) the sales factor as calculated under Section 59-7-317; and
46982 (II) two; and
46983 (ii) the denominator of the fraction is four.
46984 (3) (a) For purposes of Subsection (2) and subject to Subsection (3)(b), for taxable
46985 years beginning on or after January 1, 2006, a taxpayer may elect to calculate the fraction for
46986 apportioning business income under this section in accordance with Subsection (2)(b).
46987 (b) If a taxpayer makes the election described in Subsection (3)(a), the taxpayer may
46988 not revoke the election for a period of five taxable years.
46989 (c) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
46990 Administrative Rulemaking Act, the commission may make rules providing procedures for a
46991 taxpayer to make the election described in Subsection (3)(a).
46992 Section 993. Section **59-7-610** is amended to read:

46993 **59-7-610. Recycling market development zones tax credit.**
46994 (1) For taxable years beginning on or after January 1, 1996, a business operating in a
46995 recycling market development zone as defined in Section [~~63-38f-1102~~] 63M-1-1102 may
46996 claim a tax credit as provided in this section.
46997 (a) (i) There shall be allowed a nonrefundable tax credit of 5% of the purchase price
46998 paid for machinery and equipment used directly in:
46999 (A) commercial composting; or
47000 (B) manufacturing facilities or plant units that:
47001 (I) manufacture, process, compound, or produce recycled items of tangible personal
47002 property for sale; or
47003 (II) reduce or reuse postconsumer waste material.
47004 (ii) The Governor's Office of Economic Development shall certify that the machinery
47005 and equipment described in Subsection (1)(a)(i) are integral to the composting or recycling
47006 process:
47007 (A) on a form provided by the commission; and
47008 (B) before a taxpayer is allowed a tax credit under this section.
47009 (iii) The Governor's Office of Economic Development shall provide a taxpayer seeking
47010 to claim a tax credit under this section with a copy of the form described in Subsection
47011 (1)(a)(ii).
47012 (iv) The taxpayer described in Subsection (1)(a)(iii) shall retain a copy of the form
47013 received under Subsection (1)(a)(iii).
47014 (b) There shall be allowed a nonrefundable tax credit equal to 20% of net expenditures
47015 up to $10,000 to third parties for rent, wages, supplies, tools, test inventory, and utilities made
47016 by the taxpayer for establishing and operating recycling or composting technology in Utah,
47017 with an annual maximum tax credit of $2,000.
47018 (2) The total nonrefundable tax credit allowed under this section may not exceed 40%
47019 of the Utah income tax liability of the taxpayer prior to any tax credits in the taxable year of
47020 purchase prior to claiming the tax credit authorized by this section.
47021 (3) (a) Any tax credit not used for the taxable year in which the purchase price on
47022 composting or recycling machinery and equipment was paid may be carried over for credit
47023 against the business' income taxes in the three succeeding taxable years until the total tax credit

47024 amount is used.
47025 (b) Tax credits not claimed by a business on the business' state income tax return
47026 within three years are forfeited.
47027 (4) The commission shall make rules governing what information shall be filed with
47028 the commission to verify the entitlement to and amount of a tax credit.
47029 (5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after
47030 January 1, 2001, a taxpayer may not claim or carry forward a tax credit described in Subsection
47031 (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under
47032 Section [~~63-38f-413~~] 63M-1-413.
47033 (b) For a taxable year other than a taxable year during which the taxpayer may not
47034 claim or carry forward a tax credit in accordance with Subsection (5)(a), a taxpayer may claim
47035 or carry forward a tax credit described in Subsection (1)(a):
47036 (i) if the taxpayer may claim or carry forward the tax credit in accordance with
47037 Subsections (1) and (2); and
47038 (ii) subject to Subsections (3) and (4).
47039 (6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January
47040 1, 2001, a taxpayer may not claim a tax credit described in Subsection (1)(b) in a taxable year
47041 during which the taxpayer claims or carries forward a tax credit under Section [~~63-38f-413~~]
47042 63M-1-413.
47043 (7) A taxpayer may not claim or carry forward a tax credit available under this section
47044 for a taxable year during which the taxpayer has claimed the targeted business income tax
47045 credit available under Section [~~63-38f-503~~] 63M-1-504.
47046 Section 994. Section **59-7-612 (Effective 01/01/08)** is amended to read:
47047 **59-7-612 (Effective 01/01/08). Tax credits for research activities conducted in the**
47048 **state -- Carry forward -- Commission to report modification or repeal of certain federal**
47049 **provisions -- Utah Tax Review Commission study.**
47050 (1) (a) A taxpayer meeting the requirements of this section may claim the following
47051 nonrefundable tax credits:
47052 (i) a research tax credit of 7% of the taxpayer's qualified research expenses for the
47053 current taxable year that exceed the base amount provided for under Subsection (4);
47054 (ii) a tax credit for payments to qualified organizations for basic research as provided

47055 in Section 41(e), Internal Revenue Code, of 7% for the current taxable year that exceed the
47056 base amount provided for under Subsection (4); and
47057 (iii) a tax credit equal to 5% of the taxpayer's qualified research expenses for the
47058 current taxable year.
47059 (b) (i) Except as provided in Subsection (1)(b)(ii), a taxpayer may:
47060 (A) claim the tax credit or a portion of the tax credit for the taxable year immediately
47061 following the taxable year for which the taxpayer qualifies for the tax credit;
47062 (B) carry forward the tax credit or a portion of the tax credit as provided in Subsection
47063 (5); or
47064 (C) claim a portion of the tax credit and carry forward a portion of the tax credit as
47065 provided in Subsections (1)(b)(i)(A) and (B).
47066 (ii) A taxpayer may not carry forward the tax credit allowed by Subsection (1)(a)(iii).
47067 (c) The tax credits provided for in this section do not include the alternative
47068 incremental credit provided for in Section 41(c)(4), Internal Revenue Code.
47069 (2) For purposes of claiming a tax credit under this section, a unitary group as defined
47070 in Section 59-7-101 is considered to be one taxpayer.
47071 (3) Except as specifically provided for in this section:
47072 (a) the tax credits authorized under Subsection (1) shall be calculated as provided in
47073 Section 41, Internal Revenue Code; and
47074 (b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating
47075 the tax credits authorized under Subsection (1).
47076 (4) For purposes of this section:
47077 (a) the base amount shall be calculated as provided in Sections 41(c) and 41(h),
47078 Internal Revenue Code, except that:
47079 (i) the base amount does not include the calculation of the alternative incremental
47080 credit provided for in Section 41(c)(4), Internal Revenue Code;
47081 (ii) a taxpayer's gross receipts include only those gross receipts attributable to sources
47082 within this state as provided in Part 3, Allocation and Apportionment of Income -- Utah
47083 UDITPA Provisions; and
47084 (iii) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating
47085 the base amount, a taxpayer:

47086 (A) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B)
47087 regardless of whether the taxpayer meets the requirements of Section 41(c)(3)(B)(i)(I) or (II);
47088 and
47089 (B) may not revoke an election to be treated as a start-up company under Subsection
47090 (4)(a)(iii)(A);
47091 (b) "basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except
47092 that the term includes only basic research conducted in this state;
47093 (c) "qualified research" is as defined in Section 41(d), Internal Revenue Code, except
47094 that the term includes only qualified research conducted in this state;
47095 (d) "qualified research expenses" is as defined and calculated in Section 41(b), Internal
47096 Revenue Code, except that the term includes only:
47097 (i) in-house research expenses incurred in this state; and
47098 (ii) contract research expenses incurred in this state; and
47099 (e) a tax credit provided for in this section is not terminated if a credit terminates under
47100 Section 41, Internal Revenue Code.
47101 (5) If the amount of a tax credit claimed by a taxpayer under Subsection (1)(a)(i) or (ii)
47102 exceeds the taxpayer's tax liability under this chapter for a taxable year, the amount of the tax
47103 credit exceeding the tax liability:
47104 (a) may be carried forward for a period that does not exceed the next 14 taxable years;
47105 and
47106 (b) may not be carried back to a taxable year preceding the current taxable year.
47107 (6) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
47108 Administrative Rulemaking Act, the commission may make rules for purposes of this section
47109 prescribing a certification process for qualified organizations to ensure that amounts paid to the
47110 qualified organizations are for basic research conducted in this state.
47111 (7) If a provision of Section 41, Internal Revenue Code, is modified or repealed, the
47112 commission shall report the modification or repeal to the Utah Tax Review Commission within
47113 60 days after the day on which the modification or repeal becomes effective.
47114 (8) (a) The Utah Tax Review Commission shall review the tax credits provided for in
47115 this section on or before October 1 of the year after the year in which the commission reports
47116 under Subsection (7) a modification or repeal of a provision of Section 41, Internal Revenue

47117 Code.
47118 (b) Notwithstanding Subsection (8)(a), the Utah Tax Review Commission is not
47119 required to review the tax credits provided for in this section if the only modification to a
47120 provision of Section 41, Internal Revenue Code, is the extension of the termination date
47121 provided for in Section 41(h), Internal Revenue Code.
47122 (c) The Utah Tax Review Commission shall address in a review under this section:
47123 (i) the cost of the tax credits provided for in this section;
47124 (ii) the purpose and effectiveness of the tax credits provided for in this section;
47125 (iii) whether the tax credits provided for in this section benefit the state; and
47126 (iv) whether the tax credits provided for in this section should be:
47127 (A) continued;
47128 (B) modified; or
47129 (C) repealed.
47130 (d) If the Utah Tax Review Commission reviews the tax credits provided for in this
47131 section, the Utah Tax Review Commission shall report its findings to the Revenue and
47132 Taxation Interim Committee on or before the November interim meeting of the year in which
47133 the Utah Tax Review Commission reviews the tax credits.
47134 Section 995. Section **59-7-613** is amended to read:
47135 **59-7-613. Credits for machinery, equipment, or both primarily used for**
47136 **conducting qualified research or basic research -- Carry forward -- Commission to report**
47137 **modification or repeal of federal credits -- Tax Review Commission study.**
47138 (1) As used in this section:
47139 (a) "Basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except
47140 that the term includes only basic research conducted in this state.
47141 (b) "Equipment" includes:
47142 (i) computers;
47143 (ii) computer equipment; and
47144 (iii) computer software.
47145 (c) "Purchase price":
47146 (i) includes the cost of installing an item of machinery or equipment; and
47147 (ii) does not include sales or use taxes imposed on an item of machinery or equipment.

47148 (d) "Qualified organization" is as defined in Section 41(e)(6), Internal Revenue Code.
47149 (e) "Qualified research" is as defined in Section 41(d), Internal Revenue Code, except
47150 that the term includes only qualified research conducted in this state.
47151 (2) (a) Except as provided in Subsection (2)(c), for taxable years beginning on or after
47152 January 1, 1999, but beginning before December 31, 2010, a taxpayer shall qualify for the
47153 following nonrefundable credits for the taxable year in which the machinery, equipment, or
47154 both, meets the requirements of either Subsection (2)(a)(i) or (2)(a)(ii):
47155 (i) a credit of 6% of the purchase price of either machinery, equipment, or both:
47156 (A) purchased by the taxpayer during the taxable year;
47157 (B) that is not exempt from sales or use taxes; and
47158 (C) that is primarily used to conduct qualified research in this state; and
47159 (ii) a credit of 6% of the purchase price of either machinery, equipment, or both:
47160 (A) purchased by the taxpayer during the taxable year;
47161 (B) that is not exempt from sales or use taxes;
47162 (C) that is donated to a qualified organization; and
47163 (D) that is primarily used to conduct basic research in this state.
47164 (b) If a taxpayer qualifying for a credit under Subsection (2)(a) seeks to claim the
47165 credit, the taxpayer shall:
47166 (i) claim the credit or a portion of the credit for the taxable year immediately following
47167 the taxable year for which the taxpayer qualifies for the credit;
47168 (ii) carry the credit or a portion of the credit forward as provided in Subsection (5); or
47169 (iii) claim a portion of the credit and carry forward a portion of the credit as provided
47170 in Subsections (2)(b)(i) and (ii).
47171 (c) Notwithstanding Subsection (2)(a), if a taxpayer qualifies for a credit under
47172 Subsection (2)(a) for a purchase of machinery, equipment, or both, the taxpayer may not claim
47173 the credit or carry the credit forward if the machinery, equipment, or both, is primarily used to
47174 conduct qualified research in the state for a time period that is less than 12 consecutive months.
47175 (3) For purposes of claiming a credit under this section, a unitary group as defined in
47176 Section 59-7-101 is considered to be one taxpayer.
47177 (4) Notwithstanding the provisions of Section 41(h), Internal Revenue Code, the
47178 credits provided for in this section shall not terminate if the credits terminate under Section 41,

47179 Internal Revenue Code.
47180 (5) Notwithstanding the provisions of Sections 39 and 41(g), Internal Revenue Code,
47181 governing the carry forward and carry back of federal tax credits, if the amount of a tax credit
47182 claimed by a taxpayer under this section exceeds the taxpayer's tax liability under this chapter
47183 for a taxable year, the amount of the credit exceeding the liability:
47184 (a) may be carried forward for a period that does not exceed the next 14 taxable years;
47185 and
47186 (b) may not be carried back to a taxable year preceding the current taxable year.
47187 (6) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
47188 Administrative Rulemaking Act, the commission may make rules for purposes of this section
47189 prescribing a certification process for qualified organizations to ensure that either machinery,
47190 equipment, or both provided to the qualified organization is to be primarily used to conduct
47191 basic research in this state.
47192 (7) If a federal tax credit under Section 41, Internal Revenue Code, is modified or
47193 repealed, the commission shall report the modification or repeal to the Tax Review
47194 Commission within 60 days after the day on which the modification or repeal becomes
47195 effective.
47196 (8) (a) Except as provided in Subsection (8)(b), the Tax Review Commission shall
47197 review the credits provided for in this section on or before the earlier of:
47198 (i) October 1 of the year after the year in which the commission reports under
47199 Subsection (7) a modification or repeal of a federal tax credit under Section 41, Internal
47200 Revenue Code; or
47201 (ii) October 1, 2004.
47202 (b) Notwithstanding Subsection (8)(a), the Tax Review Commission is not required to
47203 review the credits provided for in this section if the only modification to a federal tax credit
47204 under Section 41, Internal Revenue Code, is the extension of the termination date provided for
47205 in Section 41(h), Internal Revenue Code.
47206 (c) The Tax Review Commission shall address in a review under this section the:
47207 (i) cost of the credit;
47208 (ii) purpose and effectiveness of the credit;
47209 (iii) whether the credit benefits the state; and

47210 (iv) whether the credit should be:
47211 (A) continued;
47212 (B) modified; or
47213 (C) repealed.
47214 (d) If the Tax Review Commission reviews the credits provided for in this section, the
47215 Tax Review Commission shall report its findings to the Revenue and Taxation Interim
47216 Committee on or before the November interim meeting of the year in which the Tax Review
47217 Commission reviews the credits.
47218 Section 996. Section **59-7-614.1** is amended to read:
47219 **59-7-614.1. Refundable tax credit for hand tools used in farming operations --**
47220 **Procedures for refund -- Transfers from General Fund to Education Fund -- Rulemaking**
47221 **authority.**
47222 (1) For taxable years beginning on or after January 1, 2004, a taxpayer may claim a
47223 refundable tax credit:
47224 (a) as provided in this section;
47225 (b) against taxes otherwise due under this chapter; and
47226 (c) in an amount equal to the amount of tax the taxpayer pays:
47227 (i) on a purchase of a hand tool:
47228 (A) if the purchase is made on or after July 1, 2004;
47229 (B) if the hand tool is used or consumed primarily and directly in a farming operation
47230 in the state; and
47231 (C) if the unit purchase price of the hand tool is more than $250; and
47232 (ii) under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection
47233 (1)(c)(i).
47234 (2) A taxpayer:
47235 (a) shall retain the following to establish the amount of tax the resident or nonresident
47236 individual paid under Chapter 12, Sales and Use Tax Act, on the purchase described in
47237 Subsection (1)(c)(i):
47238 (i) a receipt;
47239 (ii) an invoice; or
47240 (iii) a document similar to a document described in Subsection (2)(a)(i) or (ii); and

47241 (b) may not carry forward or carry back a tax credit under this section.
47242 (3) (a) In accordance with any rules prescribed by the commission under Subsection
47243 (3)(b), the commission shall:
47244 (i) make a refund to a taxpayer that claims a tax credit under this section if the amount
47245 of the tax credit exceeds the taxpayer's tax liability under this chapter; and
47246 (ii) transfer at least annually from the General Fund into the Education Fund an amount
47247 equal to the amount of tax credit claimed under this section.
47248 (b) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
47249 Administrative Rulemaking Act, the commission may make rules providing procedures for
47250 making:
47251 (i) a refund to a taxpayer as required by Subsection (3)(a)(i); or
47252 (ii) transfers from the General Fund into the Education Fund as required by Subsection
47253 (3)(a)(ii).
47254 Section 997. Section **59-7-703** is amended to read:
47255 **59-7-703. Payment or withholding of tax on behalf of nonresident shareholders --**
47256 **Rate.**
47257 (1) As used in this section, "return" means:
47258 (a) if a nonresident shareholder is required to file a return under this chapter, a return
47259 filed under this chapter; or
47260 (b) if a nonresident shareholder is required to file a return under Chapter 10, Individual
47261 Income Tax Act, a return filed under Chapter 10, Individual Income Tax Act.
47262 (2) (a) Except as provided in Subsection (4), an S corporation shall pay or withhold a
47263 tax on behalf of any nonresident shareholder.
47264 (b) The amount paid or withheld by an S corporation under Subsection (2)(a) shall be
47265 determined by:
47266 (i) calculating the items of income or loss from federal form 1120S, Schedule K;
47267 (ii) applying the apportionment formula to determine the amount apportioned to Utah;
47268 (iii) reducing the amount apportioned to Utah by the percentage of ownership
47269 attributable to resident shareholders; and
47270 (iv) applying the rate to the remaining balance.
47271 (3) (a) For a nonresident shareholder who is required to file a return under this chapter:

47272 (i) the nonresident shareholder may claim a credit on the nonresident shareholder's
47273 return for the amount of tax paid or withheld by the S corporation on behalf of the nonresident
47274 shareholder;
47275 (ii) if the nonresident shareholder has no other Utah source income, the nonresident
47276 shareholder may elect:
47277 (A) not to claim the credit provided under Subsection (3)(a)(i); and
47278 (B) not to file a return for the taxable year; and
47279 (iii) if the nonresident shareholder may claim credits other than the credit described in
47280 Subsection (3)(a)(i), the nonresident shareholder shall file a return to claim those credits.
47281 (b) If a nonresident shareholder is required to file a return under Chapter 10, Individual
47282 Income Tax Act, the nonresident shareholder is subject to Section 59-10-1103.
47283 (4) Notwithstanding Subsection (2), the obligation to pay or withhold a tax under
47284 Subsection (2) does not apply to an organization that is exempt under Subsection
47285 59-7-102(1)(a) from the taxes imposed by this chapter.
47286 (5) (a) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
47287 Administrative Rulemaking Act, the commission shall by rule determine the rate at which an S
47288 corporation shall withhold for nonresident shareholders.
47289 (b) The rate described in Subsection (5)(a) shall be consistent with the composite tax
47290 rate paid by partnerships.
47291 (6) (a) If an S corporation fails to pay or withhold a tax as provided in this section, and
47292 thereafter the income subject to payment or withholding is reported and the resulting tax is paid
47293 by a nonresident shareholder, any tax required to be paid or withheld may not be collected from
47294 the S corporation.
47295 (b) A nonresident shareholder's payment under Subsection (6)(a) does not relieve the S
47296 corporation from liability for penalties or interest associated with failure to pay or withhold a
47297 tax as provided in this section.
47298 (7) Penalties, refunds, assessments, and required records for S corporations shall be
47299 governed by:
47300 (a) this chapter if a nonresident shareholder is subject to this chapter; or
47301 (b) Chapter 10, Individual Income Tax Act, if a nonresident shareholder is subject to
47302 Chapter 10, Individual Income Tax Act.

47303 (8) (a) An S corporation shall furnish each nonresident shareholder a statement
47304 showing:
47305 (i) the amount of the nonresident shareholder's share of the corporate earnings from
47306 Utah sources; and
47307 (ii) the amount of the withholding from the nonresident shareholder's share of the
47308 corporate earnings from Utah sources.
47309 (b) An S corporation shall pay the commission the amount withheld under this section:
47310 (i) by the due date of the corporation's return, not including extensions; and
47311 (ii) on forms furnished by the commission.
47312 Section 998. Section **59-8-106** is amended to read:
47313 **59-8-106. Rulemaking authority.**
47314 The commission is charged with the administration and enforcement of this chapter and
47315 may promulgate such rules under [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, the Utah
47316 Administrative Rulemaking Act as may be required to effectuate the purposes of this chapter.
47317 Section 999. Section **59-10-103** is amended to read:
47318 **59-10-103. Definitions.**
47319 (1) As used in this chapter:
47320 (a) "Adjusted gross income":
47321 (i) for a resident or nonresident individual, is as defined in Section 62, Internal
47322 Revenue Code; or
47323 (ii) for a resident or nonresident estate or trust, is as calculated in Section 67(e),
47324 Internal Revenue Code.
47325 (b) "Adoption expenses" means:
47326 (i) any actual medical and hospital expenses of the mother of the adopted child which
47327 are incident to the child's birth;
47328 (ii) any welfare agency fees or costs;
47329 (iii) any child placement service fees or costs;
47330 (iv) any legal fees or costs; or
47331 (v) any other fees or costs relating to an adoption.
47332 (c) "Adult with a disability" means an individual who:
47333 (i) is 18 years of age or older;

47334 (ii) is eligible for services under Title 62A, Chapter 5, Services for People with
47335 Disabilities; and
47336 (iii) is not enrolled in:
47337 (A) an education program for students with disabilities that is authorized under Section
47338 53A-15-301; or
47339 (B) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind.
47340 (d) (i) For purposes of Subsection 59-10-114(2)(l), "capital gain transaction" means a
47341 transaction that results in a:
47342 (A) short-term capital gain; or
47343 (B) long-term capital gain.
47344 (ii) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
47345 Administrative Rulemaking Act, the commission may by rule define the term "transaction."
47346 (e) "Commercial domicile" means the principal place from which the trade or business
47347 of a Utah small business corporation is directed or managed.
47348 (f) "Corporation" includes:
47349 (i) associations;
47350 (ii) joint stock companies; and
47351 (iii) insurance companies.
47352 (g) "Dependent child with a disability" means an individual 21 years of age or younger
47353 who:
47354 (i) (A) is diagnosed by a school district representative under rules adopted by the State
47355 Board of Education as having a disability classified as:
47356 (I) autism;
47357 (II) deafness;
47358 (III) preschool developmental delay;
47359 (IV) dual sensory impairment;
47360 (V) hearing impairment;
47361 (VI) intellectual disability;
47362 (VII) multidisability;
47363 (VIII) orthopedic impairment;
47364 (IX) other health impairment;

47365 (X) traumatic brain injury; or
47366 (XI) visual impairment;
47367 (B) is not receiving residential services from:
47368 (I) the Division of Services for People with Disabilities created under Section
47369 62A-5-102; or
47370 (II) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind;
47371 and
47372 (C) is enrolled in:
47373 (I) an education program for students with disabilities that is authorized under Section
47374 53A-15-301; or
47375 (II) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind;
47376 or
47377 (ii) is identified under guidelines of the Department of Health as qualified for:
47378 (A) Early Intervention; or
47379 (B) Infant Development Services.
47380 (h) "Distributable net income" is as defined in Section 643, Internal Revenue Code.
47381 (i) "Employee" is as defined in Section 59-10-401.
47382 (j) "Employer" is as defined in Section 59-10-401.
47383 (k) "Federal taxable income":
47384 (i) for a resident or nonresident individual, means taxable income as defined by Section
47385 63, Internal Revenue Code; or
47386 (ii) for a resident or nonresident estate or trust, is as calculated in Section 641(a) and
47387 (b), Internal Revenue Code.
47388 (l) "Fiduciary" means:
47389 (i) a guardian;
47390 (ii) a trustee;
47391 (iii) an executor;
47392 (iv) an administrator;
47393 (v) a receiver;
47394 (vi) a conservator; or
47395 (vii) any person acting in any fiduciary capacity for any individual.

47396 (m) "Homesteaded land diminished from the Uintah and Ouray Reservation" means the
47397 homesteaded land that was held to have been diminished from the Uintah and Ouray
47398 Reservation in Hagen v. Utah, 510 U.S. 399 (1994).
47399 (n) "Individual" means a natural person and includes aliens and minors.
47400 (o) "Irrevocable trust" means a trust in which the settlor may not revoke or terminate
47401 all or part of the trust without the consent of a person who has a substantial beneficial interest
47402 in the trust and the interest would be adversely affected by the exercise of the settlor's power to
47403 revoke or terminate all or part of the trust.
47404 (p) For purposes of Subsection 59-10-114(2)(l), "long-term capital gain" is as defined
47405 in Section 1222, Internal Revenue Code.
47406 (q) "Nonresident individual" means an individual who is not a resident of this state.
47407 (r) "Nonresident trust" or "nonresident estate" means a trust or estate which is not a
47408 resident estate or trust.
47409 (s) (i) "Partnership" includes a syndicate, group, pool, joint venture, or other
47410 unincorporated organization:
47411 (A) through or by means of which any business, financial operation, or venture is
47412 carried on; and
47413 (B) which is not, within the meaning of this chapter:
47414 (I) a trust;
47415 (II) an estate; or
47416 (III) a corporation.
47417 (ii) "Partnership" does not include any organization not included under the definition of
47418 "partnership" in Section 761, Internal Revenue Code.
47419 (iii) "Partner" includes a member in a syndicate, group, pool, joint venture, or
47420 organization described in Subsection (1)(s)(i).
47421 (t) "Qualifying military servicemember" means a member of:
47422 (i) The Utah Army National Guard;
47423 (ii) The Utah Air National Guard; or
47424 (iii) the following if the member is assigned to a unit that is located in the state:
47425 (A) The Army Reserve;
47426 (B) The Naval Reserve;

47427 (C) The Air Force Reserve;
47428 (D) The Marine Corps Reserve; or
47429 (E) The Coast Guard Reserve.
47430 (u) "Qualifying stock" means stock that is:
47431 (i) (A) common; or
47432 (B) preferred;
47433 (ii) as defined by the commission by rule, originally issued to:
47434 (A) a resident or nonresident individual; or
47435 (B) a partnership if the resident or nonresident individual making a subtraction from
47436 federal taxable income in accordance with Subsection 59-10-114(2)(l):
47437 (I) was a partner when the stock was issued; and
47438 (II) remains a partner until the last day of the taxable year for which the resident or
47439 nonresident individual makes the subtraction from federal taxable income in accordance with
47440 Subsection 59-10-114(2)(l); and
47441 (iii) issued:
47442 (A) by a Utah small business corporation;
47443 (B) on or after January 1, 2003; and
47444 (C) for:
47445 (I) money; or
47446 (II) other property, except for stock or securities.
47447 (v) (i) "Resident individual" means:
47448 (A) an individual who is domiciled in this state for any period of time during the
47449 taxable year, but only for the duration of the period during which the individual is domiciled in
47450 this state; or
47451 (B) an individual who is not domiciled in this state but:
47452 (I) maintains a permanent place of abode in this state; and
47453 (II) spends in the aggregate 183 or more days of the taxable year in this state.
47454 (ii) For purposes of Subsection (1)(v)(i)(B), a fraction of a calendar day shall be
47455 counted as a whole day.
47456 (w) "Resident estate" or "resident trust" is as defined in Section 75-7-103.
47457 (x) For purposes of Subsection 59-10-114(2)(l), "short-term capital gain" is as defined

47458 in Section 1222, Internal Revenue Code.
47459 (y) "Taxable income" or "state taxable income":
47460 (i) subject to Subsection 59-10-302(2), for a resident individual other than a resident
47461 individual described in Subsection (1)(y)(iii), means the resident individual's federal taxable
47462 income after making the:
47463 (A) additions and subtractions required by Section 59-10-114; and
47464 (B) adjustments required by Section 59-10-115;
47465 (ii) for a nonresident individual other than a nonresident individual described in
47466 Subsection (1)(y)(iii), is as defined in Section 59-10-116;
47467 (iii) for a resident or nonresident individual that collects and pays a tax described in
47468 Part 12, Single Rate Individual Income Tax Act, is as defined in Section 59-10-1202;
47469 (iv) for a resident estate or trust, is as calculated under Section 59-10-201.1; and
47470 (v) for a nonresident estate or trust, is as calculated under Section 59-10-204.
47471 (z) "Taxpayer" means any individual, estate, or trust or beneficiary of an estate or trust,
47472 whose income is subject in whole or part to the tax imposed by this chapter.
47473 (aa) "Uintah and Ouray Reservation" means the lands recognized as being included
47474 within the Uintah and Ouray Reservation in:
47475 (i) Hagen v. Utah, 510 U.S. 399 (1994); and
47476 (ii) Ute Indian Tribe v. Utah, 114 F.3d 1513 (10th Cir. 1997).
47477 (bb) (i) "Utah small business corporation" means a corporation that:
47478 (A) is a small business corporation as defined in Section 1244(c)(3), Internal Revenue
47479 Code;
47480 (B) except as provided in Subsection (1)(bb)(ii), meets the requirements of Section
47481 1244(c)(1)(C), Internal Revenue Code; and
47482 (C) has its commercial domicile in this state.
47483 (ii) Notwithstanding Subsection (1)(bb)(i)(B), the time period described in Section
47484 1244(c)(1)(C) and Section 1244(c)(2), Internal Revenue Code, for determining the source of a
47485 corporation's aggregate gross receipts shall end on the last day of the taxable year for which the
47486 resident or nonresident individual makes a subtraction from federal taxable income in
47487 accordance with Subsection 59-10-114(2)(l).
47488 (cc) "Ute tribal member" means a person who is enrolled as a member of the Ute

47489 Indian Tribe of the Uintah and Ouray Reservation.
47490 (dd) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.
47491 (ee) "Wages" is as defined in Section 59-10-401.
47492 (2) (a) Any term used in this chapter has the same meaning as when used in
47493 comparable context in the laws of the United States relating to federal income taxes unless a
47494 different meaning is clearly required.
47495 (b) Any reference to the Internal Revenue Code or to the laws of the United States shall
47496 mean the Internal Revenue Code or other provisions of the laws of the United States relating to
47497 federal income taxes that are in effect for the taxable year.
47498 (c) Any reference to a specific section of the Internal Revenue Code or other provision
47499 of the laws of the United States relating to federal income taxes shall include any
47500 corresponding or comparable provisions of the Internal Revenue Code as hereafter amended,
47501 redesignated, or reenacted.
47502 Section 1000. Section **59-10-114** is amended to read:
47503 **59-10-114. Additions to and subtractions from federal taxable income of an**
47504 **individual.**
47505 (1) There shall be added to federal taxable income of a resident or nonresident
47506 individual:
47507 (a) the amount of any income tax imposed by this or any predecessor Utah individual
47508 income tax law and the amount of any income tax imposed by the laws of another state, the
47509 District of Columbia, or a possession of the United States, to the extent deducted from adjusted
47510 gross income in determining federal taxable income;
47511 (b) a lump sum distribution that the taxpayer does not include in adjusted gross income
47512 on the taxpayer's federal individual income tax return for the taxable year;
47513 (c) for taxable years beginning on or after January 1, 2002, the amount of a child's
47514 income calculated under Subsection (5) that:
47515 (i) a parent elects to report on the parent's federal individual income tax return for the
47516 taxable year; and
47517 (ii) the parent does not include in adjusted gross income on the parent's federal
47518 individual income tax return for the taxable year;
47519 (d) 25% of the personal exemptions, as defined and calculated in the Internal Revenue

47520 Code;
47521 (e) a withdrawal from a medical care savings account and any penalty imposed in the
47522 taxable year if:
47523 (i) the resident or nonresident individual did not deduct or include the amounts on the
47524 resident or nonresident individual's federal individual income tax return pursuant to Section
47525 220, Internal Revenue Code;
47526 (ii) the withdrawal is subject to Subsections 31A-32a-105(1) and (2); and
47527 (iii) the withdrawal is deducted by the resident or nonresident individual under
47528 Subsection (2)(h);
47529 (f) the amount withdrawn under Title 53B, Chapter 8a, Higher Education Savings
47530 Incentive Program, from the account of a resident or nonresident individual who is an account
47531 owner as defined in Section 53B-8a-102, for the taxable year for which the amount is
47532 withdrawn, if that amount withdrawn from the account of the resident or nonresident individual
47533 who is the account owner:
47534 (i) is not expended for higher education costs as defined in Section 53B-8a-102; and
47535 (ii) is:
47536 (A) subtracted by the resident or nonresident individual:
47537 (I) who is the account owner; and
47538 (II) in accordance with Subsection (2)(i); or
47539 (B) used as the basis for the resident or nonresident individual who is the account
47540 owner to claim a tax credit under Section 59-10-1206.1;
47541 (g) except as provided in Subsection (6), for taxable years beginning on or after
47542 January 1, 2003, for bonds, notes, and other evidences of indebtedness acquired on or after
47543 January 1, 2003, the interest from bonds, notes, and other evidences of indebtedness issued by
47544 one or more of the following entities:
47545 (i) a state other than this state;
47546 (ii) the District of Columbia;
47547 (iii) a political subdivision of a state other than this state; or
47548 (iv) an agency or instrumentality of an entity described in Subsections (1)(g)(i) through
47549 (iii);
47550 (h) subject to Subsection (2)(n), any distribution received by a resident beneficiary of a

47551 resident trust of income that was taxed at the trust level for federal tax purposes, but was
47552 subtracted from state taxable income of the trust pursuant to Subsection 59-10-202(2)(c);
47553 (i) any distribution received by a resident beneficiary of a nonresident trust of
47554 undistributed distributable net income realized by the trust on or after January 1, 2004, if that
47555 undistributed distributable net income was taxed at the trust level for federal tax purposes, but
47556 was not taxed at the trust level by any state, with undistributed distributable net income
47557 considered to be distributed from the most recently accumulated undistributed distributable net
47558 income; and
47559 (j) any adoption expense:
47560 (i) for which a resident or nonresident individual receives reimbursement from another
47561 person; and
47562 (ii) to the extent to which the resident or nonresident individual deducts that adoption
47563 expense:
47564 (A) under Subsection (2)(c); or
47565 (B) from federal taxable income on a federal individual income tax return.
47566 (2) There shall be subtracted from federal taxable income of a resident or nonresident
47567 individual:
47568 (a) the interest or a dividend on obligations or securities of the United States and its
47569 possessions or of any authority, commission, or instrumentality of the United States, to the
47570 extent that interest or dividend is included in gross income for federal income tax purposes for
47571 the taxable year but exempt from state income taxes under the laws of the United States, but
47572 the amount subtracted under this Subsection (2)(a) shall be reduced by any interest on
47573 indebtedness incurred or continued to purchase or carry the obligations or securities described
47574 in this Subsection (2)(a), and by any expenses incurred in the production of interest or dividend
47575 income described in this Subsection (2)(a) to the extent that such expenses, including
47576 amortizable bond premiums, are deductible in determining federal taxable income;
47577 (b) 1/2 of the net amount of any income tax paid or payable to the United States after all
47578 allowable credits, as reported on the United States individual income tax return of the taxpayer
47579 for the same taxable year;
47580 (c) the amount of adoption expenses for one of the following taxable years as elected
47581 by the resident or nonresident individual:

47582 (i) regardless of whether a court issues an order granting the adoption, the taxable year
47583 in which the adoption expenses are:
47584 (A) paid; or
47585 (B) incurred;
47586 (ii) the taxable year in which a court issues an order granting the adoption; or
47587 (iii) any year in which the resident or nonresident individual may claim the federal
47588 adoption expenses credit under Section 23, Internal Revenue Code;
47589 (d) amounts received by taxpayers under age 65 as retirement income which, for
47590 purposes of this section, means pensions and annuities, paid from an annuity contract
47591 purchased by an employer under a plan which meets the requirements of Section 404(a)(2),
47592 Internal Revenue Code, or purchased by an employee under a plan which meets the
47593 requirements of Section 408, Internal Revenue Code, or paid by the United States, a state, or
47594 political subdivision thereof, or the District of Columbia, to the employee involved or the
47595 surviving spouse;
47596 (e) for each taxpayer age 65 or over before the close of the taxable year, a $7,500
47597 personal retirement exemption;
47598 (f) 75% of the amount of the personal exemption, as defined and calculated in the
47599 Internal Revenue Code, for each dependent child with a disability and adult with a disability
47600 who is claimed as a dependent on a taxpayer's return;
47601 (g) subject to the limitations of Subsection (3)(e), amounts a taxpayer pays during the
47602 taxable year for health care insurance, as defined in Title 31A, Chapter 1, General Provisions:
47603 (i) for:
47604 (A) the taxpayer;
47605 (B) the taxpayer's spouse; and
47606 (C) the taxpayer's dependents; and
47607 (ii) to the extent the taxpayer does not deduct the amounts under Section 125, 162, or
47608 213, Internal Revenue Code, in determining federal taxable income for the taxable year;
47609 (h) (i) except as provided in this Subsection (2)(h), the amount of a contribution made
47610 during the taxable year on behalf of the taxpayer to a medical care savings account and interest
47611 earned on a contribution to a medical care savings account established pursuant to Title 31A,
47612 Chapter 32a, Medical Care Savings Account Act, to the extent the contribution is accepted by

47613 the account administrator as provided in the Medical Care Savings Account Act, and if the
47614 taxpayer did not deduct or include amounts on the taxpayer's federal individual income tax
47615 return pursuant to Section 220, Internal Revenue Code; and
47616 (ii) a contribution deductible under this Subsection (2)(h) may not exceed either of the
47617 following:
47618 (A) the maximum contribution allowed under the Medical Care Savings Account Act
47619 for the tax year multiplied by two for taxpayers who file a joint return, if neither spouse is
47620 covered by health care insurance as defined in Section 31A-1-301 or self-funded plan that
47621 covers the other spouse, and each spouse has a medical care savings account; or
47622 (B) the maximum contribution allowed under the Medical Care Savings Account Act
47623 for the tax year for taxpayers:
47624 (I) who do not file a joint return; or
47625 (II) who file a joint return, but do not qualify under Subsection (2)(h)(ii)(A);
47626 (i) subject to Subsection (1)(f), the amount of a qualified investment as defined in
47627 Section 53B-8a-102 that:
47628 (i) a resident or nonresident individual who is an account owner as defined in Section
47629 53B-8a-102 makes during the taxable year;
47630 (ii) the resident or nonresident individual described in Subsection (2)(i)(i) does not
47631 deduct on a federal individual income tax return; and
47632 (iii) does not exceed the maximum amount of the qualified investment that may be
47633 subtracted from federal taxable income for a taxable year in accordance with Subsections
47634 53B-8a-106(1)(e) and (f);
47635 (j) for taxable years beginning on or after January 1, 2000, any amounts paid for
47636 premiums for long-term care insurance as defined in Section 31A-1-301 to the extent the
47637 amounts paid for long-term care insurance were not deducted under Section 213, Internal
47638 Revenue Code, in determining federal taxable income;
47639 (k) for taxable years beginning on or after January 1, 2000, if the conditions of
47640 Subsection (4)(a) are met, the amount of income derived by a Ute tribal member:
47641 (i) during a time period that the Ute tribal member resides on homesteaded land
47642 diminished from the Uintah and Ouray Reservation; and
47643 (ii) from a source within the Uintah and Ouray Reservation;

47644 (l) (i) for taxable years beginning on or after January 1, 2003, the total amount of a
47645 resident or nonresident individual's short-term capital gain or long-term capital gain on a
47646 capital gain transaction:
47647 (A) that occurs on or after January 1, 2003;
47648 (B) if 70% or more of the gross proceeds of the capital gain transaction are expended:
47649 (I) to purchase qualifying stock in a Utah small business corporation; and
47650 (II) within a 12-month period after the day on which the capital gain transaction occurs;
47651 and
47652 (C) if, prior to the purchase of the qualifying stock described in Subsection
47653 (2)(l)(i)(B)(I), the resident or nonresident individual did not have an ownership interest in the
47654 Utah small business corporation that issued the qualifying stock; and
47655 (ii) in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
47656 Administrative Rulemaking Act, the commission may make rules:
47657 (A) defining the term "gross proceeds"; and
47658 (B) for purposes of Subsection (2)(l)(i)(C), prescribing the circumstances under which
47659 a resident or nonresident individual has an ownership interest in a Utah small business
47660 corporation;
47661 (m) for the taxable year beginning on or after January 1, 2005, but beginning on or
47662 before December 31, 2005, the first $2,200 of income a qualifying military servicemember
47663 receives:
47664 (i) for service:
47665 (A) as a qualifying military servicemember; or
47666 (B) under an order into active service in accordance with Section 39-1-5; and
47667 (ii) to the extent that income is included in adjusted gross income on that resident or
47668 nonresident individual's federal individual income tax return for that taxable year;
47669 (n) an amount received by a resident or nonresident individual or distribution received
47670 by a resident or nonresident beneficiary of a resident trust:
47671 (i) if that amount or distribution constitutes a refund of taxes imposed by:
47672 (A) a state; or
47673 (B) the District of Columbia; and
47674 (ii) to the extent that amount or distribution is included in adjusted gross income for

47675 that taxable year on the federal individual income tax return of the resident or nonresident
47676 individual or resident or nonresident beneficiary of a resident trust;
47677 (o) the amount of a railroad retirement benefit:
47678 (i) paid:
47679 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et
47680 seq.;
47681 (B) to a resident or nonresident individual; and
47682 (C) for the taxable year; and
47683 (ii) to the extent that railroad retirement benefit is included in adjusted gross income on
47684 that resident or nonresident individual's federal individual income tax return for that taxable
47685 year; and
47686 (p) an amount:
47687 (i) received by an enrolled member of an American Indian tribe; and
47688 (ii) to the extent that the state is not authorized or permitted to impose a tax under this
47689 part on that amount in accordance with:
47690 (A) federal law;
47691 (B) a treaty; or
47692 (C) a final decision issued by a court of competent jurisdiction.
47693 (3) (a) For purposes of Subsection (2)(d), the amount of retirement income subtracted
47694 for taxpayers under 65 shall be the lesser of the amount included in federal taxable income, or
47695 $4,800, except that:
47696 (i) for married taxpayers filing joint returns, for each $1 of adjusted gross income
47697 earned over $32,000, the amount of the retirement income exemption that may be subtracted
47698 shall be reduced by 50 cents;
47699 (ii) for married taxpayers filing separate returns, for each $1 of adjusted gross income
47700 earned over $16,000, the amount of the retirement income exemption that may be subtracted
47701 shall be reduced by 50 cents; and
47702 (iii) for individual taxpayers, for each $1 of adjusted gross income earned over
47703 $25,000, the amount of the retirement income exemption that may be subtracted shall be
47704 reduced by 50 cents.
47705 (b) For purposes of Subsection (2)(e), the amount of the personal retirement exemption

47706 shall be further reduced according to the following schedule:
47707 (i) for married taxpayers filing joint returns, for each $1 of adjusted gross income
47708 earned over $32,000, the amount of the personal retirement exemption shall be reduced by 50
47709 cents;
47710 (ii) for married taxpayers filing separate returns, for each $1 of adjusted gross income
47711 earned over $16,000, the amount of the personal retirement exemption shall be reduced by 50
47712 cents; and
47713 (iii) for individual taxpayers, for each $1 of adjusted gross income earned over
47714 $25,000, the amount of the personal retirement exemption shall be reduced by 50 cents.
47715 (c) For purposes of Subsections (3)(a) and (b), adjusted gross income shall be
47716 calculated by adding to adjusted gross income any interest income not otherwise included in
47717 adjusted gross income.
47718 (d) For purposes of determining ownership of items of retirement income common law
47719 doctrine will be applied in all cases even though some items may have originated from service
47720 or investments in a community property state. Amounts received by the spouse of a living
47721 retiree because of the retiree's having been employed in a community property state are not
47722 deductible as retirement income of such spouse.
47723 (e) For purposes of Subsection (2)(g), a subtraction for an amount paid for health care
47724 insurance as defined in Title 31A, Chapter 1, General Provisions, is not allowed:
47725 (i) for an amount that is reimbursed or funded in whole or in part by the federal
47726 government, the state, or an agency or instrumentality of the federal government or the state;
47727 and
47728 (ii) for a taxpayer who is eligible to participate in a health plan maintained and funded
47729 in whole or in part by the taxpayer's employer or the taxpayer's spouse's employer.
47730 (4) (a) A subtraction for an amount described in Subsection (2)(k) is allowed only if:
47731 (i) the taxpayer is a Ute tribal member; and
47732 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the
47733 requirements of this Subsection (4).
47734 (b) The agreement described in Subsection (4)(a):
47735 (i) may not:
47736 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

47737 (B) provide a subtraction under this section greater than or different from the
47738 subtraction described in Subsection (2)(k); or
47739 (C) affect the power of the state to establish rates of taxation; and
47740 (ii) shall:
47741 (A) provide for the implementation of the subtraction described in Subsection (2)(k);
47742 (B) be in writing;
47743 (C) be signed by:
47744 (I) the governor; and
47745 (II) the chair of the Business Committee of the Ute tribe;
47746 (D) be conditioned on obtaining any approval required by federal law; and
47747 (E) state the effective date of the agreement.
47748 (c) (i) The governor shall report to the commission by no later than February 1 of each
47749 year regarding whether or not an agreement meeting the requirements of this Subsection (4) is
47750 in effect.
47751 (ii) If an agreement meeting the requirements of this Subsection (4) is terminated, the
47752 subtraction permitted under Subsection (2)(k) is not allowed for taxable years beginning on or
47753 after the January 1 following the termination of the agreement.
47754 (d) For purposes of Subsection (2)(k) and in accordance with [~~Title 63, Chapter 46a~~]
47755 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:
47756 (i) for determining whether income is derived from a source within the Uintah and
47757 Ouray Reservation; and
47758 (ii) that are substantially similar to how adjusted gross income derived from Utah
47759 sources is determined under Section 59-10-117.
47760 (5) (a) For purposes of this Subsection (5), "Form 8814" means:
47761 (i) the federal individual income tax Form 8814, Parents' Election To Report Child's
47762 Interest and Dividends; or
47763 (ii) (A) for taxable years beginning on or after January 1, 2002, a form designated by
47764 the commission in accordance with Subsection (5)(a)(ii)(B) as being substantially similar to
47765 2000 Form 8814 if for purposes of federal individual income taxes the information contained
47766 on 2000 Form 8814 is reported on a form other than Form 8814; and
47767 (B) for purposes of Subsection (5)(a)(ii)(A) and in accordance with [~~Title 63, Chapter~~

47768 ~~46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make
47769 rules designating a form as being substantially similar to 2000 Form 8814 if for purposes of
47770 federal individual income taxes the information contained on 2000 Form 8814 is reported on a
47771 form other than Form 8814.
47772 (b) The amount of a child's income added to adjusted gross income under Subsection
47773 (1)(c) is equal to the difference between:
47774 (i) the lesser of:
47775 (A) the base amount specified on Form 8814; and
47776 (B) the sum of the following reported on Form 8814:
47777 (I) the child's taxable interest;
47778 (II) the child's ordinary dividends; and
47779 (III) the child's capital gain distributions; and
47780 (ii) the amount not taxed that is specified on Form 8814.
47781 (6) Notwithstanding Subsection (1)(g), interest from bonds, notes, and other evidences
47782 of indebtedness issued by an entity described in Subsections (1)(g)(i) through (iv) may not be
47783 added to federal taxable income of a resident or nonresident individual if, as annually
47784 determined by the commission:
47785 (a) for an entity described in Subsection (1)(g)(i) or (ii), the entity and all of the
47786 political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on
47787 income on any part of the bonds, notes, and other evidences of indebtedness of this state; or
47788 (b) for an entity described in Subsection (1)(g)(iii) or (iv), the following do not impose
47789 a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of
47790 this state:
47791 (i) the entity; or
47792 (ii) (A) the state in which the entity is located; or
47793 (B) the District of Columbia, if the entity is located within the District of Columbia.
47794 Section 1001. Section **59-10-115** is amended to read:
47795 **59-10-115. Adjustments to federal taxable income.**
47796 (1) The commission shall allow an adjustment to federal taxable income of a taxpayer
47797 if the taxpayer would otherwise:
47798 (a) receive a double tax benefit under this part; or

47799 (b) suffer a double tax detriment under this part.
47800 (2) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
47801 Administrative Rulemaking Act, the commission may make rules to allow for the adjustment to
47802 federal taxable income required by Subsection (1).
47803 Section 1002. Section **59-10-116** is amended to read:
47804 **59-10-116. Definitions -- Tax on nonresident individual -- Calculation --**
47805 **Exemption.**
47806 (1) For purposes of this section:
47807 (a) "Military service" is as defined in Pub. L. No. 108-189, Sec. 101.
47808 (b) "Servicemember" is as defined in Pub. L. No. 108-189, Sec. 101.
47809 (c) "State income tax percentage" means a percentage equal to a nonresident
47810 individual's adjusted gross income for the taxable year received from Utah sources, as
47811 determined under Section 59-10-117, divided by the difference between:
47812 (i) the nonresident individual's total adjusted gross income for that taxable year; and
47813 (ii) if the nonresident individual described in Subsection (1)(c)(i) is a servicemember,
47814 the compensation the servicemember receives for military service if the servicemember is
47815 serving in compliance with military orders.
47816 (d) "State taxable income" means a nonresident individual's federal taxable income
47817 after making the:
47818 (i) additions and subtractions required by Section 59-10-114; and
47819 (ii) adjustments required by Section 59-10-115.
47820 (e) "Unapportioned state tax" means the product of the:
47821 (i) difference between:
47822 (A) a nonresident individual's state taxable income; and
47823 (B) if the nonresident individual described in Subsection (1)(e)(i)(A) is a
47824 servicemember, compensation the servicemember receives for military service if the
47825 servicemember is serving in compliance with military orders; and
47826 (ii) tax rate imposed under Section 59-10-104.
47827 (2) Except as provided in Subsection (3) or Part 12, Single Rate Individual Income Tax
47828 Act, a tax is imposed on a nonresident individual in an amount equal to the product of the
47829 nonresident individual's:

47830 (a) unapportioned state tax; and
47831 (b) state income tax percentage.
47832 (3) This section does not apply to a nonresident individual exempt from taxation under
47833 Section 59-10-104.1.
47834 (4) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
47835 Administrative Rulemaking Act, for purposes of Subsection (1), the commission may by rule
47836 define what constitutes compensation.
47837 Section 1003. Section **59-10-117** is amended to read:
47838 **59-10-117. Adjusted gross income derived from Utah sources.**
47839 (1) For purposes of Section 59-10-116, adjusted gross income derived from Utah
47840 sources includes those items includable in adjusted gross income attributable to or resulting
47841 from:
47842 (a) the ownership in this state of any interest in real or tangible personal property,
47843 including real property or property rights from which "gross income from mining," as defined
47844 by Section 613(c), Internal Revenue Code, is derived; or
47845 (b) the carrying on of a business, trade, profession, or occupation in this state.
47846 (2) For the purposes of Subsection (1):
47847 (a) income from intangible personal property, including annuities, dividends, interest,
47848 and gains from the disposition of intangible personal property shall constitute income derived
47849 from Utah sources only to the extent that such income is from property employed in a trade,
47850 business, profession, or occupation carried on in this state;
47851 (b) deductions with respect to capital losses, net long-term capital gains, and net
47852 operating losses shall be based solely on income, gain, loss, and deduction connected with Utah
47853 sources, under rules prescribed by the commission in accordance with [~~Title 63, Chapter 46a~~]
47854 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, but otherwise shall be determined
47855 in the same manner as the corresponding federal deductions;
47856 (c) salaries, wages, commissions, and compensation for personal services rendered
47857 outside this state shall not be considered to be derived from Utah sources;
47858 (d) a nonresident shareholder's distributive share of ordinary income, gain, loss, and
47859 deduction derived from or connected with Utah sources shall be determined under Section
47860 59-10-118;

47861 (e) a nonresident, other than a dealer holding property primarily for sale to customers
47862 in the ordinary course of the dealer's trade or business, may not be considered to carry on a
47863 trade, business, profession, or occupation in this state solely by reason of the purchase or sale
47864 of property for the nonresident's own account;
47865 (f) if a trade, business, profession, or occupation is carried on partly within and partly
47866 without this state, items of income, gain, loss, and deductions derived from or connected with
47867 Utah sources shall be determined in accordance with the provisions of Section 59-10-118;
47868 (g) a nonresident partner's distributive share of partnership income, gain, loss, and
47869 deduction derived from or connected with Utah sources shall be determined under Section
47870 59-10-303;
47871 (h) the share of a nonresident estate or trust and nonresident beneficiaries of any estate
47872 or trust in income, gain, loss, and deduction derived from or connected with Utah sources shall
47873 be determined under Section 59-10-207; and
47874 (i) any dividend, interest, or distributive share of income, gain, or loss from a real
47875 estate investment trust, as defined in Section 59-7-116.5, distributed or allocated to a
47876 nonresident investor in the trust, including any shareholder, beneficiary, or owner of a
47877 beneficial interest in the trust, shall be income from intangible personal property under
47878 Subsection (2)(a), and shall constitute income derived from Utah sources only to the extent the
47879 nonresident investor is employing its beneficial interest in the trust in a trade, business,
47880 profession, or occupation carried on by the investor in this state.
47881 Section 1004. Section **59-10-202** is amended to read:
47882 **59-10-202. Additions to and subtractions from federal taxable income of a**
47883 **resident or nonresident estate or trust.**
47884 (1) There shall be added to federal taxable income of a resident or nonresident estate or
47885 trust:
47886 (a) the amount of any income tax imposed by this or any predecessor Utah individual
47887 income tax law and the amount of any income tax imposed by the laws of another state, the
47888 District of Columbia, or a possession of the United States, to the extent deducted from federal
47889 adjusted total income as defined in Section 62, Internal Revenue Code, in determining federal
47890 taxable income;
47891 (b) a lump sum distribution allowable as a deduction under Section 402(d)(3) of the

47892 Internal Revenue Code, to the extent deductible under Section 62(a)(8) of the Internal Revenue
47893 Code in determining adjusted gross income;
47894 (c) except as provided in Subsection (3), for taxable years beginning on or after
47895 January 1, 2003, for bonds, notes, and other evidences of indebtedness acquired on or after
47896 January 1, 2003, the interest from bonds, notes, and other evidences of indebtedness issued by
47897 one or more of the following entities:
47898 (i) a state other than this state;
47899 (ii) the District of Columbia;
47900 (iii) a political subdivision of a state other than this state; or
47901 (iv) an agency or instrumentality of an entity described in Subsections (1)(c)(i) through
47902 (iii);
47903 (d) any portion of federal taxable income for a taxable year if that federal taxable
47904 income is derived from stock:
47905 (i) in an S corporation; and
47906 (ii) that is held by an electing small business trust;
47907 (e) (i) the amount withdrawn under Title 53B, Chapter 8a, Higher Education Savings
47908 Incentive Program, from the account of a resident or nonresident estate or trust that is an
47909 account owner as defined in Section 53B-8a-102, for the taxable year for which the amount is
47910 withdrawn, if that amount withdrawn from the account of the resident or nonresident estate or
47911 trust that is the account owner:
47912 (A) is not expended for higher education costs as defined in Section 53B-8a-102; and
47913 (B) is subtracted by the resident or nonresident estate or trust:
47914 (I) that is the account owner; and
47915 (II) in accordance with Subsection (2)(j)(i); and
47916 (ii) the amount withdrawn under Title 53B, Chapter 8a, Higher Education Savings
47917 Incentive Program, from the account of a resident or nonresident estate or trust that is an
47918 account owner as defined in Section 53B-8a-102, for the taxable year beginning on or after
47919 January 1, 2007, but beginning on or before December 31, 2007, if that amount withdrawn
47920 from the account of the resident or nonresident estate or trust that is the account owner:
47921 (A) is not expended for higher education costs as defined in Section 53B-8a-102; and
47922 (B) is subtracted by the resident or nonresident estate or trust:

47923 (I) that is the account owner; and
47924 (II) in accordance with Subsection (2)(j)(ii); and
47925 (f) any fiduciary adjustments required by Section 59-10-210.
47926 (2) There shall be subtracted from federal taxable income of a resident or nonresident
47927 estate or trust:
47928 (a) the interest or a dividend on obligations or securities of the United States and its
47929 possessions or of any authority, commission, or instrumentality of the United States, to the
47930 extent that interest or dividend is included in gross income for federal income tax purposes for
47931 the taxable year but exempt from state income taxes under the laws of the United States, but
47932 the amount subtracted under this Subsection (2) shall be reduced by any interest on
47933 indebtedness incurred or continued to purchase or carry the obligations or securities described
47934 in this Subsection (2), and by any expenses incurred in the production of interest or dividend
47935 income described in this Subsection (2) to the extent that such expenses, including amortizable
47936 bond premiums, are deductible in determining federal taxable income;
47937 (b) 1/2 of the net amount of any income tax paid or payable to the United States after
47938 all allowable credits, as per the United States fiduciary income tax return of the taxpayer for the
47939 same taxable year;
47940 (c) income of an irrevocable resident trust if:
47941 (i) the income would not be treated as state taxable income derived from Utah sources
47942 under Section 59-10-204 if received by a nonresident trust;
47943 (ii) the trust first became a resident trust on or after January 1, 2004;
47944 (iii) no assets of the trust were held, at any time after January 1, 2003, in another
47945 resident irrevocable trust created by the same settlor or the spouse of the same settlor;
47946 (iv) the trustee of the trust is a trust company as defined in Subsection 7-5-1(1)(d);
47947 (v) the amount subtracted under this Subsection (2) is reduced to the extent the settlor
47948 or any other person is treated as an owner of any portion of the trust under Subtitle A,
47949 Subchapter J, Subpart E of the Internal Revenue Code; and
47950 (vi) the amount subtracted under this Subsection (2) is reduced by any interest on
47951 indebtedness incurred or continued to purchase or carry the assets generating the income
47952 described in this Subsection (2), and by any expenses incurred in the production of income
47953 described in this Subsection (2), to the extent that those expenses, including amortizable bond

47954 premiums, are deductible in determining federal taxable income;
47955 (d) if the conditions of Subsection (4)(a) are met, the amount of income of a resident or
47956 nonresident estate or trust derived from a deceased Ute tribal member:
47957 (i) during a time period that the Ute tribal member resided on homesteaded land
47958 diminished from the Uintah and Ouray Reservation; and
47959 (ii) from a source within the Uintah and Ouray Reservation;
47960 (e) (i) for taxable years beginning on or after January 1, 2003, the total amount of a
47961 resident or nonresident estate's or trust's short-term capital gain or long-term capital gain on a
47962 capital gain transaction:
47963 (A) that occurs on or after January 1, 2003;
47964 (B) if 70% or more of the gross proceeds of the capital gain transaction are expended:
47965 (I) to purchase qualifying stock in a Utah small business corporation; and
47966 (II) within a 12-month period after the day on which the capital gain transaction occurs;
47967 and
47968 (C) if, prior to the purchase of the qualifying stock described in Subsection
47969 (2)(e)(i)(B)(I), the resident or nonresident estate or trust did not have an ownership interest in
47970 the Utah small business corporation that issued the qualifying stock; and
47971 (ii) in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
47972 Administrative Rulemaking Act, the commission may make rules:
47973 (A) defining the term "gross proceeds"; and
47974 (B) for purposes of Subsection (2)(e)(i)(C), prescribing the circumstances under which
47975 a resident or nonresident estate or trust has an ownership interest in a Utah small business
47976 corporation;
47977 (f) for the taxable year beginning on or after January 1, 2005, but beginning on or
47978 before December 31, 2005, the first $2,200 of income of a resident or nonresident estate or
47979 trust that is derived from a deceased qualifying military servicemember:
47980 (i) for service:
47981 (A) as a qualifying military servicemember; or
47982 (B) under an order into active service in accordance with Section 39-1-5; and
47983 (ii) to the extent that income is included in total income on that resident or nonresident
47984 estate's or trust's federal income tax return for estates and trusts for that taxable year;

47985 (g) any amount:
47986 (i) received by a resident or nonresident estate or trust;
47987 (ii) that constitutes a refund of taxes imposed by:
47988 (A) a state; or
47989 (B) the District of Columbia; and
47990 (iii) to the extent that amount is included in total income on that resident or nonresident
47991 estate's or trust's federal tax return for estates and trusts for that taxable year;
47992 (h) the amount of a railroad retirement benefit:
47993 (i) paid:
47994 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et
47995 seq.;
47996 (B) to a resident or nonresident estate or trust derived from a deceased resident or
47997 nonresident individual; and
47998 (C) for the taxable year; and
47999 (ii) to the extent that railroad retirement benefit is included in total income on that
48000 resident or nonresident estate's or trust's federal tax return for estates and trusts;
48001 (i) an amount:
48002 (i) received by a resident or nonresident estate or trust if that amount is derived from a
48003 deceased enrolled member of an American Indian tribe; and
48004 (ii) to the extent that the state is not authorized or permitted to impose a tax under this
48005 part on that amount in accordance with:
48006 (A) federal law;
48007 (B) a treaty; or
48008 (C) a final decision issued by a court of competent jurisdiction;
48009 (j) (i) subject to Subsection (1)(e)(i), for taxable years beginning on or after January 1,
48010 2007, the amount of a qualified investment as defined in Section 53B-8a-102 that:
48011 (A) a resident or nonresident estate or trust that is an account owner as defined in
48012 Section 53B-8a-102 makes during the taxable year;
48013 (B) the resident or nonresident estate or trust described in Subsection (2)(j)(i)(A) does
48014 not deduct on a federal tax return for estates and trusts; and
48015 (C) does not exceed the maximum amount of the qualified investment that may be

48016 subtracted from federal taxable income for a taxable year in accordance with Subsections
48017 53B-8a-106(1)(e) and (f); and
48018 (ii) subject to Subsection (1)(e)(ii), for the taxable year beginning on or after January 1,
48019 2007, but beginning on or before December 31, 2007 only, and in addition to any subtraction a
48020 resident or nonresident estate or trust that is an account owner as defined in Section
48021 53B-8a-102 makes in accordance with Subsection (2)(j)(i), the amount of a qualified
48022 investment as defined in Section 53B-8a-102 that:
48023 (A) a resident or nonresident estate or trust that is an account owner as defined in
48024 Section 53B-8a-102 could have subtracted under Subsection (2)(j)(i) for the taxable year
48025 beginning on or after January 1, 2006, but beginning on or before December 31, 2006, had the
48026 subtraction under Subsection (2)(j)(i) been in effect for the taxable year beginning on or after
48027 January 1, 2006, but beginning on or before December 31, 2006;
48028 (B) the resident or nonresident estate or trust described in Subsection (2)(j)(ii)(A)
48029 makes during the taxable year beginning on or after January 1, 2006, but beginning on or
48030 before December 31, 2006;
48031 (C) the resident or nonresident estate or trust described in Subsection (2)(j)(ii)(A) does
48032 not deduct on a federal tax return for estates and trusts; and
48033 (D) does not exceed the maximum amount of the qualified investment that may be
48034 subtracted from federal taxable income:
48035 (I) for the taxable year beginning on or after January 1, 2006, but beginning on or
48036 before December 31, 2006; and
48037 (II) in accordance with Subsections 53B-8a-106(1)(e) and (f); and
48038 (k) any fiduciary adjustments required by Section 59-10-210.
48039 (3) Notwithstanding Subsection (1)(c), interest from bonds, notes, and other evidences
48040 of indebtedness issued by an entity described in Subsections (1)(c)(i) through (iv) may not be
48041 added to federal taxable income of a resident or nonresident estate or trust if, as annually
48042 determined by the commission:
48043 (a) for an entity described in Subsection (1)(c)(i) or (ii), the entity and all of the
48044 political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on
48045 income on any part of the bonds, notes, and other evidences of indebtedness of this state; or
48046 (b) for an entity described in Subsection (1)(c)(iii) or (iv), the following do not impose

48047 a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of
48048 this state:
48049 (i) the entity; or
48050 (ii) (A) the state in which the entity is located; or
48051 (B) the District of Columbia, if the entity is located within the District of Columbia.
48052 (4) (a) A subtraction for an amount described in Subsection (2)(d) is allowed only if:
48053 (i) the income is derived from a deceased Ute tribal member; and
48054 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the
48055 requirements of this Subsection (4).
48056 (b) The agreement described in Subsection (4)(a):
48057 (i) may not:
48058 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;
48059 (B) provide a subtraction under this section greater than or different from the
48060 subtraction described in Subsection (2)(d); or
48061 (C) affect the power of the state to establish rates of taxation; and
48062 (ii) shall:
48063 (A) provide for the implementation of the subtraction described in Subsection (2)(d);
48064 (B) be in writing;
48065 (C) be signed by:
48066 (I) the governor; and
48067 (II) the chair of the Business Committee of the Ute tribe;
48068 (D) be conditioned on obtaining any approval required by federal law; and
48069 (E) state the effective date of the agreement.
48070 (c) (i) The governor shall report to the commission by no later than February 1 of each
48071 year regarding whether or not an agreement meeting the requirements of this Subsection (4) is
48072 in effect.
48073 (ii) If an agreement meeting the requirements of this Subsection (4) is terminated, the
48074 subtraction permitted under Subsection (2)(d) is not allowed for taxable years beginning on or
48075 after the January 1 following the termination of the agreement.
48076 (d) For purposes of Subsection (2)(d) and in accordance with [~~Title 63, Chapter 46a~~]
48077 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

48078 (i) for determining whether income is derived from a source within the Uintah and
48079 Ouray Reservation; and
48080 (ii) that are substantially similar to how adjusted gross income derived from Utah
48081 sources is determined under Section 59-10-117.
48082 Section 1005. Section **59-10-209.1** is amended to read:
48083 **59-10-209.1. Adjustments to state taxable income.**
48084 (1) The commission shall allow an adjustment to state taxable income of a resident or
48085 nonresident estate or trust if the resident or nonresident estate or trust would otherwise:
48086 (a) receive a double tax benefit under this chapter; or
48087 (b) suffer a double tax detriment under this chapter.
48088 (2) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
48089 Administrative Rulemaking Act, the commission may make rules to allow for the adjustment to
48090 state taxable income required by Subsection (1).
48091 Section 1006. Section **59-10-210** is amended to read:
48092 **59-10-210. Fiduciary adjustments.**
48093 (1) A share of the fiduciary adjustments described in Subsection (2) shall be added to
48094 or subtracted from federal taxable income:
48095 (a) of:
48096 (i) a resident or nonresident estate or trust; or
48097 (ii) a resident or nonresident beneficiary of a resident or nonresident estate or trust; and
48098 (b) as provided in this section.
48099 (2) For purposes of Subsection (1), the fiduciary adjustments are the following
48100 amounts:
48101 (a) the additions to and subtractions from federal taxable income of a resident or
48102 nonresident estate or trust required by Section 59-10-202, except for Subsection
48103 59-10-202(2)(b); and
48104 (b) a tax credit claimed by a resident or nonresident estate or trust as allowed by:
48105 (i) Section 59-6-102;
48106 (ii) Part 10, Nonrefundable Tax Credit Act;
48107 (iii) Part 11, Refundable Tax Credit Act;
48108 (iv) Section 59-13-202;

48109 (v) Section [~~63-38f-413~~] 63M-1-413; or
48110 (vi) Section [~~63-38f-503~~] 63M-1-504.
48111 (3) (a) The respective shares of an estate or trust and its beneficiaries, including for the
48112 purpose of this allocation a nonresident beneficiary, in the state fiduciary adjustments, shall be
48113 allocated in proportion to their respective shares of federal distributable net income of the
48114 estate or trust.
48115 (b) If the estate or trust described in Subsection (3)(a) has no federal distributable net
48116 income for the taxable year, the share of each beneficiary in the fiduciary adjustments shall be
48117 allocated in proportion to that beneficiary's share of the estate or trust income for the taxable
48118 year that is, under state law or the governing instrument, required to be distributed currently
48119 plus any other amounts of that income distributed in that taxable year.
48120 (c) After making the allocations required by Subsections (3)(a) and (b), any balance of
48121 the fiduciary adjustments shall be allocated to the estate or trust.
48122 (4) (a) The commission shall allow a fiduciary to use a method for determining the
48123 allocation of the fiduciary adjustments described in Subsection (2) other than the method
48124 described in Subsection (3) if using the method described in Subsection (3) results in an
48125 inequity:
48126 (i) in allocating the fiduciary adjustments described in Subsection (2); and
48127 (ii) if the inequity is substantial:
48128 (A) in amount; and
48129 (B) in relation to the total amount of the fiduciary adjustments described in Subsection
48130 (2).
48131 (b) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
48132 Administrative Rulemaking Act, the commission may make rules authorizing a fiduciary to use
48133 a method for determining the allocation of the fiduciary adjustments described in Subsection
48134 (2) other than the method described in Subsection (3) if using the method described in
48135 Subsection (3) results in an inequity:
48136 (i) in allocating the fiduciary adjustments described in Subsection (2); and
48137 (ii) if the inequity is substantial:
48138 (A) in amount; and
48139 (B) in relation to the total amount of the fiduciary adjustments described in Subsection

48140 (2).
48141 Section 1007. Section **59-10-405.5** is amended to read:
48142 **59-10-405.5. Definitions -- Withholding tax license requirements -- Penalty --**
48143 **Application process and requirements -- Fee not required -- Bonds.**
48144 (1) As used in this section:
48145 (a) "applicant" means a person that:
48146 (i) is required by this section to obtain a license; and
48147 (ii) submits an application:
48148 (A) to the commission; and
48149 (B) for a license under this section;
48150 (b) "application" means an application for a license under this section;
48151 (c) "fiduciary of the applicant" means a person that:
48152 (i) is required to collect, truthfully account for, and pay over an amount under this part
48153 for an applicant; and
48154 (ii) (A) is a corporate officer of the applicant described in Subsection (1)(c)(i);
48155 (B) is a director of the applicant described in Subsection (1)(c)(i);
48156 (C) is an employee of the applicant described in Subsection (1)(c)(i);
48157 (D) is a partner of the applicant described in Subsection (1)(c)(i);
48158 (E) is a trustee of the applicant described in Subsection (1)(c)(i); or
48159 (F) has a relationship to the applicant described in Subsection (1)(c)(i) that is similar to
48160 a relationship described in Subsections (1)(c)(ii)(A) through (E) as determined by the
48161 commission by rule made in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
48162 Utah Administrative Rulemaking Act;
48163 (d) "fiduciary of the licensee" means a person that:
48164 (i) is required to collect, truthfully account for, and pay over an amount under this part
48165 for a licensee; and
48166 (ii) (A) is a corporate officer of the licensee described in Subsection (1)(d)(i);
48167 (B) is a director of the licensee described in Subsection (1)(d)(i);
48168 (C) is an employee of the licensee described in Subsection (1)(d)(i);
48169 (D) is a partner of the licensee described in Subsection (1)(d)(i);
48170 (E) is a trustee of the licensee described in Subsection (1)(d)(i); or

48171 (F) has a relationship to the licensee described in Subsection (1)(d)(i) that is similar to
48172 a relationship described in Subsections (1)(d)(ii)(A) through (E) as determined by the
48173 commission by rule made in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
48174 Utah Administrative Rulemaking Act;
48175 (e) "license" means a license under this section; and
48176 (f) "licensee" means a person that is licensed under this section by the commission.
48177 (2) The following persons are guilty of a criminal violation as provided in Section
48178 59-1-401:
48179 (a) a person that:
48180 (i) is required to withhold, report, or remit any amounts under this part; and
48181 (ii) engages in business within the state before obtaining a license under this section; or
48182 (b) a person that:
48183 (i) pays wages under this part; and
48184 (ii) engages in business within the state before obtaining a license under this section.
48185 (3) The license described in Subsection (2):
48186 (a) shall be granted and issued:
48187 (i) by the commission in accordance with this section;
48188 (ii) without a license fee; and
48189 (iii) if:
48190 (A) an applicant:
48191 (I) states the applicant's name and address in the application; and
48192 (II) provides other information in the application that the commission may require; and
48193 (B) the person meets the requirements of this section to be granted a license as
48194 determined by the commission;
48195 (b) may not be assigned to another person; and
48196 (c) is valid:
48197 (i) only for the person named on the license; and
48198 (ii) until:
48199 (A) the person described in Subsection (3)(c)(i):
48200 (I) ceases to do business; or
48201 (II) changes that person's business address; or

48202 (B) the commission revokes the license.
48203 (4) The commission shall review an application and determine whether:
48204 (a) the applicant meets the requirements of this section to be issued a license; and
48205 (b) a bond is required to be posted with the commission in accordance with
48206 Subsections (5) and (6) before the applicant may be issued a license.
48207 (5) (a) An applicant shall post a bond with the commission before the commission may
48208 issue the applicant a license if:
48209 (i) a license under this section was revoked for a delinquency under this part for:
48210 (A) the applicant;
48211 (B) a fiduciary of the applicant; or
48212 (C) a person for which the applicant or the fiduciary of the applicant is required to
48213 collect, truthfully account for, and pay over an amount under this part; or
48214 (ii) there is a delinquency in withholding, reporting, or remitting any amount under this
48215 part for:
48216 (A) an applicant;
48217 (B) a fiduciary of the applicant; or
48218 (C) a person for which the applicant or the fiduciary of the applicant is required to
48219 collect, truthfully account for, and pay over an amount under this part.
48220 (b) If the commission determines it is necessary to ensure compliance with this part,
48221 the commission may require a licensee to:
48222 (i) for a licensee that has not posted a bond under this section with the commission,
48223 post a bond with the commission in accordance with Subsection (6); or
48224 (ii) for a licensee that has posted a bond under this section with the commission,
48225 increase the amount of the bond posted with the commission.
48226 (6) (a) A bond required by Subsection (5) shall be:
48227 (i) executed by:
48228 (A) for an applicant, the applicant as principal, with a corporate surety; or
48229 (B) for a licensee, the licensee as principal, with a corporate surety; and
48230 (ii) payable to the commission conditioned upon the faithful performance of all of the
48231 requirements of this part including:
48232 (A) the withholding or remitting of any amount under this part;

48233 (B) the payment of any:
48234 (I) penalty as provided in Section 59-1-401; or
48235 (II) interest as provided in Section 59-1-402; or
48236 (C) any other obligation of the:
48237 (I) applicant under this part; or
48238 (II) licensee under this part.
48239 (b) Except as provided in Subsection (6)(d), the commission shall calculate the amount
48240 of a bond required by Subsection (5) on the basis of:
48241 (i) commission estimates of:
48242 (A) for an applicant, any amounts the applicant withholds, reports, or remits under this
48243 part; or
48244 (B) for a licensee, any amounts the licensee withholds, reports, or remits under this
48245 part; and
48246 (ii) any amount of a delinquency described in Subsection (6)(c).
48247 (c) Except as provided in Subsection (6)(d), for purposes of Subsection (6)(b)(ii):
48248 (i) for an applicant, the amount of the delinquency is the sum of:
48249 (A) the amount of any delinquency that served as a basis for revoking the license under
48250 this section of:
48251 (I) the applicant;
48252 (II) a fiduciary of the applicant; or
48253 (III) a person for which the applicant or the fiduciary of the applicant is required to
48254 collect, truthfully account for, and pay over an amount under this part; or
48255 (B) the amount that any of the following owe under this part:
48256 (I) the applicant;
48257 (II) a fiduciary of the applicant; and
48258 (III) a person for which the applicant or the fiduciary of the applicant is required to
48259 collect, truthfully account for, and pay over an amount under this part; or
48260 (ii) for a licensee, the amount of the delinquency is the sum of:
48261 (A) the amount of any delinquency that served as a basis for revoking the license under
48262 this section of:
48263 (I) the licensee;

48264 (II) a fiduciary of the licensee; or
48265 (III) a person for which the licensee or the fiduciary of the licensee is required to
48266 collect, truthfully account for, and pay over an amount under this part; or
48267 (B) the amount that any of the following owe under this part:
48268 (I) the licensee;
48269 (II) a fiduciary of the licensee; and
48270 (III) a person for which the licensee or the fiduciary of the licensee is required to
48271 collect, truthfully account for, and pay over an amount under this part.
48272 (d) Notwithstanding Subsection (6)(b) or (c), a bond required by Subsection (5) may
48273 not:
48274 (i) be less than $25,000; or
48275 (ii) exceed $500,000.
48276 (7) (a) The commission shall revoke a license under this section if:
48277 (i) a licensee violates any provision of this part; and
48278 (ii) before the commission revokes the license the commission provides the licensee:
48279 (A) reasonable notice; and
48280 (B) a hearing.
48281 (b) If the commission revokes a licensee's license in accordance with Subsection (7)(a),
48282 the commission may not issue another license to that licensee until that licensee complies with
48283 the requirements of this part, including:
48284 (i) paying any:
48285 (A) amounts due under this part;
48286 (B) penalty as provided in Section 59-1-401; or
48287 (C) interest as provided in Section 59-1-402; and
48288 (ii) posting a bond in accordance with Subsections (5) and (6).
48289 Section 1008. Section **59-10-514** is amended to read:
48290 **59-10-514. Return filing requirements -- Rulemaking authority.**
48291 (1) Subject to Subsection (3):
48292 (a) an individual income tax return filed for a tax imposed in accordance with Part 1,
48293 Determination and Reporting of Tax Liability and Information, shall be filed with the
48294 commission:

48295 (i) except as provided in Subsection (1)(a)(ii), on or before the 15th day of the fourth
48296 month following the last day of the taxpayer's taxable year; or
48297 (ii) on or before the day on which a federal individual income tax return is due under
48298 the Internal Revenue Code if the Internal Revenue Code provides a due date for filing that
48299 federal individual income tax return that is different from the due date described in Subsection
48300 (1)(a)(i);
48301 (b) a fiduciary income tax return filed for a tax imposed in accordance with Part 2,
48302 Trusts and Estates, shall be filed with the commission:
48303 (i) except as provided in Subsection (1)(b)(ii), on or before the 15th day of the fourth
48304 month following the last day of the taxpayer's taxable year; or
48305 (ii) on or before the day on which a federal tax return for estates and trusts is due under
48306 the Internal Revenue Code if the Internal Revenue Code provides a due date for filing that
48307 federal tax return for estates and trusts that is different from the due date described in
48308 Subsection (1)(b)(i); or
48309 (c) a return filed in accordance with Section 59-10-507, shall be filed with the
48310 commission:
48311 (i) except as provided in Subsection (1)(c)(ii), in accordance with Section 59-10-507;
48312 or
48313 (ii) on or before the day on which a federal return of partnership income is due under
48314 the Internal Revenue Code if the Internal Revenue Code provides a due date for filing that
48315 federal return of partnership income that is different from the due date described in Subsection
48316 (1)(c)(i).
48317 (2) A person required to make and file a return under this chapter shall, without
48318 assessment, notice, or demand, pay any tax due:
48319 (a) to the commission; and
48320 (b) before the due date for filing the return determined without regard to any extension
48321 of time for filing the return.
48322 (3) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
48323 Administrative Rulemaking Act, the commission may make rules prescribing what constitutes
48324 filing a return with the commission.
48325 Section 1009. Section **59-10-514.1** is amended to read:

48326 **59-10-514.1. Definitions -- Requirement to file returns using scan technology or**
48327 **by electronic means -- Exceptions -- Waiver.**
48328 (1) As used in this section:
48329 (a) (i) "electronic" means using a technology other than scan technology; and
48330 (ii) in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
48331 Administrative Rulemaking Act, the commission may make rules defining "technology";
48332 (b) (i) except as provided in Subsection (1)(b)(ii), "income tax return preparer" means
48333 an individual that prepares for compensation a return required to be filed by this chapter;
48334 (ii) notwithstanding Subsection (1)(b)(i), "income tax return preparer" does not include
48335 an individual who:
48336 (A) performs only one or more of the following relating to a return required to be filed
48337 by this chapter:
48338 (I) types the return;
48339 (II) reproduces the return; or
48340 (III) performs an action similar to Subsection (1)(b)(ii)(A)(I) or (II) as determined by
48341 the commission by rule, made in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
48342 Utah Administrative Rulemaking Act; or
48343 (B) prepares a return required to be filed by this chapter:
48344 (I) of the individual's employer or an officer or employee of the employer if the
48345 individual is regularly and continuously employed by that employer;
48346 (II) of any person if that individual is a fiduciary for that person; or
48347 (III) for a taxpayer in response to a tax order issued to that taxpayer;
48348 (c) "prepare" means to prepare a substantial portion or more of a return required to be
48349 filed by this chapter;
48350 (d) (i) except as provided in Subsection (1)(d)(ii), "qualifying return" means a return
48351 required to be filed by this chapter for any taxable year that begins on or after the January 1
48352 described in Subsection (2)(c)(i); and
48353 (ii) notwithstanding Subsection (1)(d)(i), "qualifying return" does not include:
48354 (A) an amended return; or
48355 (B) (I) a return filed for any taxable year that begins before the first day of the current
48356 taxable year; and

48357 (II) in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
48358 Administrative Rulemaking Act, the commission may make rules defining "current taxable
48359 year"; and
48360 (e) (i) "scan technology" means technology that:
48361 (A) allows a return to be scanned; and
48362 (B) is approved by the commission; and
48363 (ii) in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
48364 Administrative Rulemaking Act, the commission may by rule specify what types of technology
48365 constitute scan technology.
48366 (2) (a) Subject to Subsections (2)(b) and (c) and except as provided in Subsection (3),
48367 an income tax return preparer shall file all qualifying returns using scan technology or by
48368 electronic means if the income tax return preparer prepares in any calendar year beginning on
48369 or after January 1, 2005, a total of 101 or more returns required to be filed by this chapter.
48370 (b) (i) For purposes of Subsection (2)(a), if two or more income tax return preparers are
48371 affiliated with the same establishment, the total number of returns required to be filed by this
48372 chapter that are prepared in a calendar year beginning on or after January 1, 2005, by all of the
48373 income tax return preparers that are affiliated with that establishment shall be included in
48374 determining whether an income tax return preparer prepares in a calendar year beginning on or
48375 after January 1, 2005, a total of 101 or more returns required to be filed by this chapter.
48376 (ii) For purposes of Subsection (2)(b)(i), in accordance with [~~Title 63, Chapter 46a~~]
48377 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule
48378 determine the circumstances under which two or more income tax return preparers are
48379 affiliated with the same establishment.
48380 (c) If an income tax return preparer is required by this Subsection (2) to file all
48381 qualifying returns using scan technology or by electronic means, the income tax return preparer
48382 shall file those qualifying returns using scan technology or by electronic means:
48383 (i) beginning on January 1 of the first calendar year immediately following the day on
48384 which the income tax return preparer meets the requirements of this Subsection (2); and
48385 (ii) for all calendar years after the calendar year described in Subsection (2)(c)(i).
48386 (3) Notwithstanding Subsection (2), an income tax return preparer is not required to
48387 file a qualifying return using scan technology or by electronic means if:

48388 (a) a schedule required to be attached to the qualifying return cannot be filed using scan
48389 technology or by electronic means;
48390 (b) the taxpayer for which the qualifying return is prepared requests in writing that the
48391 income tax return preparer not file the qualifying return using scan technology or by electronic
48392 means; or
48393 (c) subject to Subsection (4), the commission waives for one or more qualifying returns
48394 filed by the income tax return preparer the requirement imposed by this section to file the
48395 qualifying returns using scan technology or by electronic means.
48396 (4) (a) For purposes of Subsection (3)(c), the commission may waive for one or more
48397 qualifying returns filed by an income tax return preparer the requirement imposed by this
48398 section to file the qualifying returns using scan technology or by electronic means if the income
48399 tax return preparer demonstrates to the commission that it would be an undue hardship to file
48400 the qualifying returns using scan technology or by electronic means.
48401 (b) For purposes of Subsection (4)(a) and in accordance with [~~Title 63, Chapter 46a~~]
48402 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall by rule
48403 define the circumstances that constitute an undue hardship to file a qualifying return using scan
48404 technology or by electronic means.
48405 Section 1010. Section **59-10-549** is amended to read:
48406 **59-10-549. Contributions for education.**
48407 (1) Except as provided in Section 59-10-551, a taxpayer that files a return pursuant to
48408 Section 59-10-502 may designate on the return a contribution as provided in this section to:
48409 (a) (i) the foundation of any school district if that foundation is exempt from federal
48410 income taxation under Section 501(c)(3), Internal Revenue Code; or
48411 (ii) a school district described in Title 53A, Chapter 2, School Districts, if the school
48412 district has not established a foundation;
48413 (b) a college campus of the Utah College of Applied Technology listed in Section
48414 53B-2a-105; or
48415 (c) for taxable years beginning on or after January 1, 2004, but beginning on or before
48416 December 31, 2006, the Uniform School Fund.
48417 (2) (a) A taxpayer may designate as a contribution under this section any whole dollar
48418 amount of $1 or more.

48419 (b) (i) If the taxpayer is owed an individual income tax refund for the taxable year, the
48420 amount of a contribution under this section shall be deducted from the taxpayer's individual
48421 income tax refund.
48422 (ii) If the taxpayer is not owed an individual income tax refund for the taxable year, the
48423 taxpayer may remit a contribution under this section with the taxpayer's individual income tax
48424 return.
48425 (c) If a taxpayer files a joint return, the contribution under this section shall be a joint
48426 contribution.
48427 (d) A contribution under this section is irrevocable during the taxable year for which
48428 the taxpayer makes the contribution.
48429 (3) If a taxpayer designates an amount as a contribution under:
48430 (a) Subsection (1)(a)(i), but does not designate a particular school district foundation to
48431 receive the contribution, the contribution shall be made to the Utah State Office of Education to
48432 be distributed to one or more associations of foundations:
48433 (i) if those foundations that are members of the association are established in
48434 accordance with Section 53A-4-205; and
48435 (ii) as determined by the Utah State Office of Education; or
48436 (b) Subsection (1)(a)(ii), but does not designate a particular school district to receive
48437 the contribution, the contribution shall be made to the Utah State Office of Education.
48438 (4) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
48439 Administrative Rulemaking Act, the commission may make rules to implement this section.
48440 (5) The commission shall:
48441 (a) determine annually the total amount of contributions designated in accordance with
48442 this section; and
48443 (b) report this amount to the state treasurer.
48444 (6) The state treasurer shall credit any contributions reported to the state treasurer in
48445 accordance with Subsection (5):
48446 (a) subject to Subsection (3), if a taxpayer designates a contribution to an entity listed
48447 in Subsection (1)(a) or (b) in accordance with this section, to the entity that is designated by the
48448 taxpayer; or
48449 (b) if a taxpayer designates a contribution to the Uniform School Fund under

48450 Subsection (1)(c) in accordance with this section, to the Uniform School Fund.
48451 Section 1011. Section **59-10-1007** is amended to read:
48452 **59-10-1007. Recycling market development zones tax credit.**
48453 (1) For taxable years beginning on or after January 1, 1996, a claimant, estate, or trust
48454 in a recycling market development zone as defined in Section [~~63-38f-1102~~] 63M-1-1102 may
48455 claim a nonrefundable tax credit as provided in this section.
48456 (a) (i) There shall be allowed a tax credit of 5% of the purchase price paid for
48457 machinery and equipment used directly in:
48458 (A) commercial composting; or
48459 (B) manufacturing facilities or plant units that:
48460 (I) manufacture, process, compound, or produce recycled items of tangible personal
48461 property for sale; or
48462 (II) reduce or reuse postconsumer waste material.
48463 (ii) The Governor's Office of Economic Development shall certify that the machinery
48464 and equipment described in Subsection (1)(a)(i) are integral to the composting or recycling
48465 process:
48466 (A) on a form provided by the commission; and
48467 (B) before a claimant, estate, or trust is allowed a tax credit under this section.
48468 (iii) The Governor's Office of Economic Development shall provide a claimant, estate,
48469 or trust seeking to claim a tax credit under this section with a copy of the form described in
48470 Subsection (1)(a)(ii).
48471 (iv) The claimant, estate, or trust described in Subsection (1)(a)(iii) shall retain a copy
48472 of the form received under Subsection (1)(a)(iii).
48473 (b) There shall be allowed a tax credit equal to 20% of net expenditures up to $10,000
48474 to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the
48475 claimant, estate, or trust for establishing and operating recycling or composting technology in
48476 Utah, with an annual maximum tax credit of $2,000.
48477 (2) The total tax credit allowed under this section may not exceed 40% of the Utah
48478 income tax liability of the claimant, estate, or trust prior to any tax credits in the taxable year of
48479 purchase prior to claiming the tax credit authorized by this section.
48480 (3) (a) Any tax credit not used for the taxable year in which the purchase price on

48481 composting or recycling machinery and equipment was paid may be carried forward against the
48482 claimant's, estate's, or trusts's tax liability under this chapter in the three succeeding taxable
48483 years until the total tax credit amount is used.
48484 (b) Tax credits not claimed by a claimant, estate, or trust on the claimant's, estate's, or
48485 trust's tax return under this chapter within three years are forfeited.
48486 (4) The commission shall make rules governing what information shall be filed with
48487 the commission to verify the entitlement to and amount of a tax credit.
48488 (5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after
48489 January 1, 2001, a claimant, estate, or trust may not claim or carry forward a tax credit
48490 described in Subsection (1)(a) in a taxable year during which the claimant, estate, or trust
48491 claims or carries forward a tax credit under Section [~~63-38f-413~~] 63M-1-413.
48492 (b) For a taxable year other than a taxable year during which the claimant, estate, or
48493 trust may not claim or carry forward a tax credit in accordance with Subsection (5)(a), a
48494 claimant, estate, or trust may claim or carry forward a tax credit described in Subsection (1)(a):
48495 (i) if the claimant, estate, or trust may claim or carry forward the tax credit in
48496 accordance with Subsections (1) and (2); and
48497 (ii) subject to Subsections (3) and (4).
48498 (6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January
48499 1, 2001, a claimant, estate, or trust may not claim a tax credit described in Subsection (1)(b) in
48500 a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit
48501 under Section [~~63-38f-413~~] 63M-1-413.
48502 (7) A claimant, estate, or trust may not claim or carry forward a tax credit available
48503 under this section for a taxable year during which the claimant, estate, or trust has claimed the
48504 targeted business income tax credit available under Section [~~63-38f-503~~] 63M-1-504.
48505 Section 1012. Section **59-10-1012 (Effective 01/01/08)** is amended to read:
48506 **59-10-1012 (Effective 01/01/08). Tax credits for research activities conducted in**
48507 **the state -- Carry forward -- Commission to report modification or repeal of certain**
48508 **federal provisions -- Utah Tax Review Commission study.**
48509 (1) (a) A claimant, estate, or trust meeting the requirements of this section may claim
48510 the following nonrefundable tax credits:
48511 (i) a research tax credit of 7% of the claimant's, estate's, or trust's qualified research

48512 expenses for the current taxable year that exceed the base amount provided for under
48513 Subsection (3);
48514 (ii) a tax credit for payments to qualified organizations for basic research as provided
48515 in Section 41(e), Internal Revenue Code of 7% for the current taxable year that exceed the base
48516 amount provided for under Subsection (3); and
48517 (iii) a tax credit equal to 5% of the claimant's, estate's, or trust's qualified research
48518 expenses for the current taxable year.
48519 (b) (i) Except as provided in Subsection (1)(b)(ii), a claimant, estate, or trust may:
48520 (A) claim the tax credit or a portion of the tax credit for the taxable year immediately
48521 following the taxable year for which the claimant, estate, or trust qualifies for the tax credit;
48522 (B) carry forward the tax credit or a portion of the tax credit as provided in Subsection
48523 (4); or
48524 (C) claim a portion of the tax credit and carry forward a portion of the tax credit as
48525 provided in Subsections (1)(b)(i)(A) and (B).
48526 (ii) A claimant, estate, or trust may not carry forward the tax credit allowed by
48527 Subsection (1)(a)(iii).
48528 (c) The tax credits provided for in this section do not include the alternative
48529 incremental credit provided for in Section 41(c)(4), Internal Revenue Code.
48530 (2) Except as specifically provided for in this section:
48531 (a) the tax credits authorized under Subsection (1) shall be calculated as provided in
48532 Section 41, Internal Revenue Code; and
48533 (b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating
48534 the tax credits authorized under Subsection (1).
48535 (3) For purposes of this section:
48536 (a) the base amount shall be calculated as provided in Sections 41(c) and 41(h),
48537 Internal Revenue Code, except that:
48538 (i) the base amount does not include the calculation of the alternative incremental
48539 credit provided for in Section 41(c)(4), Internal Revenue Code;
48540 (ii) a claimant's, estate's, or trust's gross receipts include only those gross receipts
48541 attributable to sources within this state as provided in Section 59-10-118; and
48542 (iii) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating

48543 the base amount, a claimant, estate, or trust:
48544 (A) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B)
48545 regardless of whether the claimant, estate, or trust meets the requirements of Section
48546 41(c)(3)(B)(i)(I) or (II); and
48547 (B) may not revoke an election to be treated as a start-up company under Subsection
48548 (3)(a)(iii)(A);
48549 (b) "basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except
48550 that the term includes only basic research conducted in this state;
48551 (c) "qualified research" is as defined in Section 41(d), Internal Revenue Code, except
48552 that the term includes only qualified research conducted in this state;
48553 (d) "qualified research expenses" is as defined and calculated in Section 41(b), Internal
48554 Revenue Code, except that the term includes only:
48555 (i) in-house research expenses incurred in this state; and
48556 (ii) contract research expenses incurred in this state; and
48557 (e) a tax credit provided for in this section is not terminated if a credit terminates under
48558 Section 41, Internal Revenue Code.
48559 (4) If the amount of a tax credit claimed by a claimant, estate, or trust under Subsection
48560 (1)(a)(i) or (ii) exceeds the claimant's, estate's, or trust's tax liability under this chapter for a
48561 taxable year, the amount of the tax credit exceeding the tax liability:
48562 (a) may be carried forward for a period that does not exceed the next 14 taxable years;
48563 and
48564 (b) may not be carried back to a taxable year preceding the current taxable year.
48565 (5) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
48566 Administrative Rulemaking Act, the commission may make rules for purposes of this section
48567 prescribing a certification process for qualified organizations to ensure that amounts paid to the
48568 qualified organizations are for basic research conducted in this state.
48569 (6) If a provision of Section 41, Internal Revenue Code, is modified or repealed, the
48570 commission shall report the modification or repeal to the Utah Tax Review Commission within
48571 60 days after the day on which the modification or repeal becomes effective.
48572 (7) (a) The Utah Tax Review Commission shall review the tax credits provided for in
48573 this section on or before October 1 of the year after the year in which the commission reports

48574 under Subsection (6) a modification or repeal of a provision of Section 41, Internal Revenue
48575 Code.
48576 (b) Notwithstanding Subsection (7)(a), the Utah Tax Review Commission is not
48577 required to review the tax credits provided for in this section if the only modification to a
48578 provision of Section 41, Internal Revenue Code, is the extension of the termination date
48579 provided for in Section 41(h), Internal Revenue Code.
48580 (c) The Utah Tax Review Commission shall address in a review under this section:
48581 (i) the cost of the tax credits provided for in this section;
48582 (ii) the purpose and effectiveness of the tax credits provided for in this section;
48583 (iii) whether the tax credits provided for in this section benefit the state; and
48584 (iv) whether the tax credits provided for in this section should be:
48585 (A) continued;
48586 (B) modified; or
48587 (C) repealed.
48588 (d) If the Utah Tax Review Commission reviews the tax credits provided for in this
48589 section, the Utah Tax Review Commission shall report its findings to the Revenue and
48590 Taxation Interim Committee on or before the November interim meeting of the year in which
48591 the Utah Tax Review Commission reviews the tax credits.
48592 Section 1013. Section **59-10-1013** is amended to read:
48593 **59-10-1013. Credits for machinery, equipment, or both primarily used for**
48594 **conducting qualified research or basic research -- Carry forward -- Commission to report**
48595 **modification or repeal of federal credits.**
48596 (1) As used in this section:
48597 (a) "Basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except
48598 that the term includes only basic research conducted in this state.
48599 (b) "Equipment" includes:
48600 (i) computers;
48601 (ii) computer equipment; and
48602 (iii) computer software.
48603 (c) "Purchase price":
48604 (i) includes the cost of installing an item of machinery or equipment; and

48605 (ii) does not include sales or use taxes imposed on an item of machinery or equipment.
48606 (d) "Qualified organization" is as defined in Section 41(e)(6), Internal Revenue Code.
48607 (e) "Qualified research" is as defined in Section 41(d), Internal Revenue Code, except
48608 that the term includes only qualified research conducted in this state.
48609 (2) (a) Except as provided in Subsection (2)(c), for taxable years beginning on or after
48610 January 1, 1999, but beginning before December 31, 2010, a claimant, estate, or trust shall
48611 qualify for the following nonrefundable tax credits for the taxable year in which the machinery,
48612 equipment, or both, meets the requirements of either Subsection (2)(a)(i) or (2)(a)(ii):
48613 (i) a tax credit of 6% of the purchase price of either machinery, equipment, or both:
48614 (A) purchased by the claimant, estate, or trust during the taxable year;
48615 (B) that is not exempt from sales or use taxes; and
48616 (C) that is primarily used to conduct qualified research in this state; and
48617 (ii) a tax credit of 6% of the purchase price paid by the claimant, estate, or trust for
48618 either machinery, equipment, or both:
48619 (A) purchased by the claimant, estate, or trust during the taxable year;
48620 (B) that is not exempt from sales or use taxes;
48621 (C) that is donated to a qualified organization; and
48622 (D) that is primarily used to conduct basic research in this state.
48623 (b) If a claimant, estate, or trust qualifying for a tax credit under Subsection (2)(a)
48624 seeks to claim the tax credit, the claimant, estate, or trust shall:
48625 (i) claim the tax credit or a portion of the tax credit for the taxable year immediately
48626 following the taxable year for which the claimant, estate, or trust qualifies for the tax credit;
48627 (ii) carry the tax credit or a portion of the tax credit forward as provided in Subsection
48628 (5); or
48629 (iii) claim a portion of the tax credit and carry forward a portion of the tax credit as
48630 provided in Subsections (2)(b)(i) and (ii).
48631 (c) Notwithstanding Subsection (2)(a), if a claimant, estate, or trust qualifies for a tax
48632 credit under Subsection (2)(a) for a purchase of machinery, equipment, or both, the claimant,
48633 estate, or trust may not claim the tax credit or carry the tax credit forward if the machinery,
48634 equipment, or both, is primarily used to conduct qualified research in the state for a time period
48635 that is less than 12 consecutive months.

48636 (3) For purposes of claiming a tax credit under this section, a unitary group as defined
48637 in Section 59-7-101 is considered to be one claimant.
48638 (4) Notwithstanding the provisions of Section 41(h), Internal Revenue Code, the tax
48639 credits provided for in this section shall not terminate if the credits terminate under Section 41,
48640 Internal Revenue Code.
48641 (5) Notwithstanding the provisions of Sections 39 and 41(g), Internal Revenue Code,
48642 governing the carry forward and carry back of federal tax credits, if the amount of a tax credit
48643 claimed by a claimant, estate, or trust under this section exceeds a claimant's, estate's, or trust's
48644 tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the
48645 liability:
48646 (a) may be carried forward for a period that does not exceed the next 14 taxable years;
48647 and
48648 (b) may not be carried back to a taxable year preceding the current taxable year.
48649 (6) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
48650 Administrative Rulemaking Act, the commission may make rules for purposes of this section
48651 prescribing a certification process for qualified organizations to ensure that either machinery,
48652 equipment, or both provided to the qualified organization is to be primarily used to conduct
48653 basic research in this state.
48654 (7) If a federal credit under Section 41, Internal Revenue Code, is modified or repealed,
48655 the commission shall report the modification or repeal to the Tax Review Commission within
48656 60 days after the day on which the modification or repeal becomes effective.
48657 Section 1014. Section **59-10-1015** is amended to read:
48658 **59-10-1015. Definitions -- Tax credit for live organ donation expenses --**
48659 **Rulemaking authority.**
48660 (1) As used in this section:
48661 (a) "human organ" means:
48662 (i) human bone marrow; or
48663 (ii) any part of a human:
48664 (A) intestine;
48665 (B) kidney;
48666 (C) liver;

48667 (D) lung; or
48668 (E) pancreas;
48669 (b) "live organ donation" means that an individual who is living donates one or more of
48670 that individual's human organs:
48671 (i) to another human; and
48672 (ii) to be transplanted:
48673 (A) using a medical procedure; and
48674 (B) to the body of the other human; and
48675 (c) (i) "live organ donation expenses" means the total amount of expenses:
48676 (A) incurred by a claimant; and
48677 (B) that:
48678 (I) are not reimbursed to that claimant by any person;
48679 (II) are directly related to a live organ donation by:
48680 (Aa) the claimant; or
48681 (Bb) another individual that the claimant is allowed to claim as a dependent in
48682 accordance with Section 151, Internal Revenue Code; and
48683 (III) are for:
48684 (Aa) travel;
48685 (Bb) lodging; or
48686 (Cc) a lost wage; and
48687 (ii) in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
48688 Administrative Rulemaking Act, the commission may by rule define "lost wage."
48689 (2) For taxable years beginning on or after January 1, 2005, a claimant may claim a
48690 nonrefundable tax credit:
48691 (a) as provided in this section;
48692 (b) against taxes otherwise due under this chapter;
48693 (c) for live organ donation expenses incurred during the taxable year for which the live
48694 organ donation occurs; and
48695 (d) in an amount equal to the lesser of:
48696 (i) the actual amount of the live organ donation expenses; or
48697 (ii) $10,000.

48698 (3) If the amount of a tax credit under this section exceeds a claimant's tax liability
48699 under this chapter for a taxable year, the amount of the tax credit that exceeds the claimant's tax
48700 liability may be carried forward for a period that does not exceed the next five taxable years.
48701 Section 1015. Section **59-10-1105** is amended to read:
48702 **59-10-1105. Tax credit for hand tools used in farming operations -- Procedures**
48703 **for refund -- Transfers from General Fund to Education Fund -- Rulemaking authority.**
48704 (1) For taxable years beginning on or after January 1, 2004, a claimant, estate, or trust
48705 may claim a refundable tax credit:
48706 (a) as provided in this section;
48707 (b) against taxes otherwise due under this chapter; and
48708 (c) in an amount equal to the amount of tax the claimant, estate, or trust pays:
48709 (i) on a purchase of a hand tool:
48710 (A) if the purchase is made on or after July 1, 2004;
48711 (B) if the hand tool is used or consumed primarily and directly in a farming operation
48712 in the state; and
48713 (C) if the unit purchase price of the hand tool is more than $250; and
48714 (ii) under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection
48715 (1)(c)(i).
48716 (2) A claimant, estate, or trust:
48717 (a) shall retain the following to establish the amount of tax the claimant, estate, or trust
48718 paid under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection
48719 (1)(c)(i):
48720 (i) a receipt;
48721 (ii) an invoice; or
48722 (iii) a document similar to a document described in Subsection (2)(a)(i) or (ii); and
48723 (b) may not carry forward or carry back a tax credit under this section.
48724 (3) (a) In accordance with any rules prescribed by the commission under Subsection
48725 (3)(b), the commission shall:
48726 (i) make a refund to a claimant, estate, or trust that claims a tax credit under this
48727 section if the amount of the tax credit exceeds the claimant's, estate's, or trust's tax liability
48728 under this chapter; and

48729 (ii) transfer at least annually from the General Fund into the Education Fund an amount
48730 equal to the amount of tax credit claimed under this section.
48731 (b) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
48732 Administrative Rulemaking Act, the commission may make rules providing procedures for
48733 making:
48734 (i) a refund to a claimant, estate, or trust as required by Subsection (3)(a)(i); or
48735 (ii) transfers from the General Fund into the Education Fund as required by Subsection
48736 (3)(a)(ii).
48737 Section 1016. Section **59-10-1205** is amended to read:
48738 **59-10-1205. Adjustments to adjusted gross income of a resident or nonresident**
48739 **individual.**
48740 (1) In calculating state taxable income for purposes of this part, the commission shall
48741 allow an adjustment to adjusted gross income of a resident or nonresident individual if the
48742 resident or nonresident individual would otherwise:
48743 (a) receive a double tax benefit under this part; or
48744 (b) suffer a double tax detriment under this part.
48745 (2) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
48746 Administrative Rulemaking Act, the commission may make rules to allow for the adjustment to
48747 adjusted gross income required by Subsection (1).
48748 Section 1017. Section **59-11-113** is amended to read:
48749 **59-11-113. Administration by commission -- Action for collection of tax --**
48750 **Limitation of action -- Limit for refund or credit of tax -- Appeal.**
48751 (1) The commission is charged with the administration and enforcement of this chapter
48752 and may promulgate rules under [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
48753 Administrative Rulemaking Act, to effectuate the purposes of this chapter.
48754 (2) The commission shall collect the tax provided for under this chapter, including
48755 applicable interest and penalties, and shall represent this state in all matters pertaining to
48756 collection, either before courts or otherwise. The commission may institute proceedings for the
48757 collection of this tax, and any interest and penalties on the tax, in the district court of any
48758 county in which any portion of the property is situated. For this purpose the commission may
48759 call to its assistance the attorney general and the various county attorneys throughout the state.

48760 (3) (a) Except as provided in Subsections (4) through (7), the commission shall assess
48761 a tax under this chapter within three years after a taxpayer files a return.
48762 (b) Except as provided in Subsections (4) through (7), if the commission does not
48763 assess a tax under this chapter within the three-year period provided in Subsection (3)(a), the
48764 commission may not file an action to collect the tax.
48765 (4) Notwithstanding Subsection (3), the commission may assess a tax at any time if a
48766 taxpayer:
48767 (a) files a false or fraudulent return with intent to evade; or
48768 (b) does not file a return.
48769 (5) Notwithstanding Subsection (3), beginning on July 1, 1998, the commission may
48770 extend the period to make an assessment or to commence a proceeding to collect the tax under
48771 this chapter if:
48772 (a) the three-year period under Subsection (3) has not expired; and
48773 (b) the commission and the taxpayer sign a written agreement:
48774 (i) authorizing the extension; and
48775 (ii) providing for the length of the extension.
48776 (6) If the commission delays an audit at the request of a taxpayer, the commission may
48777 make an assessment as provided in Subsection (7) if:
48778 (a) the taxpayer subsequently refuses to agree to an extension request by the
48779 commission; and
48780 (b) the three-year period under Subsection (3) expires before the commission
48781 completes the audit.
48782 (7) An assessment under Subsection (6) shall be:
48783 (a) for the time period for which the commission could not make an assessment
48784 because of the expiration of the three-year period; and
48785 (b) in an amount equal to the difference between:
48786 (i) the commission's estimate of the amount of taxes the taxpayer would have been
48787 assessed for the time period described in Subsection (7)(a); and
48788 (ii) the amount of taxes the taxpayer actually paid for the time period described in
48789 Subsection (7)(a).
48790 (8) A taxpayer shall:

48791 (a) notify the commission within 90 days after a final determination of a change made
48792 in a taxpayer's net income on the taxpayer's federal estate tax return if:
48793 (i) the change is made because:
48794 (A) the taxpayer filed an amended federal return; or
48795 (B) of an action by the federal government; and
48796 (ii) the change affects the taxpayer's state tax liability; and
48797 (b) if the taxpayer is required to notify the commission of a change as provided in
48798 Subsection (8)(a)(i), file a copy of:
48799 (i) the amended federal return; and
48800 (ii) an amended state return which conforms to the changes on the federal return.
48801 (9) (a) The commission may assess a deficiency in state estate taxes as a result of a
48802 change in a taxpayer's net income under Subsection (8):
48803 (i) within three years after a taxpayer files an amended return under Subsection (8)(b) if
48804 the taxpayer files an amended return; or
48805 (ii) within six years after the change if a taxpayer does not file an amended return under
48806 Subsection (8)(b).
48807 (b) The amount of a deficiency assessed under Subsection (9)(a) may not exceed the
48808 amount of the increase in Utah tax attributable to the change in the taxpayer's net income under
48809 Subsection (8)(a).
48810 (10) (a) Except as provided in Subsection (10)(b), the commission may not make a
48811 credit or refund unless the taxpayer files a claim with the commission within three years of the
48812 date of overpayment.
48813 (b) Notwithstanding Subsection (10)(a), beginning on July 1, 1998, the commission
48814 shall extend the period for a taxpayer to file a claim under Subsection (10)(a) if:
48815 (i) the three-year period under Subsection (10)(a) has not expired; and
48816 (ii) the commission and the taxpayer sign a written agreement:
48817 (A) authorizing the extension; and
48818 (B) providing for the length of the extension.
48819 (11) Any party to a proceeding before the district court concerning the tax imposed by
48820 this chapter, including the commission, may appeal from the order, judgment, or decree entered
48821 by the district court.

48822 Section 1018. Section **59-12-102 (Effective 01/01/08)** is amended to read:
48823 **59-12-102 (Effective 01/01/08). Definitions.**
48824 As used in this chapter:
48825 (1) (a) "Admission or user fees" includes season passes.
48826 (b) "Admission or user fees" does not include annual membership dues to private
48827 organizations.
48828 (2) "Agreement" means the Streamlined Sales and Use Tax Agreement described in
48829 Section 59-12-102.1.
48830 (3) "Agreement combined tax rate" means the sum of the tax rates:
48831 (a) listed under Subsection (4); and
48832 (b) that are imposed within a local taxing jurisdiction.
48833 (4) "Agreement sales and use tax" means a tax imposed under:
48834 (a) Subsection 59-12-103(2)(a)(i);
48835 (b) Subsection 59-12-103(2)(b)(i);
48836 (c) Subsection 59-12-103(2)(c)(i);
48837 (d) Subsection 59-12-103(2)(d)(i);
48838 (e) Subsection 59-12-103(2)(e)(ii)(A);
48839 (f) Subsection 59-12-103(2)(e)(iii)(A);
48840 (g) Section 59-12-204;
48841 (h) Section 59-12-401;
48842 (i) Section 59-12-402;
48843 (j) Section 59-12-501;
48844 (k) Section 59-12-502;
48845 (l) Section 59-12-703;
48846 (m) Section 59-12-802;
48847 (n) Section 59-12-804;
48848 (o) Section 59-12-1001;
48849 (p) Section 59-12-1102;
48850 (q) Section 59-12-1302;
48851 (r) Section 59-12-1402;
48852 (s) Section 59-12-1503; or

48853 (t) Section 59-12-1703.
48854 (5) "Aircraft" is as defined in Section 72-10-102.
48855 (6) "Alcoholic beverage" means a beverage that:
48856 (a) is suitable for human consumption; and
48857 (b) contains .5% or more alcohol by volume.
48858 (7) "Area agency on aging" is as defined in Section 62A-3-101.
48859 (8) "Assisted amusement device" means an amusement device, skill device, or ride
48860 device that is started and stopped by an individual:
48861 (a) who is not the purchaser or renter of the right to use or operate the amusement
48862 device, skill device, or ride device; and
48863 (b) at the direction of the seller of the right to use the amusement device, skill device,
48864 or ride device.
48865 (9) "Assisted cleaning or washing of tangible personal property" means cleaning or
48866 washing of tangible personal property if the cleaning or washing labor is primarily performed
48867 by an individual:
48868 (a) who is not the purchaser of the cleaning or washing of the tangible personal
48869 property; and
48870 (b) at the direction of the seller of the cleaning or washing of the tangible personal
48871 property.
48872 (10) "Authorized carrier" means:
48873 (a) in the case of vehicles operated over public highways, the holder of credentials
48874 indicating that the vehicle is or will be operated pursuant to both the International Registration
48875 Plan and the International Fuel Tax Agreement;
48876 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
48877 certificate or air carrier's operating certificate; or
48878 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
48879 stock, the holder of a certificate issued by the United States Surface Transportation Board.
48880 (11) (a) Except as provided in Subsection (11)(b), "biomass energy" means any of the
48881 following that is used as the primary source of energy to produce fuel or electricity:
48882 (i) material from a plant or tree; or
48883 (ii) other organic matter that is available on a renewable basis, including:

48884 (A) slash and brush from forests and woodlands;
48885 (B) animal waste;
48886 (C) methane produced:
48887 (I) at landfills; or
48888 (II) as a byproduct of the treatment of wastewater residuals;
48889 (D) aquatic plants; and
48890 (E) agricultural products.
48891 (b) "Biomass energy" does not include:
48892 (i) black liquor;
48893 (ii) treated woods; or
48894 (iii) biomass from municipal solid waste other than methane produced:
48895 (A) at landfills; or
48896 (B) as a byproduct of the treatment of wastewater residuals.
48897 (12) (a) "Bundled transaction" means the sale of two or more items of tangible personal
48898 property if:
48899 (i) one or more of the items of tangible personal property is food and food ingredients;
48900 and
48901 (ii) the items of tangible personal property are:
48902 (A) distinct and identifiable; and
48903 (B) sold for one price that is not itemized.
48904 (b) "Bundled transaction" does not include the sale of tangible personal property if the
48905 sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of
48906 tangible personal property included in the transaction.
48907 (c) For purposes of Subsection (12)(a)(ii)(A), tangible personal property that is distinct
48908 and identifiable does not include:
48909 (i) packaging that:
48910 (A) accompanies the sale of the tangible personal property; and
48911 (B) is incidental or immaterial to the sale of the tangible personal property;
48912 (ii) tangible personal property provided free of charge with the purchase of another
48913 item of tangible personal property; or
48914 (iii) an item of tangible personal property included in the definition of "purchase

48915 price."
48916 (d) For purposes of Subsection (12)(c)(ii), an item of tangible personal property is
48917 provided free of charge with the purchase of another item of tangible personal property if the
48918 sales price of the purchased item of tangible personal property does not vary depending on the
48919 inclusion of the tangible personal property provided free of charge.
48920 (13) "Certified automated system" means software certified by the governing board of
48921 the agreement in accordance with Section 59-12-102.1 that:
48922 (a) calculates the agreement sales and use tax imposed within a local taxing
48923 jurisdiction:
48924 (i) on a transaction; and
48925 (ii) in the states that are members of the agreement;
48926 (b) determines the amount of agreement sales and use tax to remit to a state that is a
48927 member of the agreement; and
48928 (c) maintains a record of the transaction described in Subsection (13)(a)(i).
48929 (14) "Certified service provider" means an agent certified:
48930 (a) by the governing board of the agreement in accordance with Section 59-12-102.1;
48931 and
48932 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
48933 use tax other than the seller's obligation under Section 59-12-107.4 to remit a tax on the seller's
48934 own purchases.
48935 (15) (a) Subject to Subsection (15)(b), "clothing" means all human wearing apparel
48936 suitable for general use.
48937 (b) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
48938 Administrative Rulemaking Act, the commission shall make rules:
48939 (i) listing the items that constitute "clothing"; and
48940 (ii) that are consistent with the list of items that constitute "clothing" under the
48941 agreement.
48942 (16) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.
48943 (17) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
48944 fuels that does not constitute industrial use under Subsection (42) or residential use under
48945 Subsection (80).

48946 (18) (a) "Common carrier" means a person engaged in or transacting the business of
48947 transporting passengers, freight, merchandise, or other property for hire within this state.
48948 (b) (i) "Common carrier" does not include a person who, at the time the person is
48949 traveling to or from that person's place of employment, transports a passenger to or from the
48950 passenger's place of employment.
48951 (ii) For purposes of Subsection (18)(b)(i), in accordance with [~~Title 63, Chapter 46a~~]
48952 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules
48953 defining what constitutes a person's place of employment.
48954 (19) "Component part" includes:
48955 (a) poultry, dairy, and other livestock feed, and their components;
48956 (b) baling ties and twine used in the baling of hay and straw;
48957 (c) fuel used for providing temperature control of orchards and commercial
48958 greenhouses doing a majority of their business in wholesale sales, and for providing power for
48959 off-highway type farm machinery; and
48960 (d) feed, seeds, and seedlings.
48961 (20) "Computer" means an electronic device that accepts information:
48962 (a) (i) in digital form; or
48963 (ii) in a form similar to digital form; and
48964 (b) manipulates that information for a result based on a sequence of instructions.
48965 (21) "Computer software" means a set of coded instructions designed to cause:
48966 (a) a computer to perform a task; or
48967 (b) automatic data processing equipment to perform a task.
48968 (22) "Construction materials" means any tangible personal property that will be
48969 converted into real property.
48970 (23) "Delivered electronically" means delivered to a purchaser by means other than
48971 tangible storage media.
48972 (24) (a) "Delivery charge" means a charge:
48973 (i) by a seller of:
48974 (A) tangible personal property; or
48975 (B) services; and
48976 (ii) for preparation and delivery of the tangible personal property or services described

48977 in Subsection (24)(a)(i) to a location designated by the purchaser.
48978 (b) "Delivery charge" includes a charge for the following:
48979 (i) transportation;
48980 (ii) shipping;
48981 (iii) postage;
48982 (iv) handling;
48983 (v) crating; or
48984 (vi) packing.
48985 (25) (a) "Dental prosthesis" means the following if fabricated in a laboratory:
48986 (i) a bridge;
48987 (ii) a crown if that crown covers at least 75% of a tooth structure;
48988 (iii) a denture;
48989 (iv) an implant;
48990 (v) an orthodontic device designed to:
48991 (A) retain the position or spacing of teeth; and
48992 (B) replace a missing tooth;
48993 (vi) a partial denture; or
48994 (vii) a device similar to Subsections (25)(a)(i) through (vi).
48995 (b) "Dental prosthesis" does not include an appliance or device, other than a device
48996 described in Subsection (25)(a), if that appliance or device is used in orthodontic therapy to
48997 apply force to the teeth and their supporting structures to:
48998 (i) produce changes in their relationship to each other; and
48999 (ii) control their growth and development.
49000 (26) "Dietary supplement" means a product, other than tobacco, that:
49001 (a) is intended to supplement the diet;
49002 (b) contains one or more of the following dietary ingredients:
49003 (i) a vitamin;
49004 (ii) a mineral;
49005 (iii) an herb or other botanical;
49006 (iv) an amino acid;
49007 (v) a dietary substance for use by humans to supplement the diet by increasing the total

49008 dietary intake; or
49009 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
49010 described in Subsections (26)(b)(i) through (v);
49011 (c) (i) except as provided in Subsection (26)(c)(ii), is intended for ingestion in:
49012 (A) tablet form;
49013 (B) capsule form;
49014 (C) powder form;
49015 (D) softgel form;
49016 (E) gelcap form; or
49017 (F) liquid form; or
49018 (ii) notwithstanding Subsection (26)(c)(i), if the product is not intended for ingestion in
49019 a form described in Subsections (26)(c)(i)(A) through (F), is not represented:
49020 (A) as conventional food; and
49021 (B) for use as a sole item of:
49022 (I) a meal; or
49023 (II) the diet; and
49024 (d) is required to be labeled as a dietary supplement:
49025 (i) identifiable by the "Supplemental Facts" box found on the label; and
49026 (ii) as required by 21 C.F.R. Sec. 101.36.
49027 (27) (a) "Direct mail" means printed material delivered or distributed by United States
49028 mail or other delivery service:
49029 (i) to:
49030 (A) a mass audience; or
49031 (B) addressees on a mailing list provided by a purchaser of the mailing list; and
49032 (ii) if the cost of the printed material is not billed directly to the recipients.
49033 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
49034 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
49035 (c) "Direct mail" does not include multiple items of printed material delivered to a
49036 single address.
49037 (28) (a) "Disposable home medical equipment or supplies" means medical equipment
49038 or supplies that:

49039 (i) cannot withstand repeated use; and
49040 (ii) are purchased by, for, or on behalf of a person other than:
49041 (A) a health care facility as defined in Section 26-21-2;
49042 (B) a health care provider as defined in Section 78-14-3;
49043 (C) an office of a health care provider described in Subsection (28)(a)(ii)(B); or
49044 (D) a person similar to a person described in Subsections (28)(a)(ii)(A) through (C).
49045 (b) "Disposable home medical equipment or supplies" does not include:
49046 (i) a drug;
49047 (ii) durable medical equipment;
49048 (iii) a hearing aid;
49049 (iv) a hearing aid accessory;
49050 (v) mobility enhancing equipment; or
49051 (vi) tangible personal property used to correct impaired vision, including:
49052 (A) eyeglasses; or
49053 (B) contact lenses.
49054 (c) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
49055 Administrative Rulemaking Act, the commission may by rule define what constitutes medical
49056 equipment or supplies.
49057 (29) (a) "Drug" means a compound, substance, or preparation, or a component of a
49058 compound, substance, or preparation that is:
49059 (i) recognized in:
49060 (A) the official United States Pharmacopoeia;
49061 (B) the official Homeopathic Pharmacopoeia of the United States;
49062 (C) the official National Formulary; or
49063 (D) a supplement to a publication listed in Subsections (29)(a)(i)(A) through (C);
49064 (ii) intended for use in the:
49065 (A) diagnosis of disease;
49066 (B) cure of disease;
49067 (C) mitigation of disease;
49068 (D) treatment of disease; or
49069 (E) prevention of disease; or

49070 (iii) intended to affect:
49071 (A) the structure of the body; or
49072 (B) any function of the body.
49073 (b) "Drug" does not include:
49074 (i) food and food ingredients;
49075 (ii) a dietary supplement;
49076 (iii) an alcoholic beverage; or
49077 (iv) a prosthetic device.
49078 (30) (a) Except as provided in Subsection (30)(c), "durable medical equipment" means
49079 equipment that:
49080 (i) can withstand repeated use;
49081 (ii) is primarily and customarily used to serve a medical purpose;
49082 (iii) generally is not useful to a person in the absence of illness or injury; and
49083 (iv) is not worn in or on the body.
49084 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
49085 equipment described in Subsection (30)(a).
49086 (c) Notwithstanding Subsection (30)(a), "durable medical equipment" does not include
49087 mobility enhancing equipment.
49088 (31) "Electronic" means:
49089 (a) relating to technology; and
49090 (b) having:
49091 (i) electrical capabilities;
49092 (ii) digital capabilities;
49093 (iii) magnetic capabilities;
49094 (iv) wireless capabilities;
49095 (v) optical capabilities;
49096 (vi) electromagnetic capabilities; or
49097 (vii) capabilities similar to Subsections (31)(b)(i) through (vi).
49098 (32) "Employee" is as defined in Section 59-10-401.
49099 (33) "Fixed guideway" means a public transit facility that uses and occupies:
49100 (a) rail for the use of public transit; or

49101 (b) a separate right-of-way for the use of public transit.
49102 (34) (a) "Food and food ingredients" means substances:
49103 (i) regardless of whether the substances are in:
49104 (A) liquid form;
49105 (B) concentrated form;
49106 (C) solid form;
49107 (D) frozen form;
49108 (E) dried form; or
49109 (F) dehydrated form; and
49110 (ii) that are:
49111 (A) sold for:
49112 (I) ingestion by humans; or
49113 (II) chewing by humans; and
49114 (B) consumed for the substance's:
49115 (I) taste; or
49116 (II) nutritional value.
49117 (b) "Food and food ingredients" includes an item described in Subsection (66)(b)(iii).
49118 (c) "Food and food ingredients" does not include:
49119 (i) an alcoholic beverage;
49120 (ii) tobacco; or
49121 (iii) prepared food.
49122 (35) (a) "Fundraising sales" means sales:
49123 (i) (A) made by a school; or
49124 (B) made by a school student;
49125 (ii) that are for the purpose of raising funds for the school to purchase equipment,
49126 materials, or provide transportation; and
49127 (iii) that are part of an officially sanctioned school activity.
49128 (b) For purposes of Subsection (35)(a)(iii), "officially sanctioned school activity"
49129 means a school activity:
49130 (i) that is conducted in accordance with a formal policy adopted by the school or school
49131 district governing the authorization and supervision of fundraising activities;

49132 (ii) that does not directly or indirectly compensate an individual teacher or other
49133 educational personnel by direct payment, commissions, or payment in kind; and
49134 (iii) the net or gross revenues from which are deposited in a dedicated account
49135 controlled by the school or school district.
49136 (36) "Geothermal energy" means energy contained in heat that continuously flows
49137 outward from the earth that is used as the sole source of energy to produce electricity.
49138 (37) "Governing board of the agreement" means the governing board of the agreement
49139 that is:
49140 (a) authorized to administer the agreement; and
49141 (b) established in accordance with the agreement.
49142 (38) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:
49143 (i) the executive branch of the state, including all departments, institutions, boards,
49144 divisions, bureaus, offices, commissions, and committees;
49145 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
49146 Office of the Court Administrator, and similar administrative units in the judicial branch;
49147 (iii) the legislative branch of the state, including the House of Representatives, the
49148 Senate, the Legislative Printing Office, the Office of Legislative Research and General
49149 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
49150 Analyst;
49151 (iv) the National Guard;
49152 (v) an independent entity as defined in Section 63E-1-102; or
49153 (vi) a political subdivision as defined in Section 17B-1-102.
49154 (b) "Governmental entity" does not include the state systems of public and higher
49155 education, including:
49156 (i) a college campus of the Utah College of Applied Technology;
49157 (ii) a school;
49158 (iii) the State Board of Education;
49159 (iv) the State Board of Regents; or
49160 (v) a state institution of higher education as defined in Section 53B-3-102.
49161 (39) (a) "Hearing aid" means:
49162 (i) an instrument or device having an electronic component that is designed to:

49163 (A) (I) improve impaired human hearing; or
49164 (II) correct impaired human hearing; and
49165 (B) (I) be worn in the human ear; or
49166 (II) affixed behind the human ear;
49167 (ii) an instrument or device that is surgically implanted into the cochlea; or
49168 (iii) a telephone amplifying device.
49169 (b) "Hearing aid" does not include:
49170 (i) except as provided in Subsection (39)(a)(i)(B) or (39)(a)(ii), an instrument or device
49171 having an electronic component that is designed to be worn on the body;
49172 (ii) except as provided in Subsection (39)(a)(iii), an assistive listening device or system
49173 designed to be used by one individual, including:
49174 (A) a personal amplifying system;
49175 (B) a personal FM system;
49176 (C) a television listening system; or
49177 (D) a device or system similar to a device or system described in Subsections
49178 (39)(b)(ii)(A) through (C); or
49179 (iii) an assistive listening device or system designed to be used by more than one
49180 individual, including:
49181 (A) a device or system installed in:
49182 (I) an auditorium;
49183 (II) a church;
49184 (III) a conference room;
49185 (IV) a synagogue; or
49186 (V) a theater; or
49187 (B) a device or system similar to a device or system described in Subsections
49188 (39)(b)(iii)(A)(I) through (V).
49189 (40) (a) "Hearing aid accessory" means a hearing aid:
49190 (i) component;
49191 (ii) attachment; or
49192 (iii) accessory.
49193 (b) "Hearing aid accessory" includes:

49194 (i) a hearing aid neck loop;
49195 (ii) a hearing aid cord;
49196 (iii) a hearing aid ear mold;
49197 (iv) hearing aid tubing;
49198 (v) a hearing aid ear hook; or
49199 (vi) a hearing aid remote control.
49200 (c) "Hearing aid accessory" does not include:
49201 (i) a component, attachment, or accessory designed to be used only with an:
49202 (A) instrument or device described in Subsection (39)(b)(i); or
49203 (B) assistive listening device or system described in Subsection (39)(b)(ii) or (iii); or
49204 (ii) a hearing aid battery.
49205 (41) "Hydroelectric energy" means water used as the sole source of energy to produce
49206 electricity.
49207 (42) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
49208 other fuels:
49209 (a) in mining or extraction of minerals;
49210 (b) in agricultural operations to produce an agricultural product up to the time of
49211 harvest or placing the agricultural product into a storage facility, including:
49212 (i) commercial greenhouses;
49213 (ii) irrigation pumps;
49214 (iii) farm machinery;
49215 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
49216 registered under Title 41, Chapter 1a, Part 2, Registration; and
49217 (v) other farming activities;
49218 (c) in manufacturing tangible personal property at an establishment described in SIC
49219 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
49220 Executive Office of the President, Office of Management and Budget;
49221 (d) by a scrap recycler if:
49222 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
49223 one or more of the following items into prepared grades of processed materials for use in new
49224 products:

49225 (A) iron;
49226 (B) steel;
49227 (C) nonferrous metal;
49228 (D) paper;
49229 (E) glass;
49230 (F) plastic;
49231 (G) textile; or
49232 (H) rubber; and
49233 (ii) the new products under Subsection (42)(d)(i) would otherwise be made with
49234 nonrecycled materials; or
49235 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a
49236 cogeneration facility as defined in Section 54-2-1.
49237 (43) (a) Except as provided in Subsection (43)(b), "installation charge" means a charge
49238 for installing tangible personal property.
49239 (b) Notwithstanding Subsection (43)(a), "installation charge" does not include a charge
49240 for repairs or renovations of tangible personal property.
49241 (44) (a) "Lease" or "rental" means a transfer of possession or control of tangible
49242 personal property for:
49243 (i) (A) a fixed term; or
49244 (B) an indeterminate term; and
49245 (ii) consideration.
49246 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
49247 amount of consideration may be increased or decreased by reference to the amount realized
49248 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
49249 Code.
49250 (c) "Lease" or "rental" does not include:
49251 (i) a transfer of possession or control of property under a security agreement or
49252 deferred payment plan that requires the transfer of title upon completion of the required
49253 payments;
49254 (ii) a transfer of possession or control of property under an agreement that requires the
49255 transfer of title:

49256 (A) upon completion of required payments; and
49257 (B) if the payment of an option price does not exceed the greater of:
49258 (I) $100; or
49259 (II) 1% of the total required payments; or
49260 (iii) providing tangible personal property along with an operator for a fixed period of
49261 time or an indeterminate period of time if the operator is necessary for equipment to perform as
49262 designed.
49263 (d) For purposes of Subsection (44)(c)(iii), an operator is necessary for equipment to
49264 perform as designed if the operator's duties exceed the:
49265 (i) set-up of tangible personal property;
49266 (ii) maintenance of tangible personal property; or
49267 (iii) inspection of tangible personal property.
49268 (45) "Load and leave" means delivery to a purchaser by use of a tangible storage media
49269 if the tangible storage media is not physically transferred to the purchaser.
49270 (46) "Local taxing jurisdiction" means a:
49271 (a) county that is authorized to impose an agreement sales and use tax;
49272 (b) city that is authorized to impose an agreement sales and use tax; or
49273 (c) town that is authorized to impose an agreement sales and use tax.
49274 (47) "Manufactured home" is as defined in Section 58-56-3.
49275 (48) For purposes of Section 59-12-104, "manufacturing facility" means:
49276 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
49277 Industrial Classification Manual of the federal Executive Office of the President, Office of
49278 Management and Budget;
49279 (b) a scrap recycler if:
49280 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
49281 one or more of the following items into prepared grades of processed materials for use in new
49282 products:
49283 (A) iron;
49284 (B) steel;
49285 (C) nonferrous metal;
49286 (D) paper;

49287 (E) glass;
49288 (F) plastic;
49289 (G) textile; or
49290 (H) rubber; and
49291 (ii) the new products under Subsection (48)(b)(i) would otherwise be made with
49292 nonrecycled materials; or
49293 (c) a cogeneration facility as defined in Section 54-2-1.
49294 (49) "Member of the immediate family of the producer" means a person who is related
49295 to a producer described in Subsection 59-12-104(20)(a) as a:
49296 (a) child or stepchild, regardless of whether the child or stepchild is:
49297 (i) an adopted child or adopted stepchild; or
49298 (ii) a foster child or foster stepchild;
49299 (b) grandchild or stepgrandchild;
49300 (c) grandparent or stepgrandparent;
49301 (d) nephew or stepnephew;
49302 (e) niece or stepniece;
49303 (f) parent or stepparent;
49304 (g) sibling or stepsibling;
49305 (h) spouse;
49306 (i) person who is the spouse of a person described in Subsections (49)(a) through (g);
49307 or
49308 (j) person similar to a person described in Subsections (49)(a) through (i) as
49309 determined by the commission by rule made in accordance with [~~Title 63, Chapter 46a~~] Title
49310 63G, Chapter 3, Utah Administrative Rulemaking Act.
49311 (50) "Mobile home" is as defined in Section 58-56-3.
49312 (51) "Mobile telecommunications service" is as defined in the Mobile
49313 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
49314 (52) (a) Except as provided in Subsection (52)(c), "mobility enhancing equipment"
49315 means equipment that is:
49316 (i) primarily and customarily used to provide or increase the ability to move from one
49317 place to another;

49318 (ii) appropriate for use in a:
49319 (A) home; or
49320 (B) motor vehicle; and
49321 (iii) not generally used by persons with normal mobility.
49322 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
49323 the equipment described in Subsection (52)(a).
49324 (c) Notwithstanding Subsection (52)(a), "mobility enhancing equipment" does not
49325 include:
49326 (i) a motor vehicle;
49327 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
49328 vehicle manufacturer;
49329 (iii) durable medical equipment; or
49330 (iv) a prosthetic device.
49331 (53) "Model 1 seller" means a seller that has selected a certified service provider as the
49332 seller's agent to perform all of the seller's sales and use tax functions for agreement sales and
49333 use taxes other than the seller's obligation under Section 59-12-107.4 to remit a tax on the
49334 seller's own purchases.
49335 (54) "Model 2 seller" means a seller that:
49336 (a) except as provided in Subsection (54)(b), has selected a certified automated system
49337 to perform the seller's sales tax functions for agreement sales and use taxes; and
49338 (b) notwithstanding Subsection (54)(a), retains responsibility for remitting all of the
49339 sales tax:
49340 (i) collected by the seller; and
49341 (ii) to the appropriate local taxing jurisdiction.
49342 (55) (a) Subject to Subsection (55)(b), "model 3 seller" means a seller that has:
49343 (i) sales in at least five states that are members of the agreement;
49344 (ii) total annual sales revenues of at least $500,000,000;
49345 (iii) a proprietary system that calculates the amount of tax:
49346 (A) for an agreement sales and use tax; and
49347 (B) due to each local taxing jurisdiction; and
49348 (iv) entered into a performance agreement with the governing board of the agreement.

49349 (b) For purposes of Subsection (55)(a), "model 3 seller" includes an affiliated group of
49350 sellers using the same proprietary system.
49351 (56) "Modular home" means a modular unit as defined in Section 58-56-3.
49352 (57) "Motor vehicle" is as defined in Section 41-1a-102.
49353 (58) "Oil shale" means a group of fine black to dark brown shales containing
49354 bituminous material that yields petroleum upon distillation.
49355 (59) (a) "Other fuels" means products that burn independently to produce heat or
49356 energy.
49357 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
49358 personal property.
49359 (60) "Pawnbroker" is as defined in Section 13-32a-102.
49360 (61) "Pawn transaction" is as defined in Section 13-32a-102.
49361 (62) (a) "Permanently attached to real property" means that for tangible personal
49362 property attached to real property:
49363 (i) the attachment of the tangible personal property to the real property:
49364 (A) is essential to the use of the tangible personal property; and
49365 (B) suggests that the tangible personal property will remain attached to the real
49366 property in the same place over the useful life of the tangible personal property; or
49367 (ii) if the tangible personal property is detached from the real property, the detachment
49368 would:
49369 (A) cause substantial damage to the tangible personal property; or
49370 (B) require substantial alteration or repair of the real property to which the tangible
49371 personal property is attached.
49372 (b) "Permanently attached to real property" includes:
49373 (i) the attachment of an accessory to the tangible personal property if the accessory is:
49374 (A) essential to the operation of the tangible personal property; and
49375 (B) attached only to facilitate the operation of the tangible personal property;
49376 (ii) a temporary detachment of tangible personal property from real property for a
49377 repair or renovation if the repair or renovation is performed where the tangible personal
49378 property and real property are located; or
49379 (iii) an attachment of the following tangible personal property to real property,

49380 regardless of whether the attachment to real property is only through a line that supplies water,
49381 electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by
49382 rule made in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
49383 Administrative Rulemaking Act:
49384 (A) property attached to oil, gas, or water pipelines, other than the property listed in
49385 Subsection (62)(c)(iii);
49386 (B) a hot water heater;
49387 (C) a water softener system; or
49388 (D) a water filtration system, other than a water filtration system manufactured as part
49389 of a refrigerator.
49390 (c) "Permanently attached to real property" does not include:
49391 (i) the attachment of portable or movable tangible personal property to real property if
49392 that portable or movable tangible personal property is attached to real property only for:
49393 (A) convenience;
49394 (B) stability; or
49395 (C) for an obvious temporary purpose;
49396 (ii) the detachment of tangible personal property from real property other than the
49397 detachment described in Subsection (62)(b)(ii); or
49398 (iii) an attachment of the following tangible personal property to real property if the
49399 attachment to real property is only through a line that supplies water, electricity, gas, telephone,
49400 cable, or supplies a similar item as determined by the commission by rule made in accordance
49401 with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
49402 (A) a refrigerator;
49403 (B) a washer;
49404 (C) a dryer;
49405 (D) a stove;
49406 (E) a television;
49407 (F) a computer;
49408 (G) a telephone; or
49409 (H) tangible personal property similar to Subsections (62)(c)(iii)(A) through (G) as
49410 determined by the commission by rule made in accordance with [~~Title 63, Chapter 46a~~] Title

49411 63G, Chapter 3, Utah Administrative Rulemaking Act.
49412 (63) "Person" includes any individual, firm, partnership, joint venture, association,
49413 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
49414 municipality, district, or other local governmental entity of the state, or any group or
49415 combination acting as a unit.
49416 (64) "Place of primary use":
49417 (a) for telephone service other than mobile telecommunications service, means the
49418 street address representative of where the purchaser's use of the telephone service primarily
49419 occurs, which shall be:
49420 (i) the residential street address of the purchaser; or
49421 (ii) the primary business street address of the purchaser; or
49422 (b) for mobile telecommunications service, is as defined in the Mobile
49423 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
49424 (65) "Postproduction" means an activity related to the finishing or duplication of a
49425 medium described in Subsection 59-12-104(56)(a).
49426 (66) (a) "Prepared food" means:
49427 (i) food:
49428 (A) sold in a heated state; or
49429 (B) heated by a seller;
49430 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
49431 item; or
49432 (iii) except as provided in Subsection (66)(c), food sold with an eating utensil provided
49433 by the seller, including a:
49434 (A) plate;
49435 (B) knife;
49436 (C) fork;
49437 (D) spoon;
49438 (E) glass;
49439 (F) cup;
49440 (G) napkin; or
49441 (H) straw.

49442 (b) "Prepared food" does not include:
49443 (i) food that a seller only:
49444 (A) cuts;
49445 (B) repackages; or
49446 (C) pasteurizes; or
49447 (ii) (A) the following:
49448 (I) raw egg;
49449 (II) raw fish;
49450 (III) raw meat;
49451 (IV) raw poultry; or
49452 (V) a food containing an item described in Subsections (66)(b)(ii)(A)(I) through (IV);
49453 and
49454 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
49455 Food and Drug Administration's Food Code that a consumer cook the items described in
49456 Subsection (66)(b)(ii)(A) to prevent food borne illness; or
49457 (iii) the following if sold without eating utensils provided by the seller:
49458 (A) food and food ingredients sold by a seller if the seller's proper primary
49459 classification under the 2002 North American Industry Classification System of the federal
49460 Executive Office of the President, Office of Management and Budget, is manufacturing in
49461 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
49462 Manufacturing;
49463 (B) food and food ingredients sold in an unheated state:
49464 (I) by weight or volume; and
49465 (II) as a single item; or
49466 (C) a bakery item, including:
49467 (I) a bagel;
49468 (II) a bar;
49469 (III) a biscuit;
49470 (IV) bread;
49471 (V) a bun;
49472 (VI) a cake;

49473 (VII) a cookie;
49474 (VIII) a croissant;
49475 (IX) a danish;
49476 (X) a donut;
49477 (XI) a muffin;
49478 (XII) a pastry;
49479 (XIII) a pie;
49480 (XIV) a roll;
49481 (XV) a tart;
49482 (XVI) a torte; or
49483 (XVII) a tortilla.
49484 (c) Notwithstanding Subsection (66)(a)(iii), an eating utensil provided by the seller
49485 does not include the following used to transport the food:
49486 (i) a container; or
49487 (ii) packaging.
49488 (67) "Prescription" means an order, formula, or recipe that is issued:
49489 (a) (i) orally;
49490 (ii) in writing;
49491 (iii) electronically; or
49492 (iv) by any other manner of transmission; and
49493 (b) by a licensed practitioner authorized by the laws of a state.
49494 (68) (a) Except as provided in Subsection (68)(b)(ii) or (iii), "prewritten computer
49495 software" means computer software that is not designed and developed:
49496 (i) by the author or other creator of the computer software; and
49497 (ii) to the specifications of a specific purchaser.
49498 (b) "Prewritten computer software" includes:
49499 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
49500 software is not designed and developed:
49501 (A) by the author or other creator of the computer software; and
49502 (B) to the specifications of a specific purchaser;
49503 (ii) notwithstanding Subsection (68)(a), computer software designed and developed by

49504 the author or other creator of the computer software to the specifications of a specific purchaser
49505 if the computer software is sold to a person other than the purchaser; or
49506 (iii) notwithstanding Subsection (68)(a) and except as provided in Subsection (68)(c),
49507 prewritten computer software or a prewritten portion of prewritten computer software:
49508 (A) that is modified or enhanced to any degree; and
49509 (B) if the modification or enhancement described in Subsection (68)(b)(iii)(A) is
49510 designed and developed to the specifications of a specific purchaser.
49511 (c) Notwithstanding Subsection (68)(b)(iii), "prewritten computer software" does not
49512 include a modification or enhancement described in Subsection (68)(b)(iii) if the charges for
49513 the modification or enhancement are:
49514 (i) reasonable; and
49515 (ii) separately stated on the invoice or other statement of price provided to the
49516 purchaser.
49517 (69) (a) "Prosthetic device" means a device that is worn on or in the body to:
49518 (i) artificially replace a missing portion of the body;
49519 (ii) prevent or correct a physical deformity or physical malfunction; or
49520 (iii) support a weak or deformed portion of the body.
49521 (b) "Prosthetic device" includes:
49522 (i) parts used in the repairs or renovation of a prosthetic device;
49523 (ii) replacement parts for a prosthetic device; or
49524 (iii) a dental prosthesis.
49525 (c) "Prosthetic device" does not include:
49526 (i) corrective eyeglasses;
49527 (ii) contact lenses; or
49528 (iii) hearing aids.
49529 (70) (a) "Protective equipment" means an item:
49530 (i) for human wear; and
49531 (ii) that is:
49532 (A) designed as protection:
49533 (I) to the wearer against injury or disease; or
49534 (II) against damage or injury of other persons or property; and

49535 (B) not suitable for general use.
49536 (b) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
49537 Administrative Rulemaking Act, the commission shall make rules:
49538 (i) listing the items that constitute "protective equipment"; and
49539 (ii) that are consistent with the list of items that constitute "protective equipment"
49540 under the agreement.
49541 (71) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
49542 printed matter, other than a photocopy:
49543 (i) regardless of:
49544 (A) characteristics;
49545 (B) copyright;
49546 (C) form;
49547 (D) format;
49548 (E) method of reproduction; or
49549 (F) source; and
49550 (ii) made available in printed or electronic format.
49551 (b) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
49552 Administrative Rulemaking Act, the commission may by rule define the term "photocopy."
49553 (72) (a) "Purchase price" and "sales price" mean the total amount of consideration:
49554 (i) valued in money; and
49555 (ii) for which tangible personal property or services are:
49556 (A) sold;
49557 (B) leased; or
49558 (C) rented.
49559 (b) "Purchase price" and "sales price" include:
49560 (i) the seller’s cost of the tangible personal property or services sold;
49561 (ii) expenses of the seller, including:
49562 (A) the cost of materials used;
49563 (B) a labor cost;
49564 (C) a service cost;
49565 (D) interest;

49566 (E) a loss;
49567 (F) the cost of transportation to the seller; or
49568 (G) a tax imposed on the seller; or
49569 (iii) a charge by the seller for any service necessary to complete the sale.
49570 (c) "Purchase price" and "sales price" do not include:
49571 (i) a discount:
49572 (A) in a form including:
49573 (I) cash;
49574 (II) term; or
49575 (III) coupon;
49576 (B) that is allowed by a seller;
49577 (C) taken by a purchaser on a sale; and
49578 (D) that is not reimbursed by a third party; or
49579 (ii) the following if separately stated on an invoice, bill of sale, or similar document
49580 provided to the purchaser:
49581 (A) the amount of a trade-in;
49582 (B) the following from credit extended on the sale of tangible personal property or
49583 services:
49584 (I) interest charges;
49585 (II) financing charges; or
49586 (III) carrying charges;
49587 (C) a tax or fee legally imposed directly on the consumer;
49588 (D) a delivery charge; or
49589 (E) an installation charge.
49590 (73) "Purchaser" means a person to whom:
49591 (a) a sale of tangible personal property is made; or
49592 (b) a service is furnished.
49593 (74) "Regularly rented" means:
49594 (a) rented to a guest for value three or more times during a calendar year; or
49595 (b) advertised or held out to the public as a place that is regularly rented to guests for
49596 value.

49597 (75) "Renewable energy" means:
49598 (a) biomass energy;
49599 (b) hydroelectric energy;
49600 (c) geothermal energy;
49601 (d) solar energy; or
49602 (e) wind energy.
49603 (76) (a) "Renewable energy production facility" means a facility that:
49604 (i) uses renewable energy to produce electricity; and
49605 (ii) has a production capacity of 20 kilowatts or greater.
49606 (b) A facility is a renewable energy production facility regardless of whether the
49607 facility is:
49608 (i) connected to an electric grid; or
49609 (ii) located on the premises of an electricity consumer.
49610 (77) "Rental" is as defined in Subsection (44).
49611 (78) "Repairs or renovations of tangible personal property" means:
49612 (a) a repair or renovation of tangible personal property that is not permanently attached
49613 to real property; or
49614 (b) attaching tangible personal property to other tangible personal property if the other
49615 tangible personal property to which the tangible personal property is attached is not
49616 permanently attached to real property.
49617 (79) "Research and development" means the process of inquiry or experimentation
49618 aimed at the discovery of facts, devices, technologies, or applications and the process of
49619 preparing those devices, technologies, or applications for marketing.
49620 (80) "Residential use" means the use in or around a home, apartment building, sleeping
49621 quarters, and similar facilities or accommodations.
49622 (81) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
49623 than:
49624 (a) resale;
49625 (b) sublease; or
49626 (c) subrent.
49627 (82) (a) "Retailer" means any person engaged in a regularly organized business in

49628 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
49629 who is selling to the user or consumer and not for resale.
49630 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
49631 engaged in the business of selling to users or consumers within the state.
49632 (83) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
49633 otherwise, in any manner, of tangible personal property or any other taxable transaction under
49634 Subsection 59-12-103(1), for consideration.
49635 (b) "Sale" includes:
49636 (i) installment and credit sales;
49637 (ii) any closed transaction constituting a sale;
49638 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
49639 chapter;
49640 (iv) any transaction if the possession of property is transferred but the seller retains the
49641 title as security for the payment of the price; and
49642 (v) any transaction under which right to possession, operation, or use of any article of
49643 tangible personal property is granted under a lease or contract and the transfer of possession
49644 would be taxable if an outright sale were made.
49645 (84) "Sale at retail" is as defined in Subsection (81).
49646 (85) "Sale-leaseback transaction" means a transaction by which title to tangible
49647 personal property that is subject to a tax under this chapter is transferred:
49648 (a) by a purchaser-lessee;
49649 (b) to a lessor;
49650 (c) for consideration; and
49651 (d) if:
49652 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
49653 of the tangible personal property;
49654 (ii) the sale of the tangible personal property to the lessor is intended as a form of
49655 financing:
49656 (A) for the property; and
49657 (B) to the purchaser-lessee; and
49658 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee

49659 is required to:
49660 (A) capitalize the property for financial reporting purposes; and
49661 (B) account for the lease payments as payments made under a financing arrangement.
49662 (86) "Sales price" is as defined in Subsection (72).
49663 (87) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
49664 amounts charged by a school:
49665 (i) sales that are directly related to the school's educational functions or activities
49666 including:
49667 (A) the sale of:
49668 (I) textbooks;
49669 (II) textbook fees;
49670 (III) laboratory fees;
49671 (IV) laboratory supplies; or
49672 (V) safety equipment;
49673 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
49674 that:
49675 (I) a student is specifically required to wear as a condition of participation in a
49676 school-related event or school-related activity; and
49677 (II) is not readily adaptable to general or continued usage to the extent that it takes the
49678 place of ordinary clothing;
49679 (C) sales of the following if the net or gross revenues generated by the sales are
49680 deposited into a school district fund or school fund dedicated to school meals:
49681 (I) food and food ingredients; or
49682 (II) prepared food; or
49683 (D) transportation charges for official school activities; or
49684 (ii) amounts paid to or amounts charged by a school for admission to a school-related
49685 event or school-related activity.
49686 (b) "Sales relating to schools" does not include:
49687 (i) bookstore sales of items that are not educational materials or supplies;
49688 (ii) except as provided in Subsection (87)(a)(i)(B):
49689 (A) clothing;

49690 (B) clothing accessories or equipment;
49691 (C) protective equipment; or
49692 (D) sports or recreational equipment; or
49693 (iii) amounts paid to or amounts charged by a school for admission to a school-related
49694 event or school-related activity if the amounts paid or charged are passed through to a person:
49695 (A) other than a:
49696 (I) school;
49697 (II) nonprofit organization authorized by a school board or a governing body of a
49698 private school to organize and direct a competitive secondary school activity; or
49699 (III) nonprofit association authorized by a school board or a governing body of a
49700 private school to organize and direct a competitive secondary school activity; and
49701 (B) that is required to collect sales and use taxes under this chapter.
49702 (c) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
49703 Administrative Rulemaking Act, the commission may make rules defining the term "passed
49704 through."
49705 (88) For purposes of this section and Section 59-12-104, "school":
49706 (a) means:
49707 (i) an elementary school or a secondary school that:
49708 (A) is a:
49709 (I) public school; or
49710 (II) private school; and
49711 (B) provides instruction for one or more grades kindergarten through 12; or
49712 (ii) a public school district; and
49713 (b) includes the Electronic High School as defined in Section 53A-15-1002.
49714 (89) "Seller" means a person that makes a sale, lease, or rental of:
49715 (a) tangible personal property; or
49716 (b) a service.
49717 (90) (a) "Semiconductor fabricating, processing, research, or development materials"
49718 means tangible personal property:
49719 (i) used primarily in the process of:
49720 (A) (I) manufacturing a semiconductor;

49721 (II) fabricating a semiconductor; or
49722 (III) research or development of a:
49723 (Aa) semiconductor; or
49724 (Bb) semiconductor manufacturing process; or
49725 (B) maintaining an environment suitable for a semiconductor; or
49726 (ii) consumed primarily in the process of:
49727 (A) (I) manufacturing a semiconductor;
49728 (II) fabricating a semiconductor; or
49729 (III) research or development of a:
49730 (Aa) semiconductor; or
49731 (Bb) semiconductor manufacturing process; or
49732 (B) maintaining an environment suitable for a semiconductor.
49733 (b) "Semiconductor fabricating, processing, research, or development materials"
49734 includes:
49735 (i) parts used in the repairs or renovations of tangible personal property described in
49736 Subsection (90)(a); or
49737 (ii) a chemical, catalyst, or other material used to:
49738 (A) produce or induce in a semiconductor a:
49739 (I) chemical change; or
49740 (II) physical change;
49741 (B) remove impurities from a semiconductor; or
49742 (C) improve the marketable condition of a semiconductor.
49743 (91) "Senior citizen center" means a facility having the primary purpose of providing
49744 services to the aged as defined in Section 62A-3-101.
49745 (92) "Simplified electronic return" means the electronic return:
49746 (a) described in Section 318(C) of the agreement; and
49747 (b) approved by the governing board of the agreement.
49748 (93) "Solar energy" means the sun used as the sole source of energy for producing
49749 electricity.
49750 (94) (a) "Sports or recreational equipment" means an item:
49751 (i) designed for human use; and

49752 (ii) that is:
49753 (A) worn in conjunction with:
49754 (I) an athletic activity; or
49755 (II) a recreational activity; and
49756 (B) not suitable for general use.
49757 (b) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
49758 Administrative Rulemaking Act, the commission shall make rules:
49759 (i) listing the items that constitute "sports or recreational equipment"; and
49760 (ii) that are consistent with the list of items that constitute "sports or recreational
49761 equipment" under the agreement.
49762 (95) "State" means the state of Utah, its departments, and agencies.
49763 (96) "Storage" means any keeping or retention of tangible personal property or any
49764 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
49765 sale in the regular course of business.
49766 (97) (a) "Tangible personal property" means personal property that:
49767 (i) may be:
49768 (A) seen;
49769 (B) weighed;
49770 (C) measured;
49771 (D) felt; or
49772 (E) touched; or
49773 (ii) is in any manner perceptible to the senses.
49774 (b) "Tangible personal property" includes:
49775 (i) electricity;
49776 (ii) water;
49777 (iii) gas;
49778 (iv) steam; or
49779 (v) prewritten computer software.
49780 (98) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon
49781 and require further processing other than mechanical blending before becoming finished
49782 petroleum products.

49783 (99) (a) "Telecommunications enabling or facilitating equipment, machinery, or
49784 software" means an item listed in Subsection (99)(b) if that item is purchased or leased
49785 primarily to enable or facilitate one or more of the following to function:
49786 (i) telecommunications switching or routing equipment, machinery, or software; or
49787 (ii) telecommunications transmission equipment, machinery, or software.
49788 (b) The following apply to Subsection (99)(a):
49789 (i) a pole;
49790 (ii) software;
49791 (iii) a supplementary power supply;
49792 (iv) temperature or environmental equipment or machinery;
49793 (v) test equipment;
49794 (vi) a tower; or
49795 (vii) equipment, machinery, or software that functions similarly to an item listed in
49796 Subsections (99)(b)(i) through (vi) as determined by the commission by rule made in
49797 accordance with Subsection (99)(c).
49798 (c) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
49799 Administrative Rulemaking Act, the commission may by rule define what constitutes
49800 equipment, machinery, or software that functions similarly to an item listed in Subsections
49801 (99)(b)(i) through (vi).
49802 (100) "Telecommunications equipment, machinery, or software required for 911
49803 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
49804 Sec. 20.18.
49805 (101) "Telecommunications maintenance or repair equipment, machinery, or software"
49806 means equipment, machinery, or software purchased or leased primarily to maintain or repair
49807 one or more of the following, regardless of whether the equipment, machinery, or software is
49808 purchased or leased as a spare part or as an upgrade or modification to one or more of the
49809 following:
49810 (a) telecommunications enabling or facilitating equipment, machinery, or software;
49811 (b) telecommunications switching or routing equipment, machinery, or software; or
49812 (c) telecommunications transmission equipment, machinery, or software.
49813 (102) (a) "Telecommunications switching or routing equipment, machinery, or

49814 software" means an item listed in Subsection (102)(b) if that item is purchased or leased
49815 primarily for switching or routing:
49816 (i) voice communications;
49817 (ii) data communications; or
49818 (iii) telephone service.
49819 (b) The following apply to Subsection (102)(a):
49820 (i) a bridge;
49821 (ii) a computer;
49822 (iii) a cross connect;
49823 (iv) a modem;
49824 (v) a multiplexer;
49825 (vi) plug in circuitry;
49826 (vii) a router;
49827 (viii) software;
49828 (ix) a switch; or
49829 (x) equipment, machinery, or software that functions similarly to an item listed in
49830 Subsections (102)(b)(i) through (ix) as determined by the commission by rule made in
49831 accordance with Subsection (102)(c).
49832 (c) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
49833 Administrative Rulemaking Act, the commission may by rule define what constitutes
49834 equipment, machinery, or software that functions similarly to an item listed in Subsections
49835 (102)(b)(i) through (ix).
49836 (103) (a) "Telecommunications transmission equipment, machinery, or software"
49837 means an item listed in Subsection (103)(b) if that item is purchased or leased primarily for
49838 sending, receiving, or transporting:
49839 (i) voice communications;
49840 (ii) data communications; or
49841 (iii) telephone service.
49842 (b) The following apply to Subsection (103)(a):
49843 (i) an amplifier;
49844 (ii) a cable;

49845 (iii) a closure;
49846 (iv) a conduit;
49847 (v) a controller;
49848 (vi) a duplexer;
49849 (vii) a filter;
49850 (viii) an input device;
49851 (ix) an input/output device;
49852 (x) an insulator;
49853 (xi) microwave machinery or equipment;
49854 (xii) an oscillator;
49855 (xiii) an output device;
49856 (xiv) a pedestal;
49857 (xv) a power converter;
49858 (xvi) a power supply;
49859 (xvii) a radio channel;
49860 (xviii) a radio receiver;
49861 (xix) a radio transmitter;
49862 (xx) a repeater;
49863 (xxi) software;
49864 (xxii) a terminal;
49865 (xxiii) a timing unit;
49866 (xxiv) a transformer;
49867 (xxv) a wire; or
49868 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
49869 Subsections (103)(b)(i) through (xxv) as determined by the commission by rule made in
49870 accordance with Subsection (103)(c).
49871 (c) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
49872 Administrative Rulemaking Act, the commission may by rule define what constitutes
49873 equipment, machinery, or software that functions similarly to an item listed in Subsections
49874 (103)(b)(i) through (xxv).
49875 (104) (a) "Telephone service" means a two-way transmission:

49876 (i) by:
49877 (A) wire;
49878 (B) radio;
49879 (C) lightwave; or
49880 (D) other electromagnetic means; and
49881 (ii) of one or more of the following:
49882 (A) a sign;
49883 (B) a signal;
49884 (C) writing;
49885 (D) an image;
49886 (E) sound;
49887 (F) a message;
49888 (G) data; or
49889 (H) other information of any nature.
49890 (b) "Telephone service" includes:
49891 (i) mobile telecommunications service;
49892 (ii) private communications service; or
49893 (iii) automated digital telephone answering service.
49894 (c) "Telephone service" does not include a service or a transaction that a state or a
49895 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet
49896 Tax Freedom Act, Pub. L. No. 105-277.
49897 (105) Notwithstanding where a call is billed or paid, "telephone service address"
49898 means:
49899 (a) if the location described in this Subsection (105)(a) is known, the location of the
49900 telephone service equipment:
49901 (i) to which a call is charged; and
49902 (ii) from which the call originates or terminates;
49903 (b) if the location described in Subsection (105)(a) is not known but the location
49904 described in this Subsection (105)(b) is known, the location of the origination point of the
49905 signal of the telephone service first identified by:
49906 (i) the telecommunications system of the seller; or

49907 (ii) if the system used to transport the signal is not that of the seller, information
49908 received by the seller from its service provider; or
49909 (c) if the locations described in Subsection (105)(a) or (b) are not known, the location
49910 of a purchaser's primary place of use.
49911 (106) (a) "Telephone service provider" means a person that:
49912 (i) owns, controls, operates, or manages a telephone service; and
49913 (ii) engages in an activity described in Subsection (106)(a)(i) for the shared use with or
49914 resale to any person of the telephone service.
49915 (b) A person described in Subsection (106)(a) is a telephone service provider whether
49916 or not the Public Service Commission of Utah regulates:
49917 (i) that person; or
49918 (ii) the telephone service that the person owns, controls, operates, or manages.
49919 (107) "Tobacco" means:
49920 (a) a cigarette;
49921 (b) a cigar;
49922 (c) chewing tobacco;
49923 (d) pipe tobacco; or
49924 (e) any other item that contains tobacco.
49925 (108) "Unassisted amusement device" means an amusement device, skill device, or
49926 ride device that is started and stopped by the purchaser or renter of the right to use or operate
49927 the amusement device, skill device, or ride device.
49928 (109) (a) "Use" means the exercise of any right or power over tangible personal
49929 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that
49930 property, item, or service.
49931 (b) "Use" does not include the sale, display, demonstration, or trial of that property in
49932 the regular course of business and held for resale.
49933 (110) (a) Subject to Subsection (110)(b), "vehicle" means the following that are
49934 required to be titled, registered, or titled and registered:
49935 (i) an aircraft as defined in Section 72-10-102;
49936 (ii) a vehicle as defined in Section 41-1a-102;
49937 (iii) an off-highway vehicle as defined in Section 41-22-2; or

49938 (iv) a vessel as defined in Section 41-1a-102.
49939 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
49940 (i) a vehicle described in Subsection (110)(a); or
49941 (ii) (A) a locomotive;
49942 (B) a freight car;
49943 (C) railroad work equipment; or
49944 (D) other railroad rolling stock.
49945 (111) "Vehicle dealer" means a person engaged in the business of buying, selling, or
49946 exchanging a vehicle as defined in Subsection (110).
49947 (112) (a) Except as provided in Subsection (112)(b), "waste energy facility" means a
49948 facility that generates electricity:
49949 (i) using as the primary source of energy waste materials that would be placed in a
49950 landfill or refuse pit if it were not used to generate electricity, including:
49951 (A) tires;
49952 (B) waste coal; or
49953 (C) oil shale; and
49954 (ii) in amounts greater than actually required for the operation of the facility.
49955 (b) "Waste energy facility" does not include a facility that incinerates:
49956 (i) municipal solid waste;
49957 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or
49958 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
49959 (113) "Watercraft" means a vessel as defined in Section 73-18-2.
49960 (114) "Wind energy" means wind used as the sole source of energy to produce
49961 electricity.
49962 (115) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
49963 location by the United States Postal Service.
49964 Section 1019. Section **59-12-104 (Effective 01/01/08)** is amended to read:
49965 **59-12-104 (Effective 01/01/08). Exemptions.**
49966 The following sales and uses are exempt from the taxes imposed by this chapter:
49967 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
49968 under Chapter 13, Motor and Special Fuel Tax Act;

49969 (2) sales to the state, its institutions, and its political subdivisions; however, this
49970 exemption does not apply to sales of:
49971 (a) construction materials except:
49972 (i) construction materials purchased by or on behalf of institutions of the public
49973 education system as defined in Utah Constitution Article X, Section 2, provided the
49974 construction materials are clearly identified and segregated and installed or converted to real
49975 property which is owned by institutions of the public education system; and
49976 (ii) construction materials purchased by the state, its institutions, or its political
49977 subdivisions which are installed or converted to real property by employees of the state, its
49978 institutions, or its political subdivisions; or
49979 (b) tangible personal property in connection with the construction, operation,
49980 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
49981 providing additional project capacity, as defined in Section 11-13-103;
49982 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:
49983 (i) the proceeds of each sale do not exceed $1; and
49984 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
49985 the cost of the item described in Subsection (3)(b) as goods consumed; and
49986 (b) Subsection (3)(a) applies to:
49987 (i) food and food ingredients; or
49988 (ii) prepared food;
49989 (4) sales of the following to a commercial airline carrier for in-flight consumption:
49990 (a) food and food ingredients;
49991 (b) prepared food; or
49992 (c) services related to Subsection (4)(a) or (b);
49993 (5) sales of parts and equipment for installation in aircraft operated by common carriers
49994 in interstate or foreign commerce;
49995 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
49996 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
49997 exhibitor, distributor, or commercial television or radio broadcaster;
49998 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
49999 property if the cleaning or washing of the tangible personal property is not assisted cleaning or

50000 washing of tangible personal property;
50001 (b) if a seller that sells at the same business location assisted cleaning or washing of
50002 tangible personal property and cleaning or washing of tangible personal property that is not
50003 assisted cleaning or washing of tangible personal property, the exemption described in
50004 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
50005 or washing of the tangible personal property; and
50006 (c) for purposes of Subsection (7)(b) and in accordance with [~~Title 63, Chapter 46a~~]
50007 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:
50008 (i) governing the circumstances under which sales are at the same business location;
50009 and
50010 (ii) establishing the procedures and requirements for a seller to separately account for
50011 sales of assisted cleaning or washing of tangible personal property;
50012 (8) sales made to or by religious or charitable institutions in the conduct of their regular
50013 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
50014 fulfilled;
50015 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
50016 this state if the vehicle is:
50017 (a) not registered in this state; and
50018 (b) (i) not used in this state; or
50019 (ii) used in this state:
50020 (A) if the vehicle is not used to conduct business, for a time period that does not
50021 exceed the longer of:
50022 (I) 30 days in any calendar year; or
50023 (II) the time period necessary to transport the vehicle to the borders of this state; or
50024 (B) if the vehicle is used to conduct business, for the time period necessary to transport
50025 the vehicle to the borders of this state;
50026 (10) (a) amounts paid for an item described in Subsection (10)(b) if:
50027 (i) the item is intended for human use; and
50028 (ii) (A) a prescription was issued for the item; or
50029 (B) the item was purchased by a hospital or other medical facility; and
50030 (b) (i) Subsection (10)(a) applies to:

50031 (A) a drug;
50032 (B) a syringe; or
50033 (C) a stoma supply; and
50034 (ii) in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
50035 Administrative Rulemaking Act, the commission may by rule define the terms:
50036 (A) "syringe"; or
50037 (B) "stoma supply";
50038 (11) sales or use of property, materials, or services used in the construction of or
50039 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;
50040 (12) (a) sales of an item described in Subsection (12)(c) served by:
50041 (i) the following if the item described in Subsection (12)(c) is not available to the
50042 general public:
50043 (A) a church; or
50044 (B) a charitable institution;
50045 (ii) an institution of higher education if:
50046 (A) the item described in Subsection (12)(c) is not available to the general public; or
50047 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
50048 offered by the institution of higher education; or
50049 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
50050 (i) a medical facility; or
50051 (ii) a nursing facility; and
50052 (c) Subsections (12)(a) and (b) apply to:
50053 (i) food and food ingredients;
50054 (ii) prepared food; or
50055 (iii) alcoholic beverages;
50056 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
50057 by a person:
50058 (i) regardless of the number of transactions involving the sale of that tangible personal
50059 property by that person; and
50060 (ii) not regularly engaged in the business of selling that type of tangible personal
50061 property;

50062 (b) this Subsection (13) does not apply if:
50063 (i) the sale is one of a series of sales of a character to indicate that the person is
50064 regularly engaged in the business of selling that type of tangible personal property;
50065 (ii) the person holds that person out as regularly engaged in the business of selling that
50066 type of tangible personal property;
50067 (iii) the person sells an item of tangible personal property that the person purchased as
50068 a sale that is exempt under Subsection (25); or
50069 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
50070 this state in which case the tax is based upon:
50071 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
50072 sold; or
50073 (B) in the absence of a bill of sale or other written evidence of value, the fair market
50074 value of the vehicle or vessel being sold at the time of the sale as determined by the
50075 commission; and
50076 (c) in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
50077 Administrative Rulemaking Act, the commission shall make rules establishing the
50078 circumstances under which:
50079 (i) a person is regularly engaged in the business of selling a type of tangible personal
50080 property;
50081 (ii) a sale of tangible personal property is one of a series of sales of a character to
50082 indicate that a person is regularly engaged in the business of selling that type of tangible
50083 personal property; or
50084 (iii) a person holds that person out as regularly engaged in the business of selling a type
50085 of tangible personal property;
50086 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after
50087 July 1, 2006, for a purchase or lease by a manufacturing facility other than a cogeneration
50088 facility, for the following:
50089 (i) machinery and equipment that:
50090 (A) is used:
50091 (I) for a manufacturing facility other than a manufacturing facility that is a scrap
50092 recycler described in Subsection 59-12-102(48)(b):

50093 (Aa) in the manufacturing process; and
50094 (Bb) to manufacture an item sold as tangible personal property; or
50095 (II) for a manufacturing facility that is a scrap recycler described in Subsection
50096 59-12-102(48)(b), to process an item sold as tangible personal property; and
50097 (B) has an economic life of three or more years; and
50098 (ii) normal operating repair or replacement parts that:
50099 (A) have an economic life of three or more years; and
50100 (B) are used:
50101 (I) for a manufacturing facility in the state other than a manufacturing facility that is a
50102 scrap recycler described in Subsection 59-12-102(48)(b), in the manufacturing process; or
50103 (II) for a manufacturing facility in the state that is a scrap recycler described in
50104 Subsection 59-12-102(48)(b), to process an item sold as tangible personal property;
50105 (b) (i) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a
50106 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,
50107 for the following:
50108 (A) machinery and equipment that:
50109 (I) is used:
50110 (Aa) in the manufacturing process; and
50111 (Bb) to manufacture an item sold as tangible personal property; and
50112 (II) has an economic life of three or more years; and
50113 (B) normal operating repair or replacement parts that:
50114 (I) are used in the manufacturing process in a manufacturing facility in the state; and
50115 (II) have an economic life of three or more years; and
50116 (ii) for amounts paid or charged on or after July 1, 2005, but on or before June 30,
50117 2006, for a purchase or lease described in Subsection (14)(b)(i), a cogeneration facility may
50118 claim the exemption allowed by Subsection (14)(b)(i) by filing for a refund:
50119 (A) for sales and use taxes paid under this chapter on the purchase or lease payment;
50120 and
50121 (B) in accordance with Section 59-12-110;
50122 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,
50123 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or

50124 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for
50125 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,
50126 of the 2002 North American Industry Classification System of the federal Executive Office of
50127 the President, Office of Management and Budget:
50128 (i) machinery and equipment that:
50129 (A) are used in:
50130 (I) the production process, other than the production of real property; or
50131 (II) research and development; and
50132 (B) have an economic life of three or more years; and
50133 (ii) normal operating repair or replacement parts that:
50134 (A) have an economic life of three or more years; and
50135 (B) are used in:
50136 (I) the production process, other than the production of real property, in an
50137 establishment described in this Subsection (14)(c) in the state; or
50138 (II) research and development in an establishment described in this Subsection (14)(c)
50139 in the state;
50140 (d) for purposes of this Subsection (14) and in accordance with [~~Title 63, Chapter 46a~~]
50141 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission:
50142 (i) shall by rule define the term "establishment"; and
50143 (ii) may by rule define what constitutes:
50144 (A) processing an item sold as tangible personal property;
50145 (B) the production process, other than the production of real property; or
50146 (C) research and development; and
50147 (e) on or before October 1, 2011, and every five years after October 1, 2011, the
50148 commission shall:
50149 (i) review the exemptions described in this Subsection (14) and make
50150 recommendations to the Revenue and Taxation Interim Committee concerning whether the
50151 exemptions should be continued, modified, or repealed; and
50152 (ii) include in its report:
50153 (A) the cost of the exemptions;
50154 (B) the purpose and effectiveness of the exemptions; and

50155 (C) the benefits of the exemptions to the state;
50156 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
50157 (i) tooling;
50158 (ii) special tooling;
50159 (iii) support equipment;
50160 (iv) special test equipment; or
50161 (v) parts used in the repairs or renovations of tooling or equipment described in
50162 Subsections (15)(a)(i) through (iv); and
50163 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
50164 (i) the tooling, equipment, or parts are used or consumed exclusively in the
50165 performance of any aerospace or electronics industry contract with the United States
50166 government or any subcontract under that contract; and
50167 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
50168 title to the tooling, equipment, or parts is vested in the United States government as evidenced
50169 by:
50170 (A) a government identification tag placed on the tooling, equipment, or parts; or
50171 (B) listing on a government-approved property record if placing a government
50172 identification tag on the tooling, equipment, or parts is impractical;
50173 (16) sales of newspapers or newspaper subscriptions;
50174 (17) (a) except as provided in Subsection (17)(b), tangible personal property traded in
50175 as full or part payment of the purchase price, except that for purposes of calculating sales or use
50176 tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and
50177 the tax is based upon:
50178 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
50179 vehicle being traded in; or
50180 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
50181 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
50182 commission; and
50183 (b) notwithstanding Subsection (17)(a), Subsection (17)(a) does not apply to the
50184 following items of tangible personal property traded in as full or part payment of the purchase
50185 price:

50186 (i) money;
50187 (ii) electricity;
50188 (iii) water;
50189 (iv) gas; or
50190 (v) steam;
50191 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
50192 used or consumed primarily and directly in farming operations, regardless of whether the
50193 tangible personal property:
50194 (A) becomes part of real estate; or
50195 (B) is installed by a:
50196 (I) farmer;
50197 (II) contractor; or
50198 (III) subcontractor; or
50199 (ii) sales of parts used in the repairs or renovations of tangible personal property if the
50200 tangible personal property is exempt under Subsection (18)(a)(i); and
50201 (b) notwithstanding Subsection (18)(a), amounts paid or charged for the following
50202 tangible personal property are subject to the taxes imposed by this chapter:
50203 (i) (A) subject to Subsection (18)(b)(i)(B), the following tangible personal property if
50204 the tangible personal property is used in a manner that is incidental to farming:
50205 (I) machinery;
50206 (II) equipment;
50207 (III) materials; or
50208 (IV) supplies; and
50209 (B) tangible personal property that is considered to be used in a manner that is
50210 incidental to farming includes:
50211 (I) hand tools; or
50212 (II) maintenance and janitorial equipment and supplies;
50213 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property if the tangible
50214 personal property is used in an activity other than farming; and
50215 (B) tangible personal property that is considered to be used in an activity other than
50216 farming includes:

50217 (I) office equipment and supplies; or
50218 (II) equipment and supplies used in:
50219 (Aa) the sale or distribution of farm products;
50220 (Bb) research; or
50221 (Cc) transportation; or
50222 (iii) a vehicle required to be registered by the laws of this state during the period
50223 ending two years after the date of the vehicle's purchase;
50224 (19) sales of hay;
50225 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
50226 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
50227 garden, farm, or other agricultural produce is sold by:
50228 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
50229 agricultural produce;
50230 (b) an employee of the producer described in Subsection (20)(a); or
50231 (c) a member of the immediate family of the producer described in Subsection (20)(a);
50232 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
50233 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
50234 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
50235 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
50236 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
50237 manufacturer, processor, wholesaler, or retailer;
50238 (23) property stored in the state for resale;
50239 (24) (a) purchases of property if:
50240 (i) the property is:
50241 (A) purchased outside of this state;
50242 (B) brought into this state:
50243 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
50244 (II) by a nonresident person who is not living or working in this state at the time of the
50245 purchase;
50246 (C) used for the personal use or enjoyment of the nonresident person described in
50247 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

50248 (D) not used in conducting business in this state; and
50249 (ii) for:
50250 (A) property other than the property described in Subsection (24)(a)(ii)(B), the first use
50251 of the property for a purpose for which the property is designed occurs outside of this state;
50252 (B) a boat, the boat is registered outside of this state; or
50253 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
50254 outside of this state;
50255 (b) the exemption provided for in Subsection (24)(a) does not apply to:
50256 (i) a lease or rental of property; or
50257 (ii) a sale of a vehicle exempt under Subsection (33); and
50258 (c) in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
50259 Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by
50260 rule define what constitutes the following:
50261 (i) conducting business in this state if that phrase has the same meaning in this
50262 Subsection (24) as in Subsection (66);
50263 (ii) the first use of property if that phrase has the same meaning in this Subsection (24)
50264 as in Subsection (66); or
50265 (iii) a purpose for which property is designed if that phrase has the same meaning in
50266 this Subsection (24) as in Subsection (66);
50267 (25) property purchased for resale in this state, in the regular course of business, either
50268 in its original form or as an ingredient or component part of a manufactured or compounded
50269 product;
50270 (26) property upon which a sales or use tax was paid to some other state, or one of its
50271 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
50272 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
50273 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
50274 Act;
50275 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
50276 person for use in compounding a service taxable under the subsections;
50277 (28) purchases made in accordance with the special supplemental nutrition program for
50278 women, infants, and children established in 42 U.S.C. Sec. 1786;

50279 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,
50280 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens
50281 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification
50282 Manual of the federal Executive Office of the President, Office of Management and Budget;
50283 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
50284 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:
50285 (a) not registered in this state; and
50286 (b) (i) not used in this state; or
50287 (ii) used in this state:
50288 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
50289 time period that does not exceed the longer of:
50290 (I) 30 days in any calendar year; or
50291 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
50292 the borders of this state; or
50293 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
50294 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
50295 state;
50296 (31) sales of aircraft manufactured in Utah if sold for delivery and use outside Utah
50297 where a sales or use tax is not imposed, even if the title is passed in Utah;
50298 (32) amounts paid for the purchase of telephone service for purposes of providing
50299 telephone service;
50300 (33) sales, leases, or uses of the following:
50301 (a) a vehicle by an authorized carrier; or
50302 (b) tangible personal property that is installed on a vehicle:
50303 (i) sold or leased to or used by an authorized carrier; and
50304 (ii) before the vehicle is placed in service for the first time;
50305 (34) (a) 45% of the sales price of any new manufactured home; and
50306 (b) 100% of the sales price of any used manufactured home;
50307 (35) sales relating to schools and fundraising sales;
50308 (36) sales or rentals of durable medical equipment if:
50309 (a) a person presents a prescription for the durable medical equipment; and

50310 (b) the durable medical equipment is used for home use only;
50311 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
50312 Section 72-11-102; and
50313 (b) the commission shall by rule determine the method for calculating sales exempt
50314 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
50315 (38) sales to a ski resort of:
50316 (a) snowmaking equipment;
50317 (b) ski slope grooming equipment;
50318 (c) passenger ropeways as defined in Section 72-11-102; or
50319 (d) parts used in the repairs or renovations of equipment or passenger ropeways
50320 described in Subsections (38)(a) through (c);
50321 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
50322 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
50323 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
50324 59-12-102;
50325 (b) if a seller that sells or rents at the same business location the right to use or operate
50326 for amusement, entertainment, or recreation one or more unassisted amusement devices and
50327 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
50328 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
50329 amusement, entertainment, or recreation for the assisted amusement devices; and
50330 (c) for purposes of Subsection (40)(b) and in accordance with [~~Title 63, Chapter 46a~~]
50331 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:
50332 (i) governing the circumstances under which sales are at the same business location;
50333 and
50334 (ii) establishing the procedures and requirements for a seller to separately account for
50335 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
50336 assisted amusement devices;
50337 (41) (a) sales of photocopies by:
50338 (i) a governmental entity; or
50339 (ii) an entity within the state system of public education, including:
50340 (A) a school; or

50341 (B) the State Board of Education; or
50342 (b) sales of publications by a governmental entity;
50343 (42) amounts paid for admission to an athletic event at an institution of higher
50344 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
50345 20 U.S.C. Sec. 1681 et seq.;
50346 (43) sales of telephone service charged to a prepaid telephone calling card;
50347 (44) (a) sales of:
50348 (i) hearing aids;
50349 (ii) hearing aid accessories; or
50350 (iii) except as provided in Subsection (44)(b), parts used in the repairs or renovations
50351 of hearing aids or hearing aid accessories; and
50352 (b) for purposes of this Subsection (44), notwithstanding Subsection (44)(a)(iii),
50353 "parts" does not include batteries;
50354 (45) (a) sales made to or by:
50355 (i) an area agency on aging; or
50356 (ii) a senior citizen center owned by a county, city, or town; or
50357 (b) sales made by a senior citizen center that contracts with an area agency on aging;
50358 (46) sales or leases of semiconductor fabricating, processing, research, or development
50359 materials regardless of whether the semiconductor fabricating, processing, research, or
50360 development materials:
50361 (a) actually come into contact with a semiconductor; or
50362 (b) ultimately become incorporated into real property;
50363 (47) an amount paid by or charged to a purchaser for accommodations and services
50364 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
50365 59-12-104.2;
50366 (48) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
50367 sports event registration certificate in accordance with Section 41-3-306 for the event period
50368 specified on the temporary sports event registration certificate;
50369 (49) sales or uses of electricity, if the sales or uses are:
50370 (a) made under a tariff adopted by the Public Service Commission of Utah only for
50371 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy

50372 source, as designated in the tariff by the Public Service Commission of Utah; and
50373 (b) for an amount of electricity that is:
50374 (i) unrelated to the amount of electricity used by the person purchasing the electricity
50375 under the tariff described in Subsection (49)(a); and
50376 (ii) equivalent to the number of kilowatthours specified in the tariff described in
50377 Subsection (49)(a) that may be purchased under the tariff described in Subsection (49)(a);
50378 (50) sales or rentals of mobility enhancing equipment if a person presents a
50379 prescription for the mobility enhancing equipment;
50380 (51) sales of water in a:
50381 (a) pipe;
50382 (b) conduit;
50383 (c) ditch; or
50384 (d) reservoir;
50385 (52) sales of currency or coinage that constitute legal tender of the United States or of a
50386 foreign nation;
50387 (53) (a) sales of an item described in Subsection (53)(b) if the item:
50388 (i) does not constitute legal tender of any nation; and
50389 (ii) has a gold, silver, or platinum content of 80% or more; and
50390 (b) Subsection (53)(a) applies to a gold, silver, or platinum:
50391 (i) ingot;
50392 (ii) bar;
50393 (iii) medallion; or
50394 (iv) decorative coin;
50395 (54) amounts paid on a sale-leaseback transaction;
50396 (55) sales of a prosthetic device:
50397 (a) for use on or in a human;
50398 (b) for which a prescription is issued; and
50399 (c) to a person that presents a prescription for the prosthetic device;
50400 (56) (a) except as provided in Subsection (56)(b), purchases, leases, or rentals of
50401 machinery or equipment by an establishment described in Subsection (56)(c) if the machinery
50402 or equipment is primarily used in the production or postproduction of the following media for

50403 commercial distribution:
50404 (i) a motion picture;
50405 (ii) a television program;
50406 (iii) a movie made for television;
50407 (iv) a music video;
50408 (v) a commercial;
50409 (vi) a documentary; or
50410 (vii) a medium similar to Subsections (56)(a)(i) through (vi) as determined by the
50411 commission by administrative rule made in accordance with Subsection (56)(d); or
50412 (b) notwithstanding Subsection (56)(a), purchases, leases, or rentals of machinery or
50413 equipment by an establishment described in Subsection (56)(c) that is used for the production
50414 or postproduction of the following are subject to the taxes imposed by this chapter:
50415 (i) a live musical performance;
50416 (ii) a live news program; or
50417 (iii) a live sporting event;
50418 (c) the following establishments listed in the 1997 North American Industry
50419 Classification System of the federal Executive Office of the President, Office of Management
50420 and Budget, apply to Subsections (56)(a) and (b):
50421 (i) NAICS Code 512110; or
50422 (ii) NAICS Code 51219; and
50423 (d) in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
50424 Administrative Rulemaking Act, the commission may by rule:
50425 (i) prescribe what constitutes a medium similar to Subsections (56)(a)(i) through (vi);
50426 or
50427 (ii) define:
50428 (A) "commercial distribution";
50429 (B) "live musical performance";
50430 (C) "live news program"; or
50431 (D) "live sporting event";
50432 (57) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on
50433 or before June 30, 2009, of machinery or equipment that:

50434 (i) is leased or purchased for or by a facility that:
50435 (A) is a renewable energy production facility;
50436 (B) is located in the state; and
50437 (C) (I) becomes operational on or after July 1, 2004; or
50438 (II) has its generation capacity increased by one or more megawatts on or after July 1,
50439 2004 as a result of the use of the machinery or equipment;
50440 (ii) has an economic life of five or more years; and
50441 (iii) is used to make the facility or the increase in capacity of the facility described in
50442 Subsection (57)(a)(i) operational up to the point of interconnection with an existing
50443 transmission grid including:
50444 (A) a wind turbine;
50445 (B) generating equipment;
50446 (C) a control and monitoring system;
50447 (D) a power line;
50448 (E) substation equipment;
50449 (F) lighting;
50450 (G) fencing;
50451 (H) pipes; or
50452 (I) other equipment used for locating a power line or pole; and
50453 (b) this Subsection (57) does not apply to:
50454 (i) machinery or equipment used in construction of:
50455 (A) a new renewable energy production facility; or
50456 (B) the increase in the capacity of a renewable energy production facility;
50457 (ii) contracted services required for construction and routine maintenance activities;
50458 and
50459 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
50460 of the facility described in Subsection (57)(a)(i)(C)(II), machinery or equipment used or
50461 acquired after:
50462 (A) the renewable energy production facility described in Subsection (57)(a)(i) is
50463 operational as described in Subsection (57)(a)(iii); or
50464 (B) the increased capacity described in Subsection (57)(a)(i) is operational as described

50465 in Subsection (57)(a)(iii);
50466 (58) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on
50467 or before June 30, 2009, of machinery or equipment that:
50468 (i) is leased or purchased for or by a facility that:
50469 (A) is a waste energy production facility;
50470 (B) is located in the state; and
50471 (C) (I) becomes operational on or after July 1, 2004; or
50472 (II) has its generation capacity increased by one or more megawatts on or after July 1,
50473 2004 as a result of the use of the machinery or equipment;
50474 (ii) has an economic life of five or more years; and
50475 (iii) is used to make the facility or the increase in capacity of the facility described in
50476 Subsection (58)(a)(i) operational up to the point of interconnection with an existing
50477 transmission grid including:
50478 (A) generating equipment;
50479 (B) a control and monitoring system;
50480 (C) a power line;
50481 (D) substation equipment;
50482 (E) lighting;
50483 (F) fencing;
50484 (G) pipes; or
50485 (H) other equipment used for locating a power line or pole; and
50486 (b) this Subsection (58) does not apply to:
50487 (i) machinery or equipment used in construction of:
50488 (A) a new waste energy facility; or
50489 (B) the increase in the capacity of a waste energy facility;
50490 (ii) contracted services required for construction and routine maintenance activities;
50491 and
50492 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
50493 described in Subsection (58)(a)(i)(C)(II), machinery or equipment used or acquired after:
50494 (A) the waste energy facility described in Subsection (58)(a)(i) is operational as
50495 described in Subsection (58)(a)(iii); or

50496 (B) the increased capacity described in Subsection (58)(a)(i) is operational as described
50497 in Subsection (58)(a)(iii);
50498 (59) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
50499 or before June 30, 2009, of machinery or equipment that:
50500 (i) is leased or purchased for or by a facility that:
50501 (A) is located in the state;
50502 (B) produces fuel from biomass energy including:
50503 (I) methanol; or
50504 (II) ethanol; and
50505 (C) (I) becomes operational on or after July 1, 2004; or
50506 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004 as
50507 a result of the installation of the machinery or equipment;
50508 (ii) has an economic life of five or more years; and
50509 (iii) is installed on the facility described in Subsection (59)(a)(i);
50510 (b) this Subsection (59) does not apply to:
50511 (i) machinery or equipment used in construction of:
50512 (A) a new facility described in Subsection (59)(a)(i); or
50513 (B) the increase in capacity of the facility described in Subsection (59)(a)(i); or
50514 (ii) contracted services required for construction and routine maintenance activities;
50515 and
50516 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
50517 described in Subsection (59)(a)(i)(C)(II), machinery or equipment used or acquired after:
50518 (A) the facility described in Subsection (59)(a)(i) is operational; or
50519 (B) the increased capacity described in Subsection (59)(a)(i) is operational;
50520 (60) amounts paid to a purchaser as a rebate from the manufacturer of a new vehicle
50521 for purchasing the new vehicle;
50522 (61) (a) subject to Subsection (61)(b), sales of tangible personal property to persons
50523 within this state that is subsequently shipped outside the state and incorporated pursuant to
50524 contract into and becomes a part of real property located outside of this state, except to the
50525 extent that the other state or political entity imposes a sales, use, gross receipts, or other similar
50526 transaction excise tax on it against which the other state or political entity allows a credit for

50527 taxes imposed by this chapter; and
50528 (b) the exemption provided for in Subsection (61)(a):
50529 (i) is allowed only if the exemption is applied:
50530 (A) in calculating the purchase price of the tangible personal property; and
50531 (B) to a written contract that is in effect on July 1, 2004; and
50532 (ii) (A) does not apply beginning on the day on which the contract described in
50533 Subsection (61)(b)(i):
50534 (I) is substantially modified; or
50535 (II) terminates; and
50536 (B) in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
50537 Administrative Rulemaking Act, the commission may by rule prescribe the circumstances
50538 under which a contract is substantially modified;
50539 (62) purchases:
50540 (a) of one or more of the following items in printed or electronic format:
50541 (i) a list containing information that includes one or more:
50542 (A) names; or
50543 (B) addresses; or
50544 (ii) a database containing information that includes one or more:
50545 (A) names; or
50546 (B) addresses; and
50547 (b) used to send direct mail;
50548 (63) redemptions or repurchases of property by a person if that property was:
50549 (a) delivered to a pawnbroker as part of a pawn transaction; and
50550 (b) redeemed or repurchased within the time period established in a written agreement
50551 between the person and the pawnbroker for redeeming or repurchasing the property;
50552 (64) (a) purchases or leases of an item described in Subsection (64)(b) if the item:
50553 (i) is purchased or leased by, or on behalf of, a telephone service provider; and
50554 (ii) has a useful economic life of one or more years; and
50555 (b) the following apply to Subsection (64)(a):
50556 (i) telecommunications enabling or facilitating equipment, machinery, or software;
50557 (ii) telecommunications equipment, machinery, or software required for 911 service;

50558 (iii) telecommunications maintenance or repair equipment, machinery, or software;
50559 (iv) telecommunications switching or routing equipment, machinery, or software; or
50560 (v) telecommunications transmission equipment, machinery, or software;
50561 (65) (a) beginning on July 1, 2006, and ending on June 30, 2016, purchases of tangible
50562 personal property used in the research and development of coal-to-liquids, oil shale, or tar
50563 sands technology; and
50564 (b) in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
50565 Administrative Rulemaking Act, the commission may, for purposes of Subsection (65)(a),
50566 make rules defining what constitutes tangible personal property used in the research and
50567 development of coal-to-liquids, oil shale, and tar sands technology;
50568 (66) (a) purchases of property if:
50569 (i) the property is:
50570 (A) purchased outside of this state;
50571 (B) brought into this state at any time after the purchase described in Subsection
50572 (66)(a)(i)(A); and
50573 (C) used in conducting business in this state; and
50574 (ii) for:
50575 (A) property other than the property described in Subsection (66)(a)(ii)(B), the first use
50576 of the property for a purpose for which the property is designed occurs outside of this state; or
50577 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
50578 outside of this state;
50579 (b) the exemption provided for in Subsection (66)(a) does not apply to:
50580 (i) a lease or rental of property; or
50581 (ii) a sale of a vehicle exempt under Subsection (33); and
50582 (c) in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
50583 Administrative Rulemaking Act, for purposes of Subsection (66)(a), the commission may by
50584 rule define what constitutes the following:
50585 (i) conducting business in this state if that phrase has the same meaning in this
50586 Subsection (66) as in Subsection (24);
50587 (ii) the first use of property if that phrase has the same meaning in this Subsection (66)
50588 as in Subsection (24); or

50589 (iii) a purpose for which property is designed if that phrase has the same meaning in
50590 this Subsection (66) as in Subsection (24);
50591 (67) sales of disposable home medical equipment or supplies if:
50592 (a) a person presents a prescription for the disposable home medical equipment or
50593 supplies;
50594 (b) the disposable home medical equipment or supplies are used exclusively by the
50595 person to whom the prescription described in Subsection (67)(a) is issued; and
50596 (c) the disposable home medical equipment and supplies are listed as eligible for
50597 payment under:
50598 (i) Title XVIII, federal Social Security Act; or
50599 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
50600 and
50601 (68) sales to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
50602 District Act, or to a subcontractor of a public transit district, including sales of construction
50603 materials that are to be installed or converted to real property owned by the public transit
50604 district.
50605 Section 1020. Section **59-12-104.1** is amended to read:
50606 **59-12-104.1. Exemptions for religious or charitable institutions.**
50607 (1) Except as provided in Section 59-12-104, sales made by religious or charitable
50608 institutions or organizations are exempt from the sales and use tax imposed by this chapter if
50609 the sale is made in the conduct of the institution's or organization's regular religious or
50610 charitable functions or activities.
50611 (2) (a) Except as provided in Section 59-12-104, sales made to a religious or charitable
50612 institution or organization are exempt from the sales and use tax imposed by this chapter if the
50613 sale is made in the conduct of the institution's or organization's regular religious or charitable
50614 functions and activities.
50615 (b) In order to facilitate the efficient administration of the exemption granted by this
50616 section, the exemption shall be administered as follows:
50617 (i) the exemption shall be at point of sale if the sale is in the amount of at least $1,000;
50618 (ii) except as provided in Subsection (2)(b)(iii), if the sale is less than $1,000, the
50619 exemption shall be in the form of a refund of sales or use taxes paid at the point of sale; and

50620 (iii) notwithstanding Subsection (2)(b)(ii), the exemption under this section shall be at
50621 point of sale if the sale is:
50622 (A) made pursuant to a contract between the seller and the charitable or religious
50623 institution or organization; or
50624 (B) made by a public utility, as defined in Section 54-2-1, to a religious or charitable
50625 institution or organization.
50626 (3) (a) Religious or charitable institutions or organizations entitled to a refund under
50627 Subsection (2)(b)(ii) may apply to the commission for the refund of sales or use taxes paid.
50628 (b) The commission shall designate the following by commission rule adopted in
50629 accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
50630 Rulemaking Act:
50631 (i) procedures for applying for a sales and use tax refund;
50632 (ii) standards for determining and verifying the amount of purchase at the point of sale;
50633 (iii) procedures for submitting a request for refund on a monthly basis anytime the
50634 taxpayer has accumulated $100 or more in sales tax payments; and
50635 (iv) procedures for submitting a request for refund on a quarterly basis for any
50636 cumulative amount of sales tax payments.
50637 Section 1021. Section **59-12-106** is amended to read:
50638 **59-12-106. Definitions -- Sales and use tax license requirements -- Penalty --**
50639 **Application process and requirements -- No fee -- Bonds -- Presumption of taxability --**
50640 **Exemption certificates -- Exemption certificate license number to accompany contract**
50641 **bids.**
50642 (1) As used in this section:
50643 (a) "applicant" means a person that:
50644 (i) is required by this section to obtain a license; and
50645 (ii) submits an application:
50646 (A) to the commission; and
50647 (B) for a license under this section;
50648 (b) "application" means an application for a license under this section;
50649 (c) "fiduciary of the applicant" means a person that:
50650 (i) is required to collect, truthfully account for, and pay over a tax under this chapter

50651 for an applicant; and
50652 (ii) (A) is a corporate officer of the applicant described in Subsection (1)(c)(i);
50653 (B) is a director of the applicant described in Subsection (1)(c)(i);
50654 (C) is an employee of the applicant described in Subsection (1)(c)(i);
50655 (D) is a partner of the applicant described in Subsection (1)(c)(i);
50656 (E) is a trustee of the applicant described in Subsection (1)(c)(i); or
50657 (F) has a relationship to the applicant described in Subsection (1)(c)(i) that is similar to
50658 a relationship described in Subsections (1)(c)(ii)(A) through (E) as determined by the
50659 commission by rule made in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
50660 Utah Administrative Rulemaking Act;
50661 (d) "fiduciary of the licensee" means a person that:
50662 (i) is required to collect, truthfully account for, and pay over a tax under this chapter
50663 for a licensee; and
50664 (ii) (A) is a corporate officer of the licensee described in Subsection (1)(d)(i);
50665 (B) is a director of the licensee described in Subsection (1)(d)(i);
50666 (C) is an employee of the licensee described in Subsection (1)(d)(i);
50667 (D) is a partner of the licensee described in Subsection (1)(d)(i);
50668 (E) is a trustee of the licensee described in Subsection (1)(d)(i); or
50669 (F) has a relationship to the licensee described in Subsection (1)(d)(i) that is similar to
50670 a relationship described in Subsections (1)(d)(ii)(A) through (E) as determined by the
50671 commission by rule made in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
50672 Utah Administrative Rulemaking Act;
50673 (e) "license" means a license under this section; and
50674 (f) "licensee" means a person that is licensed under this section by the commission.
50675 (2) (a) It is unlawful for any person required to collect a tax under this chapter to
50676 engage in business within the state without first having obtained a license to do so.
50677 (b) The license described in Subsection (2)(a):
50678 (i) shall be granted and issued by the commission;
50679 (ii) is not assignable;
50680 (iii) is valid only for the person in whose name the license is issued;
50681 (iv) is valid until:

50682 (A) the person described in Subsection (2)(b)(iii):
50683 (I) ceases to do business; or
50684 (II) changes that person's business address; or
50685 (B) the license is revoked by the commission; and
50686 (v) subject to Subsection (2)(d), shall be granted by the commission only upon an
50687 application that:
50688 (A) states the name and address of the applicant; and
50689 (B) provides other information the commission may require.
50690 (c) At the time an applicant makes an application under Subsection (2)(b)(v), the
50691 commission shall notify the applicant of the responsibilities and liability of a business owner
50692 successor under Section 59-12-112.
50693 (d) The commission shall review an application and determine whether the applicant:
50694 (i) meets the requirements of this section to be issued a license; and
50695 (ii) is required to post a bond with the commission in accordance with Subsections
50696 (2)(e) and (f) before the applicant may be issued a license.
50697 (e) (i) An applicant shall post a bond with the commission before the commission may
50698 issue the applicant a license if:
50699 (A) a license under this section was revoked for a delinquency under this chapter for:
50700 (I) the applicant;
50701 (II) a fiduciary of the applicant; or
50702 (III) a person for which the applicant or the fiduciary of the applicant is required to
50703 collect, truthfully account for, and pay over a tax under this chapter; or
50704 (B) there is a delinquency in paying a tax under this chapter for:
50705 (I) the applicant;
50706 (II) a fiduciary of the applicant; or
50707 (III) a person for which the applicant or the fiduciary of the applicant is required to
50708 collect, truthfully account for, and pay over a tax under this chapter.
50709 (ii) If the commission determines it is necessary to ensure compliance with this
50710 chapter, the commission may require a licensee to:
50711 (A) for a licensee that has not posted a bond under this section with the commission,
50712 post a bond with the commission in accordance with Subsection (2)(f); or

50713 (B) for a licensee that has posted a bond under this section with the commission,
50714 increase the amount of the bond posted with the commission.
50715 (f) (i) A bond required by Subsection (2)(e) shall be:
50716 (A) executed by:
50717 (I) for an applicant, the applicant as principal, with a corporate surety; or
50718 (II) for a licensee, the licensee as principal, with a corporate surety; and
50719 (B) payable to the commission conditioned upon the faithful performance of all of the
50720 requirements of this chapter including:
50721 (I) the payment of any tax under this chapter;
50722 (II) the payment of any:
50723 (Aa) penalty as provided in Section 59-1-401; or
50724 (Bb) interest as provided in Section 59-1-402; or
50725 (III) any other obligation of the:
50726 (Aa) applicant under this chapter; or
50727 (Bb) licensee under this chapter.
50728 (ii) Except as provided in Subsection (2)(f)(iv), the commission shall calculate the
50729 amount of a bond required by Subsection (2)(e) on the basis of:
50730 (A) commission estimates of:
50731 (I) an applicant's tax liability under this chapter; or
50732 (II) a licensee's tax liability under this chapter; and
50733 (B) any amount of a delinquency described in Subsection (2)(f)(iii).
50734 (iii) Except as provided in Subsection (2)(f)(iv), for purposes of Subsection
50735 (2)(f)(ii)(B):
50736 (A) for an applicant, the amount of the delinquency is the sum of:
50737 (I) the amount of any delinquency that served as a basis for revoking the license under
50738 this section of:
50739 (Aa) the applicant;
50740 (Bb) a fiduciary of the applicant; or
50741 (Cc) a person for which the applicant or the fiduciary of the applicant is required to
50742 collect, truthfully account for, and pay over a tax under this chapter; or
50743 (II) the amount of tax that any of the following owe under this chapter:

50744 (Aa) the applicant;
50745 (Bb) a fiduciary of the applicant; and
50746 (Cc) a person for which the applicant or the fiduciary of the applicant is required to
50747 collect, truthfully account for, and pay over a tax under this chapter; or
50748 (B) for a licensee, the amount of the delinquency is the sum of:
50749 (I) the amount of any delinquency that served as a basis for revoking the license under
50750 this section of:
50751 (Aa) the licensee;
50752 (Bb) a fiduciary of the licensee; or
50753 (Cc) a person for which the licensee or the fiduciary of the licensee is required to
50754 collect, truthfully account for, and pay over a tax under this chapter; or
50755 (II) the amount of tax that any of the following owe under this chapter:
50756 (Aa) the licensee;
50757 (Bb) a fiduciary of the licensee; and
50758 (Cc) a person for which the licensee or the fiduciary of the licensee is required to
50759 collect, truthfully account for, and pay over a tax under this chapter.
50760 (iv) Notwithstanding Subsection (2)(f)(ii) or (2)(f)(iii), a bond required by Subsection
50761 (2)(e) may not:
50762 (A) be less than $25,000; or
50763 (B) exceed $500,000.
50764 (g) If business is transacted at two or more separate places by one person, a separate
50765 license for each place of business is required.
50766 (h) (i) The commission shall, on a reasonable notice and after a hearing, revoke the
50767 license of any licensee violating any provisions of this chapter.
50768 (ii) A license may not be issued to a licensee described in Subsection (2)(h)(i) until the
50769 licensee has complied with the requirements of this chapter, including:
50770 (A) paying any:
50771 (I) tax due under this chapter;
50772 (II) penalty as provided in Section 59-1-401; or
50773 (III) interest as provided in Section 59-1-402; and
50774 (B) posting a bond in accordance with Subsections (2)(e) and (f).

50775 (i) Any person required to collect a tax under this chapter within this state without
50776 having secured a license to do so is guilty of a criminal violation as provided in Section
50777 59-1-401.
50778 (j) A license:
50779 (i) is not required for any person engaged exclusively in the business of selling
50780 commodities that are exempt from taxation under this chapter; and
50781 (ii) shall be issued to the person by the commission without a license fee.
50782 (3) (a) For the purpose of the proper administration of this chapter and to prevent
50783 evasion of the tax and the duty to collect the tax, it shall be presumed that tangible personal
50784 property or any other taxable transaction under Subsection 59-12-103(1) sold by any person for
50785 delivery in this state is sold for storage, use, or other consumption in this state unless the
50786 person selling the property, item, or service has taken from the purchaser an exemption
50787 certificate:
50788 (i) bearing the name and address of the purchaser; and
50789 (ii) providing that the property, item, or service was exempted under Section
50790 59-12-104.
50791 (b) An exemption certificate described in Subsection (3)(a):
50792 (i) shall contain information as prescribed by the commission; and
50793 (ii) if a paper exemption certificate is used, shall be signed by the purchaser.
50794 (c) Except as provided in Subsection (3)(d), a seller that has taken an exemption
50795 certificate from a purchaser in accordance with this Subsection (3) with respect to a transaction
50796 is not liable to collect a tax under this chapter:
50797 (i) on that transaction; and
50798 (ii) if the commission or a court of competent jurisdiction subsequently determines that
50799 the purchaser improperly claimed the exemption.
50800 (d) Notwithstanding Subsection (3)(c), Subsection (3)(c) does not apply to a seller that:
50801 (i) fraudulently fails to collect a tax under this chapter; or
50802 (ii) solicits a purchaser to participate in improperly claiming an exemption from a tax
50803 under this chapter.
50804 (4) A person filing a contract bid with the state or a political subdivision of the state for
50805 the sale of tangible personal property or any other taxable transaction under Subsection

50806 59-12-103(1) shall include with the bid the number of the license issued to that person under
50807 Subsection (2).
50808 Section 1022. Section **59-12-107** is amended to read:
50809 **59-12-107. Collection, remittance, and payment of tax by sellers or other persons**
50810 **-- Returns -- Direct payment by purchaser of vehicle -- Other liability for collection --**
50811 **Rulemaking authority -- Credits -- Treatment of bad debt -- Penalties.**
50812 (1) (a) Except as provided in Subsection (1)(d) or Section 59-12-107.1 and subject to
50813 Subsection (1)(e), each seller shall pay or collect and remit the sales and use taxes imposed by
50814 this chapter if within this state the seller:
50815 (i) has or utilizes:
50816 (A) an office;
50817 (B) a distribution house;
50818 (C) a sales house;
50819 (D) a warehouse;
50820 (E) a service enterprise; or
50821 (F) a place of business similar to Subsections (1)(a)(i)(A) through (E);
50822 (ii) maintains a stock of goods;
50823 (iii) regularly solicits orders, regardless of whether or not the orders are accepted in the
50824 state, unless the seller's only activity in the state is:
50825 (A) advertising; or
50826 (B) solicitation by:
50827 (I) direct mail;
50828 (II) electronic mail;
50829 (III) the Internet;
50830 (IV) telephone; or
50831 (V) a means similar to Subsection (1)(a)(iii)(A) or (B);
50832 (iv) regularly engages in the delivery of property in the state other than by:
50833 (A) common carrier; or
50834 (B) United States mail; or
50835 (v) regularly engages in an activity directly related to the leasing or servicing of
50836 property located within the state.

50837 (b) A seller that does not meet one or more of the criteria provided for in Subsection
50838 (1)(a):
50839 (i) except as provided in Subsection (1)(b)(ii), may voluntarily:
50840 (A) collect a tax on a transaction described in Subsection 59-12-103(1); and
50841 (B) remit the tax to the commission as provided in this part; or
50842 (ii) notwithstanding Subsection (1)(b)(i), shall collect a tax on a transaction described
50843 in Subsection 59-12-103(1) if Section 59-12-103.1 requires the seller to collect the tax.
50844 (c) A person shall pay a use tax imposed by this chapter on a transaction described in
50845 Subsection 59-12-103(1) if:
50846 (i) the seller did not collect a tax imposed by this chapter on the transaction; and
50847 (ii) the person:
50848 (A) stores the tangible personal property in the state;
50849 (B) uses the tangible personal property in the state; or
50850 (C) consumes the tangible personal property in the state.
50851 (d) The ownership of property that is located at the premises of a printer's facility with
50852 which the retailer has contracted for printing and that consists of the final printed product,
50853 property that becomes a part of the final printed product, or copy from which the printed
50854 product is produced, shall not result in the retailer being considered to have or maintain an
50855 office, distribution house, sales house, warehouse, service enterprise, or other place of
50856 business, or to maintain a stock of goods, within this state.
50857 (e) (i) As used in this Subsection (1)(e):
50858 (A) "affiliated group" is as defined in Section 59-7-101, except that "affiliated group"
50859 includes a corporation that is qualified to do business but is not otherwise doing business in
50860 this state;
50861 (B) "common ownership" is as defined in Section 59-7-101;
50862 (C) "related seller" means a seller that:
50863 (I) is not required to pay or collect and remit sales and use taxes under Subsection
50864 (1)(a) or Section 59-12-103.1;
50865 (II) is:
50866 (Aa) related to a seller that is required to pay or collect and remit sales and use taxes
50867 under Subsection (1)(a) as part of an affiliated group or because of common ownership; or

50868 (Bb) a limited liability company owned by the parent corporation of an affiliated group
50869 if that parent corporation of the affiliated group is required to pay or collect and remit sales and
50870 use taxes under Subsection (1)(a); and
50871 (III) does not voluntarily collect and remit a tax under Subsection (1)(b)(i).
50872 (ii) A seller is not required to pay or collect and remit sales and use taxes under
50873 Subsection (1)(a):
50874 (A) if the seller is a related seller;
50875 (B) if the seller to which the related seller is related does not engage in any of the
50876 following activities on behalf of the related seller:
50877 (I) advertising;
50878 (II) marketing;
50879 (III) sales; or
50880 (IV) other services; and
50881 (C) if the seller to which the related seller is related accepts the return of an item sold
50882 by the related seller, the seller to which the related seller is related accepts the return of that
50883 item:
50884 (I) sold by a seller that is not a related seller; and
50885 (II) on the same terms as the return of an item sold by that seller to which the related
50886 seller is related.
50887 (2) (a) Except as provided in Section 59-12-107.1, a tax under this chapter shall be
50888 collected from a purchaser.
50889 (b) A seller may not collect as tax an amount, without regard to fractional parts of one
50890 cent, in excess of the tax computed at the rates prescribed by this chapter.
50891 (c) (i) Each seller shall:
50892 (A) give the purchaser a receipt for the tax collected; or
50893 (B) bill the tax as a separate item and declare the name of this state and the seller's
50894 sales and use tax license number on the invoice for the sale.
50895 (ii) The receipt or invoice is prima facie evidence that the seller has collected the tax
50896 and relieves the purchaser of the liability for reporting the tax to the commission as a
50897 consumer.
50898 (d) A seller is not required to maintain a separate account for the tax collected, but is

50899 considered to be a person charged with receipt, safekeeping, and transfer of public moneys.
50900 (e) Taxes collected by a seller pursuant to this chapter shall be held in trust for the
50901 benefit of the state and for payment to the commission in the manner and at the time provided
50902 for in this chapter.
50903 (f) If any seller, during any reporting period, collects as a tax an amount in excess of
50904 the lawful state and local percentage of total taxable sales allowed under this chapter, the seller
50905 shall remit to the commission the full amount of the tax imposed under this chapter, plus any
50906 excess.
50907 (g) If the accounting methods regularly employed by the seller in the transaction of the
50908 seller's business are such that reports of sales made during a calendar month or quarterly period
50909 will impose unnecessary hardships, the commission may accept reports at intervals that will, in
50910 the commission's opinion, better suit the convenience of the taxpayer or seller and will not
50911 jeopardize collection of the tax.
50912 (3) (a) Except as provided in Subsection (4) and Section 59-12-108, the sales or use tax
50913 imposed by this chapter is due and payable to the commission quarterly on or before the last
50914 day of the month next succeeding each calendar quarterly period.
50915 (b) (i) Each seller shall, on or before the last day of the month next succeeding each
50916 calendar quarterly period, file with the commission a return for the preceding quarterly period.
50917 (ii) The seller shall remit with the return under Subsection (3)(b)(i) the amount of the
50918 tax required under this chapter to be collected or paid for the period covered by the return.
50919 (c) Each return shall contain information and be in a form the commission prescribes
50920 by rule.
50921 (d) The sales tax as computed in the return shall be based upon the total nonexempt
50922 sales made during the period, including both cash and charge sales.
50923 (e) The use tax as computed in the return shall be based upon the total amount of sales
50924 and purchases for storage, use, or other consumption in this state made during the period,
50925 including both by cash and by charge.
50926 (f) (i) Subject to Subsection (3)(f)(ii) and in accordance with [~~Title 63, Chapter 46a~~]
50927 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule
50928 extend the time for making returns and paying the taxes.
50929 (ii) An extension under Subsection (3)(f)(i) may not be for more than 90 days.

50930 (g) The commission may require returns and payment of the tax to be made for other
50931 than quarterly periods if the commission considers it necessary in order to ensure the payment
50932 of the tax imposed by this chapter.
50933 (4) (a) On each vehicle sale made by other than a regular licensed vehicle dealer, the
50934 purchaser shall pay the sales or use tax directly to the commission if the vehicle is subject to
50935 titling or registration under the laws of this state.
50936 (b) The commission shall collect the tax described in Subsection (4)(a) when the
50937 vehicle is titled or registered.
50938 (5) If any sale of tangible personal property or any other taxable transaction under
50939 Subsection 59-12-103(1), is made by a wholesaler to a retailer, the wholesaler is not
50940 responsible for the collection or payment of the tax imposed on the sale and the retailer is
50941 responsible for the collection or payment of the tax imposed on the sale if:
50942 (a) the retailer represents that the personal property is purchased by the retailer for
50943 resale; and
50944 (b) the personal property is not subsequently resold.
50945 (6) If any sale of property or service subject to the tax is made to a person prepaying
50946 sales or use tax in accordance with [~~Title 63, Chapter 51~~] Title 63M, Chapter 5, Resource
50947 Development, or to a contractor or subcontractor of that person, the person to whom such
50948 payment or consideration is payable is not responsible for the collection or payment of the sales
50949 or use tax and the person prepaying the sales or use tax is responsible for the collection or
50950 payment of the sales or use tax if the person prepaying the sales or use tax represents that the
50951 amount prepaid as sales or use tax has not been fully credited against sales or use tax due and
50952 payable under the rules promulgated by the commission.
50953 (7) (a) For purposes of this Subsection (7):
50954 (i) Except as provided in Subsection (7)(a)(ii), "bad debt" is as defined in Section 166,
50955 Internal Revenue Code.
50956 (ii) Notwithstanding Subsection (7)(a)(i), "bad debt" does not include:
50957 (A) an amount included in the purchase price of tangible personal property or a service
50958 that is:
50959 (I) not a transaction described in Subsection 59-12-103(1); or
50960 (II) exempt under Section 59-12-104;

50961 (B) a financing charge;
50962 (C) interest;
50963 (D) a tax imposed under this chapter on the purchase price of tangible personal
50964 property or a service;
50965 (E) an uncollectible amount on tangible personal property that:
50966 (I) is subject to a tax under this chapter; and
50967 (II) remains in the possession of a seller until the full purchase price is paid;
50968 (F) an expense incurred in attempting to collect any debt; or
50969 (G) an amount that a seller does not collect on repossessed property.
50970 (b) A seller may deduct bad debt from the total amount from which a tax under this
50971 chapter is calculated on a return.
50972 (c) A seller may file a refund claim with the commission if:
50973 (i) the amount of bad debt for the time period described in Subsection (7)(e) exceeds
50974 the amount of the seller's sales that are subject to a tax under this chapter for that same time
50975 period; and
50976 (ii) as provided in Section 59-12-110.
50977 (d) A bad debt deduction under this section may not include interest.
50978 (e) A bad debt may be deducted under this Subsection (7) on a return for the time
50979 period during which the bad debt:
50980 (i) is written off as uncollectible in the seller’s books and records; and
50981 (ii) would be eligible for a bad debt deduction:
50982 (A) for federal income tax purposes; and
50983 (B) if the seller were required to file a federal income tax return.
50984 (f) If a seller recovers any portion of bad debt for which the seller makes a deduction or
50985 claims a refund under this Subsection (7), the seller shall report and remit a tax under this
50986 chapter:
50987 (i) on the portion of the bad debt the seller recovers; and
50988 (ii) on a return filed for the time period for which the portion of the bad debt is
50989 recovered.
50990 (g) For purposes of reporting a recovery of a portion of bad debt under Subsection
50991 (7)(f), a seller shall apply amounts received on the bad debt in the following order:

50992 (i) in a proportional amount:
50993 (A) to the purchase price of the tangible personal property or service; and
50994 (B) to the tax due under this chapter on the tangible personal property or service; and
50995 (ii) to:
50996 (A) interest charges;
50997 (B) service charges; and
50998 (C) other charges.
50999 (8) (a) A seller may not, with intent to evade any tax, fail to timely remit the full
51000 amount of tax required by this chapter.
51001 (b) A violation of this section is punishable as provided in Section 59-1-401.
51002 (c) Each person who fails to pay any tax to the state or any amount of tax required to be
51003 paid to the state, except amounts determined to be due by the commission under Sections
51004 59-12-110 and 59-12-111, within the time required by this chapter, or who fails to file any
51005 return as required by this chapter, shall pay, in addition to the tax, penalties and interest as
51006 provided in Section 59-12-110.
51007 (d) For purposes of prosecution under this section, each quarterly tax period in which a
51008 seller, with intent to evade any tax, collects a tax and fails to timely remit the full amount of the
51009 tax required to be remitted, constitutes a separate offense.
51010 Section 1023. Section **59-12-107.1** is amended to read:
51011 **59-12-107.1. Direct payment permit.**
51012 (1) The commission may issue a direct payment permit to a seller that:
51013 (a) obtains a license under Section 59-12-106;
51014 (b) is required to remit taxes under this chapter by electronic funds transfer in
51015 accordance with Subsection 59-12-108(1);
51016 (c) has a record of timely payment of taxes under this chapter as determined by the
51017 commission; and
51018 (d) demonstrates to the commission that the seller has the ability to determine the
51019 appropriate location of a transaction under Section 59-12-207 for each transaction for which
51020 the seller makes a purchase using the direct payment permit.
51021 (2) A direct payment permit may not be used in connection with the following
51022 transactions:

51023 (a) a purchase of the following purchased in the same transaction:
51024 (i) prepared food; and
51025 (ii) food and food ingredients;
51026 (b) amounts paid or charged for accommodations and services described in Subsection
51027 59-12-103(1)(i);
51028 (c) amounts paid or charged for admission or user fees under Subsection
51029 59-12-103(1)(f);
51030 (d) a purchase of:
51031 (i) a motor vehicle;
51032 (ii) an aircraft;
51033 (iii) a watercraft;
51034 (iv) a modular home;
51035 (v) a manufactured home; or
51036 (vi) a mobile home;
51037 (e) amounts paid under Subsection 59-12-103(1)(b); or
51038 (f) sales under Subsection 59-12-103(1)(c).
51039 (3) The holder of a direct payment permit shall:
51040 (a) present evidence of the direct payment permit to a seller at the time the holder of
51041 the direct payment permit makes a purchase using the direct payment permit;
51042 (b) determine the appropriate location of a transaction under Section 59-12-207 for
51043 each transaction for which the holder of the direct payment permit makes a purchase using the
51044 direct payment permit;
51045 (c) notwithstanding Section 59-12-107, determine the amount of any sales and use tax
51046 due on each transaction for which the holder of the direct payment permit uses the direct
51047 payment permit;
51048 (d) report and remit to the commission the sales and use tax described in Subsection
51049 (3)(c) at the same time and in the same manner as the holder of the direct payment permit
51050 reports and remits a tax under this chapter; and
51051 (e) maintain records:
51052 (i) that indicate the appropriate location of a transaction under Section 59-12-207 for
51053 each transaction for which a purchase is made using the direct payment permit; and

51054 (ii) necessary to determine the amount described in Subsection (3)(c) for each
51055 transaction for which the holder of the direct payment permit uses the direct payment permit.
51056 (4) A seller that is presented evidence of a direct payment permit at the time of a
51057 transaction:
51058 (a) notwithstanding Section 59-12-107, may not collect sales and use tax on the
51059 transaction;
51060 (b) shall, for a period of three years from the date the seller files a return with the
51061 commission reporting the transaction, retain records to verify that the transaction was made
51062 using a direct payment permit; and
51063 (c) notwithstanding Section 59-12-107, is not liable for sales and use tax on the
51064 transaction.
51065 (5) The holder of a direct payment permit may calculate the amount the holder of the
51066 direct payment permit may retain under Section 59-12-108 on the amount described in
51067 Subsection (3)(c):
51068 (a) for each transaction for which the holder of the direct payment permit uses the
51069 direct payment permit; and
51070 (b) that the holder of the direct payment permit remits to the commission under this
51071 section.
51072 (6) The commission may revoke a direct payment permit issued under this section at
51073 any time if the holder of the direct payment permit fails to comply with any provision of this
51074 chapter.
51075 (7) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
51076 Administrative Rulemaking Act, the commission may make rules to administer this section.
51077 Section 1024. Section **59-12-108** is amended to read:
51078 **59-12-108. Monthly payment -- Amount of tax a seller may retain -- Penalty --**
51079 **Certain amounts allocated to local taxing jurisdictions.**
51080 (1) (a) Notwithstanding Section 59-12-107, a seller that has a tax liability under this
51081 chapter of $50,000 or more for the previous calendar year shall:
51082 (i) file a return with the commission:
51083 (A) monthly on or before the last day of the month immediately following the month
51084 for which the seller collects a tax under this chapter; and

51085 (B) for the month for which the seller collects a tax under this chapter; and
51086 (ii) remit with the return required by Subsection (1)(a)(i) the amount the person is
51087 required to remit to the commission for each tax, fee, or charge described in Subsection (1)(b):
51088 (A) if that seller's tax liability under this chapter for the previous calendar year is less
51089 than $96,000, by any method permitted by the commission; or
51090 (B) if that seller's tax liability under this chapter for the previous calendar year is
51091 $96,000 or more, by electronic funds transfer.
51092 (b) Subsections (1)(a)(i) and (ii) apply to the following taxes, fees, or charges:
51093 (i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
51094 (ii) a fee under Section 19-6-716;
51095 (iii) a fee under Section 19-6-805;
51096 (iv) a charge under Section 69-2-5.5; or
51097 (v) a tax under this chapter.
51098 (c) Notwithstanding Subsection (1)(a)(ii) and in accordance with [~~Title 63, Chapter~~
51099 ~~46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make
51100 rules providing for a method for making same-day payments other than by electronic funds
51101 transfer if making payments by electronic funds transfer fails.
51102 (d) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
51103 Administrative Rulemaking Act, the commission shall establish by rule procedures and
51104 requirements for determining the amount a seller is required to remit to the commission under
51105 this Subsection (1).
51106 (2) (a) Except as provided in Subsection (3), a seller subject to Subsection (1) or a
51107 seller described in Subsection (4) may retain each month the amount allowed by this
51108 Subsection (2).
51109 (b) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain
51110 each month 1.31% of any amounts the seller is required to remit to the commission:
51111 (i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax
51112 and a local tax imposed in accordance with the following, for the month for which the seller is
51113 filing a return in accordance with Subsection (1):
51114 (A) Subsection 59-12-103(2)(a);
51115 (B) Subsection 59-12-103(2)(b);

51116 (C) Subsection 59-12-103(2)(d), except for the state tax and the local tax imposed on
51117 the amounts paid or charged for food and food ingredients in accordance with Subsections
51118 59-12-103(2)(d)(i)(C) and (2)(d)(ii); and
51119 (D) Subsection 59-12-103(2)(e); and
51120 (ii) for an agreement sales and use tax.
51121 (c) (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may
51122 retain each month the amount calculated under Subsection (2)(c)(ii) for a transaction described
51123 in Subsection 59-12-103(1) that is subject to the state tax and the local tax imposed in
51124 accordance with Subsection 59-12-103(2)(c).
51125 (ii) For purposes of Subsection (2)(c)(i), the amount a seller may retain is an amount
51126 equal to the sum of:
51127 (A) 1.31% of any amounts the seller is required to remit to the commission for:
51128 (I) the state tax and the local tax imposed in accordance with Subsection
51129 59-12-103(2)(c);
51130 (II) the month for which the seller is filing a return in accordance with Subsection (1);
51131 and
51132 (III) an agreement sales and use tax; and
51133 (B) 1.31% of the difference between:
51134 (I) the amounts the seller would have been required to remit to the commission:
51135 (Aa) in accordance with Subsection 59-12-103(2)(a) if the transaction had been subject
51136 to the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(a);
51137 (Bb) for the month for which the seller is filing a return in accordance with Subsection
51138 (1); and
51139 (Cc) for an agreement sales and use tax; and
51140 (II) the amounts the seller is required to remit to the commission for:
51141 (Aa) the state tax and the local tax imposed in accordance with Subsection
51142 59-12-103(2)(c);
51143 (Bb) the month for which the seller is filing a return in accordance with Subsection (1);
51144 and
51145 (Cc) an agreement sales and use tax.
51146 (d) (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may

51147 retain each month the amount calculated under Subsection (2)(d)(ii) for a transaction described
51148 in Subsection 59-12-103(1) that is subject to the state tax and the local tax imposed on the
51149 amounts paid or charged for food and food ingredients in accordance with Subsections
51150 59-12-103(2)(d)(i)(C) and (2)(d)(ii).
51151 (ii) For purposes of Subsection (2)(d)(i), the amount a seller may retain is an amount
51152 equal to the sum of:
51153 (A) 1.31% of any amounts the seller is required to remit to the commission for:
51154 (I) the state tax and the local tax imposed on the amounts paid or charged for food and
51155 food ingredients in accordance with Subsections 59-12-103(2)(d)(i)(C) and (2)(d)(ii);
51156 (II) the month for which the seller is filing a return in accordance with Subsection (1);
51157 and
51158 (III) an agreement sales and use tax; and
51159 (B) 1.31% of the difference between:
51160 (I) the amounts the seller would have been required to remit to the commission:
51161 (Aa) in accordance with Subsections 59-12-103(2)(d)(i)(A) and (2)(d)(ii) if the
51162 transaction had been subject to the state tax and the local tax imposed in accordance with
51163 Subsections 59-12-103(2)(d)(i)(A) and (2)(d)(ii);
51164 (Bb) for the month for which the seller is filing a return in accordance with Subsection
51165 (1); and
51166 (Cc) for an agreement sales and use tax; and
51167 (II) the amounts the seller is required to remit to the commission for:
51168 (Aa) the state tax and the local tax imposed in accordance with Subsections
51169 59-12-103(2)(d)(i)(C) and (2)(d)(ii);
51170 (Bb) the month for which the seller is filing a return in accordance with Subsection (1);
51171 and
51172 (Cc) an agreement sales and use tax.
51173 (e) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain
51174 each month 1% of any amounts the seller is required to remit to the commission:
51175 (i) for the month for which the seller is filing a return in accordance with Subsection
51176 (1); and
51177 (ii) under:

51178 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
51179 (B) Subsection 59-12-603(1)(a)(i)(A); or
51180 (C) Subsection 59-12-603(1)(a)(i)(B).
51181 (3) A state government entity that is required to remit taxes monthly in accordance
51182 with Subsection (1) may not retain any amount under Subsection (2).
51183 (4) A seller that has a tax liability under this chapter for the previous calendar year of
51184 less than $50,000 may:
51185 (a) voluntarily meet the requirements of Subsection (1); and
51186 (b) if the seller voluntarily meets the requirements of Subsection (1), retain the
51187 amounts allowed by Subsection (2).
51188 (5) Penalties for late payment shall be as provided in Section 59-1-401.
51189 (6) (a) For any amounts required to be remitted to the commission under this part, the
51190 commission shall each month calculate an amount equal to the difference between:
51191 (i) the total amount retained for that month by all sellers had the percentages listed
51192 under Subsections (2)(b), (2)(c)(ii), and (2)(d)(ii) been 1.5%; and
51193 (ii) the total amount retained for that month by all sellers at the percentages listed
51194 under Subsections (2)(b), (2)(c)(ii), and (2)(d)(ii).
51195 (b) The commission shall each month allocate the amount calculated under Subsection
51196 (6)(a) to each county, city, and town on the basis of the proportion of agreement sales and use
51197 tax that the commission distributes to each county, city, and town for that month compared to
51198 the total agreement sales and use tax that the commission distributes for that month to all
51199 counties, cities, and towns.
51200 Section 1025. Section **59-12-110** is amended to read:
51201 **59-12-110. Overpayments, deficiencies, and refunds procedures.**
51202 (1) (a) As soon as practicable after a return is filed, the commission shall examine the
51203 return.
51204 (b) If the commission determines that the correct amount of tax to be remitted is
51205 greater or less than the amount shown to be due on the return, the commission shall recompute
51206 the tax.
51207 (c) If the amount paid exceeds the amount due, the excess, plus interest as provided in
51208 Section 59-1-402, shall be credited or refunded to the taxpayer as provided in Subsection (2).

51209 (d) The commission may not credit or refund to the taxpayer interest on an
51210 overpayment under Subsection (1)(c) if the commission determines that the overpayment was
51211 made for the purpose of investment.
51212 (2) (a) If a taxpayer pays a tax, penalty, or interest more than once or the commission
51213 erroneously receives, collects, or computes any tax, penalty, or interest, including an
51214 overpayment described in Subsection (1)(c), the commission shall:
51215 (i) credit the amount of tax, penalty, or interest paid by the taxpayer against any
51216 amounts of tax, penalties, or interest the taxpayer owes; and
51217 (ii) refund any balance to the taxpayer or the taxpayer's successors, administrators,
51218 executors, or assigns.
51219 (b) Except as provided in Subsections (2)(c) and (d) or Section 19-2-124, a taxpayer
51220 shall file a claim with the commission to obtain a refund or credit under this Subsection (2)
51221 within three years from the day on which the taxpayer overpaid the tax, penalty, or interest.
51222 (c) Notwithstanding Subsection (2)(b), beginning on July 1, 1998, the commission
51223 shall extend the period for a taxpayer to file a claim under Subsection (2)(b) if:
51224 (i) the three-year period under Subsection (2)(b) has not expired; and
51225 (ii) the commission and the taxpayer sign a written agreement:
51226 (A) authorizing the extension; and
51227 (B) providing for the length of the extension.
51228 (d) Notwithstanding Subsection (2)(b), a seller that files a claim for a refund under
51229 Subsection 59-12-107 (7)(c) for bad debt shall file the claim with the commission within three
51230 years from the date on which the seller could first claim the refund for the bad debt.
51231 (e) A taxpayer may file a claim to obtain a refund or credit under this Subsection (2)
51232 regardless of whether the taxpayer received or objected to a notice of deficiency or a notice of
51233 assessment as provided in Subsection 59-12-114(1).
51234 (f) A taxpayer may obtain a refund under this Subsection (2) of a tax paid under this
51235 chapter on a transaction that is taxable under Section 59-12-103 if:
51236 (i) the sale or use was exempt from sales and use taxes under Section 59-12-104 on the
51237 date of purchase; and
51238 (ii) except as provided in Subsection (2)(c), the taxpayer files a claim for a refund with
51239 the commission as provided in Subsections (2)(b) through (e).

51240 (g) If the commission denies a claim for a refund or credit under this Subsection (2),
51241 the taxpayer may request a redetermination of the denial by filing a petition or request for
51242 agency action with the commission as provided in [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
51243 Administrative Procedures Act.
51244 (3) If the commission erroneously determines an amount to be due from a taxpayer, the
51245 commission shall authorize the amounts to be cancelled upon its records.
51246 (4) (a) Subject to the provisions of Subsection (4)(b), the commission may impose on a
51247 deficiency under this section:
51248 (i) a penalty as provided in Section 59-1-401; and
51249 (ii) interest as provided in Section 59-1-402.
51250 (b) The commission may impose a penalty and interest on the entire deficiency if any
51251 part of the deficiency is due to:
51252 (i) negligence;
51253 (ii) intentional disregard of law or rule; or
51254 (iii) fraud with intent to evade the tax.
51255 (5) (a) Except as provided in Subsection (5)(b), a taxpayer shall pay a tax deficiency,
51256 including penalties or interest under this section, within ten days after the commission provides
51257 the taxpayer notice and demand of the deficiency, penalty, or interest.
51258 (b) Notwithstanding Subsection (5)(a), a taxpayer may pay a tax deficiency, penalty, or
51259 interest within 30 days after the commission provides the taxpayer notice and demand of the
51260 deficiency, penalty, or interest if the commission determines:
51261 (i) that a greater amount was due than was shown on the return; and
51262 (ii) the tax is not in jeopardy.
51263 (6) (a) Except as provided in Subsections (6)(c) through (f), the commission shall
51264 assess the amount of taxes imposed by this chapter, and any penalties and interest, within three
51265 years after a taxpayer files a return.
51266 (b) Except as provided in Subsections (6)(c) through (f), if the commission does not
51267 make an assessment under Subsection (6)(a) within three years, the commission may not
51268 commence a proceeding for the collection of the taxes after the expiration of the three-year
51269 period.
51270 (c) Notwithstanding Subsections (6)(a) and (b), the commission may make an

51271 assessment or commence a proceeding to collect a tax at any time if a deficiency is due to:
51272 (i) fraud; or
51273 (ii) failure to file a return.
51274 (d) Notwithstanding Subsections (6)(a) and (b), beginning on July 1, 1998, the
51275 commission may extend the period to make an assessment or to commence a proceeding to
51276 collect the tax under this chapter if:
51277 (i) the three-year period under this Subsection (6) has not expired; and
51278 (ii) the commission and the taxpayer sign a written agreement:
51279 (A) authorizing the extension; and
51280 (B) providing for the length of the extension.
51281 (e) If the commission delays an audit at the request of a taxpayer, the commission may
51282 make an assessment as provided in Subsection (6)(f) if:
51283 (i) the taxpayer subsequently refuses to agree to an extension request by the
51284 commission; and
51285 (ii) the three-year period under this Subsection (6) expires before the commission
51286 completes the audit.
51287 (f) An assessment under Subsection (6)(e) shall be:
51288 (i) for the time period for which the commission could not make an assessment
51289 because of the expiration of the three-year period; and
51290 (ii) in an amount equal to the difference between:
51291 (A) the commission's estimate of the amount of taxes the taxpayer would have been
51292 assessed for the time period described in Subsection (6)(f)(i); and
51293 (B) the amount of taxes the taxpayer actually paid for the time period described in
51294 Subsection (6)(f)(i).
51295 Section 1026. Section **59-12-114** is amended to read:
51296 **59-12-114. Taxpayer objections -- Available remedies.**
51297 (1) A taxpayer may object to a notice of deficiency or notice of assessment issued by
51298 the commission by applying to the commission as provided in [~~Title 63, Chapter 46b~~] Title
51299 63G, Chapter 4, Administrative Procedures Act.
51300 (2) A taxpayer who has not previously adjudicated a tax deficiency as provided in
51301 Subsection (1) may object to a final assessment issued by the commission by:

51302 (a) paying the tax; and
51303 (b) filing a claim for a refund as provided in Section 59-12-110.
51304 Section 1027. Section **59-12-207** is amended to read:
51305 **59-12-207. Report of tax collections -- Point of sale when retailer has no**
51306 **permanent place of business or more than one place of business is determined by rule of**
51307 **commission -- Public utilities -- Telecommunications service.**
51308 (1) Except as provided in Subsection (5), any sales and use taxes collected under this
51309 part shall be reported to the commission on forms that accurately identify the location where
51310 the transaction resulting in a tax under this chapter is consummated.
51311 (2) Except as provided in Subsection (5), for purposes of this part, the location of
51312 where a transaction is consummated:
51313 (a) is determined under rules of the commission if:
51314 (i) a retailer has no permanent place of business in the state; or
51315 (ii) has more than one place of business;
51316 (b) is where a purchaser receives the following products or services sold by a public
51317 utility, as defined in Section 54-2-1, to that purchaser:
51318 (i) gas; or
51319 (ii) electricity; and
51320 (c) is as provided in Section 59-12-207.4 for a service described in Section
51321 59-12-207.4.
51322 (3) The form required under Subsection (1) shall:
51323 (a) accompany the sales and use tax returns required under this chapter; and
51324 (b) identify the location of any transaction consummated during the return filing
51325 period.
51326 (4) Subject to Subsection (5) and in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
51327 Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules regarding
51328 the determination of the location of where under Subsection (2)(a) a transaction is
51329 consummated.
51330 (5) Notwithstanding Subsections (1) and (2), mobile telecommunications service is
51331 subject to the sourcing rules provided in the Mobile Telecommunications Sourcing Act, 4
51332 U.S.C. Sec. 116 et seq.

51333 Section 1028. Section **59-12-208.1** is amended to read:
51334 **59-12-208.1. Enactment or repeal of tax -- Effective date -- Notice requirements.**
51335 (1) For purposes of this section:
51336 (a) "Annexation" means an annexation to:
51337 (i) a county under Title 17, Chapter 2, Annexation to County; or
51338 (ii) a city or town under Title 10, Chapter 2, Part 4, Annexation.
51339 (b) "Annexing area" means an area that is annexed into a county, city, or town.
51340 (2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after July 1, 2004, a
51341 county, city, or town enacts or repeals a tax under this part, the enactment or repeal shall take
51342 effect:
51343 (i) on the first day of a calendar quarter; and
51344 (ii) after a 90-day period beginning on the date the commission receives notice meeting
51345 the requirements of Subsection (2)(b) from the county, city, or town.
51346 (b) The notice described in Subsection (2)(a)(ii) shall state:
51347 (i) that the county, city, or town will enact or repeal a tax under this part;
51348 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);
51349 (iii) the effective date of the tax described in Subsection (2)(b)(i); and
51350 (iv) if the county, city, or town enacts the tax described in Subsection (2)(b)(i), the rate
51351 of the tax.
51352 (c) (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
51353 (2)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
51354 (A) that begins after the effective date of the enactment of the tax; and
51355 (B) if the billing period for the transaction begins before the effective date of the
51356 enactment of the tax under Section 59-12-204.
51357 (ii) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
51358 (2)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
51359 (A) that began before the effective date of the repeal of the tax; and
51360 (B) if the billing period for the transaction begins before the effective date of the repeal
51361 of the tax imposed under Section 59-12-204.
51362 (iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:
51363 (A) Subsection 59-12-103(1)(b);

51364 (B) Subsection 59-12-103(1)(c);
51365 (C) Subsection 59-12-103(1)(d);
51366 (D) Subsection 59-12-103(1)(e);
51367 (E) Subsection 59-12-103(1)(f);
51368 (F) Subsection 59-12-103(1)(g);
51369 (G) Subsection 59-12-103(1)(h);
51370 (H) Subsection 59-12-103(1)(i);
51371 (I) Subsection 59-12-103(1)(j); or
51372 (J) Subsection 59-12-103(1)(k).
51373 (d) (i) Notwithstanding Subsection (2)(a), if a tax due under this chapter on a catalogue
51374 sale is computed on the basis of sales and use tax rates published in the catalogue, an
51375 enactment or repeal of a tax described in Subsection (2)(a) takes effect:
51376 (A) on the first day of a calendar quarter; and
51377 (B) beginning 60 days after the effective date of the enactment or repeal under
51378 Subsection (2)(a).
51379 (ii) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
51380 Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
51381 (3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs
51382 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
51383 part for an annexing area, the enactment or repeal shall take effect:
51384 (i) on the first day of a calendar quarter; and
51385 (ii) after a 90-day period beginning on the date the commission receives notice meeting
51386 the requirements of Subsection (3)(b) from the county, city, or town that annexes the annexing
51387 area.
51388 (b) The notice described in Subsection (3)(a)(ii) shall state:
51389 (i) that the annexation described in Subsection (3)(a) will result in an enactment or
51390 repeal of a tax under this part for the annexing area;
51391 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);
51392 (iii) the effective date of the tax described in Subsection (3)(b)(i); and
51393 (iv) the rate of the tax described in Subsection (3)(b)(i).
51394 (c) (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection

51395 (3)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
51396 (A) that begins after the effective date of the enactment of the tax; and
51397 (B) if the billing period for the transaction begins before the effective date of the
51398 enactment of the tax under Section 59-12-204.
51399 (ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
51400 (3)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
51401 (A) that began before the effective date of the repeal of the tax; and
51402 (B) if the billing period for the transaction begins before the effective date of the repeal
51403 of the tax imposed under Section 59-12-204.
51404 (iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:
51405 (A) Subsection 59-12-103(1)(b);
51406 (B) Subsection 59-12-103(1)(c);
51407 (C) Subsection 59-12-103(1)(d);
51408 (D) Subsection 59-12-103(1)(e);
51409 (E) Subsection 59-12-103(1)(f);
51410 (F) Subsection 59-12-103(1)(g);
51411 (G) Subsection 59-12-103(1)(h);
51412 (H) Subsection 59-12-103(1)(i);
51413 (I) Subsection 59-12-103(1)(j); or
51414 (J) Subsection 59-12-103(1)(k).
51415 (d) (i) Notwithstanding Subsection (3)(a), if a tax due under this chapter on a catalogue
51416 sale is computed on the basis of sales and use tax rates published in the catalogue, an
51417 enactment or repeal of a tax described in Subsection (3)(a) takes effect:
51418 (A) on the first day of a calendar quarter; and
51419 (B) beginning 60 days after the effective date of the enactment or repeal under
51420 Subsection (3)(a).
51421 (ii) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
51422 Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
51423 Section 1029. Section **59-12-209** is amended to read:
51424 **59-12-209. Participation of counties, cities, and towns in administration and**
51425 **enforcement of local option sales and use tax.**

51426 (1) Notwithstanding the provisions of [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
51427 Administrative Procedures Act, a county, city, or town shall not have the right to any of the
51428 following, except as specifically allowed by Subsection (2) and Section 59-12-210:
51429 (a) to inspect, review, or have access to any taxpayer sales and use tax records; or
51430 (b) to be informed of, participate in, intervene in, or appeal from any adjudicative
51431 proceeding commenced pursuant to Section [~~63-46b-3~~] 63G-4-201 to determine the liability of
51432 any taxpayer for sales and use tax imposed pursuant to Title 59, Chapter 12, Sales and Use Tax
51433 Act.
51434 (2) Counties, cities, and towns shall have access to records and information on file with
51435 the commission, and shall have the right to notice of, and such rights to intervene in or to
51436 appeal from, a proposed final agency action of the commission as follows:
51437 (a) If the commission, following a formal adjudicative proceeding commenced
51438 pursuant to [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act,
51439 proposes to take final agency action that would reduce the amount of sales and use tax liability
51440 alleged in the notice of deficiency, the commission shall provide notice of a proposed agency
51441 action to each qualified county, city, and town.
51442 (b) For purposes of this section, a county, city, or town is a qualified county, city, or
51443 town if a proposed final agency action reduces the local option sales and use tax distributable
51444 to that county, city, or town by more than $10,000 below the amount of the tax that would have
51445 been distributable to that county, city, or town had a notice of deficiency, as described in
51446 Section 59-12-110, not been reduced.
51447 (c) A qualified county, city, or town may designate a representative who shall have the
51448 right to review the record of the formal hearing and any other commission records relating to a
51449 proposed final agency action subject to the confidentiality provisions of Section 59-1-403.
51450 (d) No later than ten days after receiving the notice of the commission's proposed final
51451 agency action, a qualified county, city, or town may file a notice of intervention with the
51452 commission.
51453 (e) No later than 20 days after filing a notice of intervention, if a qualified county, city,
51454 or town objects to the proposed final agency action, that qualified county, city, or town may file
51455 a petition for reconsideration with the commission and shall serve copies of the petition on the
51456 taxpayer and the appropriate division in the commission.

51457 (f) The taxpayer and appropriate division in the commission may each file a response
51458 to the petition for reconsideration within 20 days of receipt of the petition for reconsideration.
51459 (g) After consideration of the petition for reconsideration and any response, and any
51460 additional proceeding the commission considers appropriate, the commission may affirm,
51461 modify, or amend its proposed final agency action. The taxpayer and any qualified county,
51462 city, or town that has filed a petition for reconsideration may appeal the final agency action.
51463 Section 1030. Section **59-12-210** is amended to read:
51464 **59-12-210. Commission to provide data to counties.**
51465 (1) (a) The commission shall provide to each county the sales and use tax collection
51466 data necessary to verify that the local sales and use tax revenues collected by the commission
51467 are distributed to each county, city, and town in accordance with Sections 59-12-205,
51468 59-12-206, 59-12-207, and 59-12-207.4.
51469 (b) The data described in Subsection (1)(a) shall include the commission's reports of
51470 seller sales, sales and use tax distribution reports, and a breakdown of local revenues.
51471 (2) (a) In addition to the access to information provided in Subsection (1) and Section
51472 59-12-109, the commission shall provide a county, city, or town with copies of returns and
51473 other information required by this chapter relating to a tax under this chapter.
51474 (b) The information described in Subsection (2)(a) is available only in official matters
51475 and must be requested in writing by the chief executive officer or the chief executive officer's
51476 designee.
51477 (c) The request described in Subsection (2)(b) shall specifically indicate the
51478 information being sought and how the information will be used.
51479 (d) Information received pursuant to the request described in Subsection (2)(b) shall
51480 be:
51481 (i) classified as private or protected under Section [~~63-2-302~~] 63G-2-302 or [~~63-2-304~~]
51482 63G-2-305; and
51483 (ii) subject to the confidentiality provisions of Section 59-1-403.
51484 Section 1031. Section **59-12-301** is amended to read:
51485 **59-12-301. Transient room tax -- Rate -- Expenditure of revenues -- Enactment or**
51486 **repeal of tax -- Tax rate change -- Effective date -- Notice requirements.**
51487 (1) (a) A county legislative body may impose a tax on charges for the accommodations

51488 and services described in Subsection 59-12-103(1)(i) at a rate of not to exceed 4.25%
51489 beginning on or after October 1, 2006.
51490 (b) Subject to Subsection (2), the revenues raised from the tax imposed under
51491 Subsection (1)(a) shall be used for the purposes listed in Section 17-31-2.
51492 (c) The tax imposed under Subsection (1)(a) shall be in addition to the tax imposed
51493 under Part 6, Tourism, Recreation, Cultural, and Convention Facilities Tax.
51494 (2) If a county legislative body of a county of the first class imposes a tax under this
51495 section, beginning on July 1, 2007, and ending on June 30, 2027, each year the first 15% of the
51496 revenues collected from the tax authorized by Subsection (1)(a) within that county shall be:
51497 (a) deposited into the Transient Room Tax Fund created by Section [~~63-38f-2203~~]
51498 63M-1-2203; and
51499 (b) expended as provided in Section [~~63-38f-2203~~] 63M-1-2203.
51500 (3) Subject to Subsection (4), a county legislative body:
51501 (a) may increase or decrease the tax authorized under this part; and
51502 (b) shall regulate the tax authorized under this part by ordinance.
51503 (4) (a) For purposes of this Subsection (4):
51504 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,
51505 Annexation to County.
51506 (ii) "Annexing area" means an area that is annexed into a county.
51507 (b) (i) Except as provided in Subsection (4)(c), if, on or after July 1, 2004, a county
51508 enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or
51509 change shall take effect:
51510 (A) on the first day of a calendar quarter; and
51511 (B) after a 90-day period beginning on the date the commission receives notice meeting
51512 the requirements of Subsection (4)(b)(ii) from the county.
51513 (ii) The notice described in Subsection (4)(b)(i)(B) shall state:
51514 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;
51515 (B) the statutory authority for the tax described in Subsection (4)(b)(ii)(A);
51516 (C) the effective date of the tax described in Subsection (4)(b)(ii)(A); and
51517 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
51518 (4)(b)(ii)(A), the rate of the tax.

51519 (c) (i) Notwithstanding Subsection (4)(b)(i), for a transaction described in Subsection
51520 (4)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
51521 first billing period:
51522 (A) that begins after the effective date of the enactment of the tax or the tax rate
51523 increase; and
51524 (B) if the billing period for the transaction begins before the effective date of the
51525 enactment of the tax or the tax rate increase imposed under this section.
51526 (ii) Notwithstanding Subsection (4)(b)(i), for a transaction described in Subsection
51527 (4)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
51528 billing period:
51529 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
51530 and
51531 (B) if the billing period for the transaction begins before the effective date of the repeal
51532 of the tax or the tax rate decrease imposed under this section.
51533 (iii) Subsections (4)(c)(i) and (ii) apply to transactions subject to a tax under
51534 Subsection 59-12-103(1)(i).
51535 (d) (i) Except as provided in Subsection (4)(e), if, for an annexation that occurs on or
51536 after July 1, 2004, the annexation will result in the enactment, repeal, or a change in the rate of
51537 a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:
51538 (A) on the first day of a calendar quarter; and
51539 (B) after a 90-day period beginning on the date the commission receives notice meeting
51540 the requirements of Subsection (4)(d)(ii) from the county that annexes the annexing area.
51541 (ii) The notice described in Subsection (4)(d)(i)(B) shall state:
51542 (A) that the annexation described in Subsection (4)(d)(i) will result in an enactment,
51543 repeal, or change in the rate of a tax under this part for the annexing area;
51544 (B) the statutory authority for the tax described in Subsection (4)(d)(ii)(A);
51545 (C) the effective date of the tax described in Subsection(4)(d)(ii)(A); and
51546 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
51547 (4)(d)(ii)(A), the rate of the tax.
51548 (e) (i) Notwithstanding Subsection(4)(d)(i), for a transaction described in Subsection
51549 (4)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the

51550 first billing period:
51551 (A) that begins after the effective date of the enactment of the tax or the tax rate
51552 increase; and
51553 (B) if the billing period for the transaction begins before the effective date of the
51554 enactment of the tax or the tax rate increase imposed under this section.
51555 (ii) Notwithstanding Subsection(4)(d)(i), for a transaction described in Subsection
51556 (4)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
51557 billing period:
51558 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
51559 and
51560 (B) if the billing period for the transaction begins before the effective date of the repeal
51561 of the tax or the tax rate decrease imposed under this section.
51562 (iii) Subsections(4)(e)(i) and (ii) apply to transactions subject to a tax under Subsection
51563 59-12-103(1)(i).
51564 Section 1032. Section **59-12-403 (Effective 01/01/08)** is amended to read:
51565 **59-12-403 (Effective 01/01/08). Enactment or repeal of tax -- Tax rate change --**
51566 **Effective date -- Notice requirements -- Administration, collection, and enforcement of**
51567 **tax.**
51568 (1) For purposes of this section:
51569 (a) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
51570 4, Annexation.
51571 (b) "Annexing area" means an area that is annexed into a city or town.
51572 (2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after April 1, 2008, a
51573 city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment,
51574 repeal, or change shall take effect:
51575 (i) on the first day of a calendar quarter; and
51576 (ii) after a 90-day period beginning on the date the commission receives notice meeting
51577 the requirements of Subsection (2)(b) from the city or town.
51578 (b) The notice described in Subsection (2)(a)(ii) shall state:
51579 (i) that the city or town will enact or repeal a tax or change the rate of a tax under this
51580 part;

51581 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);
51582 (iii) the effective date of the tax described in Subsection (2)(b)(i); and
51583 (iv) if the city or town enacts the tax or changes the rate of the tax described in
51584 Subsection (2)(b)(i), the rate of the tax.
51585 (c) (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
51586 (2)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
51587 first billing period:
51588 (A) that begins after the effective date of the enactment of the tax or the tax rate
51589 increase; and
51590 (B) if the billing period for the transaction begins before the effective date of the
51591 enactment of the tax or the tax rate increase imposed under:
51592 (I) Section 59-12-401; or
51593 (II) Section 59-12-402.
51594 (ii) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
51595 (2)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
51596 billing period:
51597 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
51598 and
51599 (B) if the billing period for the transaction begins before the effective date of the repeal
51600 of the tax or the tax rate decrease imposed under:
51601 (I) Section 59-12-401; or
51602 (II) Section 59-12-402.
51603 (iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:
51604 (A) Subsection 59-12-103(1)(b);
51605 (B) Subsection 59-12-103(1)(c);
51606 (C) Subsection 59-12-103(1)(d);
51607 (D) Subsection 59-12-103(1)(e);
51608 (E) Subsection 59-12-103(1)(f);
51609 (F) Subsection 59-12-103(1)(g);
51610 (G) Subsection 59-12-103(1)(h);
51611 (H) Subsection 59-12-103(1)(i);

51612 (I) Subsection 59-12-103(1)(j); or
51613 (J) Subsection 59-12-103(1)(k).
51614 (d) (i) Notwithstanding Subsection (2)(a), if a tax due under this chapter on a catalogue
51615 sale is computed on the basis of sales and use tax rates published in the catalogue, an
51616 enactment, repeal, or change in the rate of a tax described in Subsection (2)(a) takes effect:
51617 (A) on the first day of a calendar quarter; and
51618 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
51619 rate of the tax under Subsection (2)(a).
51620 (ii) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
51621 Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
51622 (3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs
51623 on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the
51624 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
51625 effect:
51626 (i) on the first day of a calendar quarter; and
51627 (ii) after a 90-day period beginning on the date the commission receives notice meeting
51628 the requirements of Subsection (3)(b) from the city or town that annexes the annexing area.
51629 (b) The notice described in Subsection (3)(a)(ii) shall state:
51630 (i) that the annexation described in Subsection (3)(a) will result in an enactment,
51631 repeal, or change in the rate of a tax under this part for the annexing area;
51632 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);
51633 (iii) the effective date of the tax described in Subsection (3)(b)(i); and
51634 (iv) if the city or town enacts the tax or changes the rate of the tax described in
51635 Subsection (3)(b)(i), the rate of the tax.
51636 (c) (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
51637 (3)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
51638 first billing period:
51639 (A) that begins after the effective date of the enactment of the tax or the tax rate
51640 increase; and
51641 (B) if the billing period for the transaction begins before the effective date of the
51642 enactment of the tax or the tax rate increase imposed under:

51643 (I) Section 59-12-401; or
51644 (II) Section 59-12-402.
51645 (ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
51646 (3)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
51647 billing period:
51648 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
51649 and
51650 (B) if the billing period for the transaction begins before the effective date of the repeal
51651 of the tax or the tax rate decrease imposed under:
51652 (I) Section 59-12-401; or
51653 (II) Section 59-12-402.
51654 (iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:
51655 (A) Subsection 59-12-103(1)(b);
51656 (B) Subsection 59-12-103(1)(c);
51657 (C) Subsection 59-12-103(1)(d);
51658 (D) Subsection 59-12-103(1)(e);
51659 (E) Subsection 59-12-103(1)(f);
51660 (F) Subsection 59-12-103(1)(g);
51661 (G) Subsection 59-12-103(1)(h);
51662 (H) Subsection 59-12-103(1)(i);
51663 (I) Subsection 59-12-103(1)(j); or
51664 (J) Subsection 59-12-103(1)(k).
51665 (d) (i) Notwithstanding Subsection (3)(a), if a tax due under this chapter on a catalogue
51666 sale is computed on the basis of sales and use tax rates published in the catalogue, an
51667 enactment, repeal, or change in the rate of a tax described in Subsection (3)(a) takes effect:
51668 (A) on the first day of a calendar quarter; and
51669 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
51670 rate of the tax under Subsection (3)(a).
51671 (ii) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
51672 Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
51673 (4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be

51674 administered, collected, and enforced in accordance with:
51675 (i) the same procedures used to administer, collect, and enforce the tax under:
51676 (A) Part 1, Tax Collection; or
51677 (B) Part 2, Local Sales and Use Tax Act; and
51678 (ii) Chapter 1, General Taxation Policies.
51679 (b) Notwithstanding Subsection (4)(a), a tax under this part is not subject to
51680 Subsections 59-12-205(2) through (7).
51681 Section 1033. Section **59-12-504 (Effective 01/01/08)** is amended to read:
51682 **59-12-504 (Effective 01/01/08). Enactment or repeal of tax -- Effective date --**
51683 **Notice requirements -- Administration, collection, and enforcement of tax.**
51684 (1) For purposes of this section:
51685 (a) "Annexation" means an annexation to:
51686 (i) a county under Title 17, Chapter 2, Annexation to County; or
51687 (ii) a city or town under Title 10, Chapter 2, Part 4, Annexation.
51688 (b) "Annexing area" means an area that is annexed into a county, city, or town.
51689 (2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after April 1, 2008, a
51690 county, city, or town enacts or repeals a tax under this part, the enactment or repeal shall take
51691 effect:
51692 (i) on the first day of a calendar quarter; and
51693 (ii) after a 90-day period beginning on the date the commission receives notice meeting
51694 the requirements of Subsection (2)(b) from the county, city, or town.
51695 (b) The notice described in Subsection (2)(a)(ii) shall state:
51696 (i) that the county, city, or town will enact or repeal a tax under this part;
51697 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);
51698 (iii) the effective date of the tax described in Subsection (2)(b)(i); and
51699 (iv) if the county, city, or town enacts the tax described in Subsection (2)(b)(i), the rate
51700 of the tax.
51701 (c) (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
51702 (2)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
51703 (A) that begins after the effective date of the enactment of the tax; and
51704 (B) if the billing period for the transaction begins before the effective date of the

51705 enactment of the tax under:
51706 (I) Section 59-12-501; or
51707 (II) Section 59-12-502.
51708 (ii) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
51709 (2)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
51710 (A) that began before the effective date of the repeal of the tax; and
51711 (B) if the billing period for the transaction begins before the effective date of the repeal
51712 of the tax imposed under:
51713 (I) Section 59-12-501; or
51714 (II) Section 59-12-502.
51715 (iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:
51716 (A) Subsection 59-12-103(1)(b);
51717 (B) Subsection 59-12-103(1)(c);
51718 (C) Subsection 59-12-103(1)(d);
51719 (D) Subsection 59-12-103(1)(e);
51720 (E) Subsection 59-12-103(1)(f);
51721 (F) Subsection 59-12-103(1)(g);
51722 (G) Subsection 59-12-103(1)(h);
51723 (H) Subsection 59-12-103(1)(i);
51724 (I) Subsection 59-12-103(1)(j); or
51725 (J) Subsection 59-12-103(1)(k).
51726 (d) (i) Notwithstanding Subsection (2)(a), if a tax due under this chapter on a catalogue
51727 sale is computed on the basis of sales and use tax rates published in the catalogue, an
51728 enactment or repeal of a tax described in Subsection (2)(a) takes effect:
51729 (A) on the first day of a calendar quarter; and
51730 (B) beginning 60 days after the effective date of the enactment or repeal under
51731 Subsection (2)(a).
51732 (ii) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
51733 Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
51734 (3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs
51735 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this

51736 part for an annexing area, the enactment or repeal shall take effect:
51737 (i) on the first day of a calendar quarter; and
51738 (ii) after a 90-day period beginning on the date the commission receives notice meeting
51739 the requirements of Subsection (3)(b) from the county, city, or town that annexes the annexing
51740 area.
51741 (b) The notice described in Subsection (3)(a)(ii) shall state:
51742 (i) that the annexation described in Subsection (3)(a) will result in an enactment or
51743 repeal of a tax under this part for the annexing area;
51744 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);
51745 (iii) the effective date of the tax described in Subsection (3)(b)(i); and
51746 (iv) the rate of the tax described in Subsection (3)(b)(i).
51747 (c) (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
51748 (3)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
51749 (A) that begins after the effective date of the enactment of the tax; and
51750 (B) if the billing period for the transaction begins before the effective date of the
51751 enactment of the tax under:
51752 (I) Section 59-12-501; or
51753 (II) Section 59-12-502.
51754 (ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
51755 (3)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
51756 (A) that began before the effective date of the repeal of the tax; and
51757 (B) if the billing period for the transaction begins before the effective date of the repeal
51758 of the tax imposed under:
51759 (I) Section 59-12-501; or
51760 (II) Section 59-12-502.
51761 (iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:
51762 (A) Subsection 59-12-103(1)(b);
51763 (B) Subsection 59-12-103(1)(c);
51764 (C) Subsection 59-12-103(1)(d);
51765 (D) Subsection 59-12-103(1)(e);
51766 (E) Subsection 59-12-103(1)(f);

51767 (F) Subsection 59-12-103(1)(g);
51768 (G) Subsection 59-12-103(1)(h);
51769 (H) Subsection 59-12-103(1)(i);
51770 (I) Subsection 59-12-103(1)(j); or
51771 (J) Subsection 59-12-103(1)(k).
51772 (d) (i) Notwithstanding Subsection (3)(a), if a tax due under this chapter on a catalogue
51773 sale is computed on the basis of sales and use tax rates published in the catalogue, an
51774 enactment or repeal of a tax described in Subsection (3)(a) takes effect:
51775 (A) on the first day of a calendar quarter; and
51776 (B) beginning 60 days after the effective date of the enactment or repeal under
51777 Subsection (3)(a).
51778 (ii) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
51779 Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
51780 (4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be
51781 administered, collected, and enforced in accordance with:
51782 (i) the same procedures used to administer, collect, and enforce the tax under:
51783 (A) Part 1, Tax Collection; or
51784 (B) Part 2, Local Sales and Use Tax Act; and
51785 (ii) Chapter 1, General Taxation Policies.
51786 (b) Notwithstanding Subsection (4)(a), a tax under this part is not subject to
51787 Subsections 59-12-205(2) through (7).
51788 Section 1034. Section **59-12-703 (Effective 01/01/08)** is amended to read:
51789 **59-12-703 (Effective 01/01/08). Opinion question election -- Base -- Rate --**
51790 **Imposition of tax -- Uses of tax monies -- Enactment or repeal of tax -- Effective date --**
51791 **Notice requirements.**
51792 (1) (a) (i) A county legislative body may submit an opinion question to the residents of
51793 that county, by majority vote of all members of the legislative body, so that each resident of the
51794 county, except residents in municipalities that have already imposed a sales and use tax under
51795 Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and Zoological
51796 Organizations or Facilities, has an opportunity to express the resident's opinion on the
51797 imposition of a local sales and use tax of .1% on the transactions described in Subsection

51798 59-12-103(1) located within the county, to fund recreational and zoological facilities, botanical,
51799 cultural, and zoological organizations, and rural radio stations, in that county.
51800 (ii) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a
51801 tax under this section on:
51802 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses
51803 are exempt from taxation under Section 59-12-104;
51804 (B) sales and uses within municipalities that have already imposed a sales and use tax
51805 under Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and
51806 Zoological Organizations or Facilities;
51807 (C) amounts paid or charged by a seller that collects a tax under Subsection
51808 59-12-107(1)(b); and
51809 (D) except as provided in Subsection (1)(c), amounts paid or charged for food and food
51810 ingredients.
51811 (b) For purposes of this Subsection (1), the location of a transaction shall be
51812 determined in accordance with Section 59-12-207.
51813 (c) A county legislative body imposing a tax under this section shall impose the tax on
51814 amounts paid or charged for food and food ingredients if:
51815 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
51816 food and food ingredients and tangible personal property other than food and food ingredients;
51817 and
51818 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
51819 accordance with Subsection 59-12-107(1)(b).
51820 (d) The election shall follow the procedures outlined in Title 11, Chapter 14, Local
51821 Government Bonding Act.
51822 (2) (a) If the county legislative body determines that a majority of the county's
51823 registered voters voting on the imposition of the tax have voted in favor of the imposition of
51824 the tax as prescribed in Subsection (1)(a), the county legislative body may impose the tax by a
51825 majority vote of all members of the legislative body on the transactions:
51826 (i) described in Subsection (1); and
51827 (ii) within the county, including the cities and towns located in the county, except those
51828 cities and towns that have already imposed a sales and use tax under Part 14, City or Town

51829 Option Funding For Botanical, Cultural, Recreational, and Zoological Organizations or
51830 Facilities.
51831 (b) A county legislative body may revise county ordinances to reflect statutory changes
51832 to the distribution formula or eligible recipients of revenues generated from a tax imposed
51833 under Subsection (2)(a):
51834 (i) after the county legislative body submits an opinion question to residents of the
51835 county in accordance with Subsection (1) giving them the opportunity to express their opinion
51836 on the proposed revisions to county ordinances; and
51837 (ii) if the county legislative body determines that a majority of those voting on the
51838 opinion question have voted in favor of the revisions.
51839 (3) The monies generated from any tax imposed under Subsection (2) shall be used for
51840 funding:
51841 (a) recreational and zoological facilities located within the county or a city or town
51842 located in the county, except a city or town that has already imposed a sales and use tax under
51843 Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and Zoological
51844 Organizations or Facilities; and
51845 (b) ongoing operating expenses of:
51846 (i) recreational facilities described in Subsection (3)(a);
51847 (ii) botanical, cultural, and zoological organizations within the county; and
51848 (iii) rural radio stations within the county.
51849 (4) (a) A tax authorized under this part shall be:
51850 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
51851 accordance with:
51852 (A) the same procedures used to administer, collect, and enforce the tax under:
51853 (I) Part 1, Tax Collection; or
51854 (II) Part 2, Local Sales and Use Tax Act; and
51855 (B) Chapter 1, General Taxation Policies; and
51856 (ii) levied for a period of ten years and may be reauthorized at the end of the ten-year
51857 period in accordance with this section.
51858 (b) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to
51859 Subsections 59-12-205(2) through (7).

51860 (5) (a) For purposes of this Subsection (5):
51861 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,
51862 Annexation to County.
51863 (ii) "Annexing area" means an area that is annexed into a county.
51864 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
51865 county enacts or repeals a tax under this part, the enactment or repeal shall take effect:
51866 (A) on the first day of a calendar quarter; and
51867 (B) after a 90-day period beginning on the date the commission receives notice meeting
51868 the requirements of Subsection (5)(b)(ii) from the county.
51869 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:
51870 (A) that the county will enact or repeal a tax under this part;
51871 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);
51872 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and
51873 (D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the
51874 tax.
51875 (c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
51876 (5)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
51877 (A) that begins after the effective date of the enactment of the tax; and
51878 (B) if the billing period for the transaction begins before the effective date of the
51879 enactment of the tax under this section.
51880 (ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
51881 (5)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
51882 (A) that began before the effective date of the repeal of the tax; and
51883 (B) if the billing period for the transaction begins before the effective date of the repeal
51884 of the tax imposed under this section.
51885 (iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:
51886 (A) Subsection 59-12-103(1)(b);
51887 (B) Subsection 59-12-103(1)(c);
51888 (C) Subsection 59-12-103(1)(d);
51889 (D) Subsection 59-12-103(1)(e);
51890 (E) Subsection 59-12-103(1)(f);

51891 (F) Subsection 59-12-103(1)(g);
51892 (G) Subsection 59-12-103(1)(h);
51893 (H) Subsection 59-12-103(1)(i);
51894 (I) Subsection 59-12-103(1)(j); or
51895 (J) Subsection 59-12-103(1)(k).
51896 (d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a
51897 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
51898 enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:
51899 (A) on the first day of a calendar quarter; and
51900 (B) beginning 60 days after the effective date of the enactment or repeal under
51901 Subsection (5)(b)(i).
51902 (ii) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
51903 Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
51904 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
51905 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
51906 part for an annexing area, the enactment or repeal shall take effect:
51907 (A) on the first day of a calendar quarter; and
51908 (B) after a 90-day period beginning on the date the commission receives notice meeting
51909 the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.
51910 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:
51911 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or
51912 repeal of a tax under this part for the annexing area;
51913 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);
51914 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and
51915 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).
51916 (f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
51917 (5)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
51918 (A) that begins after the effective date of the enactment of the tax; and
51919 (B) if the billing period for the transaction begins before the effective date of the
51920 enactment of the tax under this section.
51921 (ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection

51922 (5)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
51923 (A) that began before the effective date of the repeal of the tax; and
51924 (B) if the billing period for the transaction begins before the effective date of the repeal
51925 of the tax imposed under this section.
51926 (iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:
51927 (A) Subsection 59-12-103(1)(b);
51928 (B) Subsection 59-12-103(1)(c);
51929 (C) Subsection 59-12-103(1)(d);
51930 (D) Subsection 59-12-103(1)(e);
51931 (E) Subsection 59-12-103(1)(f);
51932 (F) Subsection 59-12-103(1)(g);
51933 (G) Subsection 59-12-103(1)(h);
51934 (H) Subsection 59-12-103(1)(i);
51935 (I) Subsection 59-12-103(1)(j); or
51936 (J) Subsection 59-12-103(1)(k).
51937 (g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a
51938 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
51939 enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:
51940 (A) on the first day of a calendar quarter; and
51941 (B) beginning 60 days after the effective date of the enactment or repeal under
51942 Subsection (5)(e)(i).
51943 (ii) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
51944 Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
51945 Section 1035. Section **59-12-806** is amended to read:
51946 **59-12-806. Enactment or repeal of tax -- Tax rate change -- Effective date --**
51947 **Notice requirements.**
51948 (1) For purposes of this section:
51949 (a) "Annexation" means an annexation to:
51950 (i) a county under Title 17, Chapter 2, Annexation to County; or
51951 (ii) a city under Title 10, Chapter 2, Part 4, Annexation.
51952 (b) "Annexing area" means an area that is annexed into a county or city.

51953 (2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after July 1, 2004, a
51954 county or city enacts or repeals a tax or changes the rate of a tax under this part, the enactment,
51955 repeal, or change shall take effect:
51956 (i) on the first day of a calendar quarter; and
51957 (ii) after a 90-day period beginning on the date the commission receives notice meeting
51958 the requirements of Subsection (2)(b) from the county or city.
51959 (b) The notice described in Subsection (2)(a)(ii) shall state:
51960 (i) that the county or city will enact or repeal a tax or change the rate of a tax under this
51961 part;
51962 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);
51963 (iii) the effective date of the tax described in Subsection (2)(b)(i); and
51964 (iv) if the county or city enacts the tax or changes the rate of the tax described in
51965 Subsection (2)(b)(i), the rate of the tax.
51966 (c) (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
51967 (2)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
51968 first billing period:
51969 (A) that begins after the effective date of the enactment of the tax or the tax rate
51970 increase; and
51971 (B) if the billing period for the transaction begins before the effective date of the
51972 enactment of the tax or the tax rate increase imposed under:
51973 (I) Section 59-12-802; or
51974 (II) Section 59-12-804.
51975 (ii) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
51976 (2)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
51977 billing period:
51978 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
51979 and
51980 (B) if the billing period for the transaction begins before the effective date of the repeal
51981 of the tax or the tax rate decrease imposed under:
51982 (I) Section 59-12-802; or
51983 (II) Section 59-12-804.

51984 (iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:
51985 (A) Subsection 59-12-103(1)(b);
51986 (B) Subsection 59-12-103(1)(c);
51987 (C) Subsection 59-12-103(1)(d);
51988 (D) Subsection 59-12-103(1)(e);
51989 (E) Subsection 59-12-103(1)(f);
51990 (F) Subsection 59-12-103(1)(g);
51991 (G) Subsection 59-12-103(1)(h);
51992 (H) Subsection 59-12-103(1)(i);
51993 (I) Subsection 59-12-103(1)(j); or
51994 (J) Subsection 59-12-103(1)(k).
51995 (d) (i) Notwithstanding Subsection (2)(a), if a tax due under this chapter on a catalogue
51996 sale is computed on the basis of sales and use tax rates published in the catalogue, an
51997 enactment, repeal, or change in the rate of a tax described in Subsection (2)(a) takes effect:
51998 (A) on the first day of a calendar quarter; and
51999 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
52000 rate of the tax under Subsection (2)(a).
52001 (ii) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
52002 Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
52003 (3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs
52004 on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the
52005 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
52006 effect:
52007 (i) on the first day of a calendar quarter; and
52008 (ii) after a 90-day period beginning on the date the commission receives notice meeting
52009 the requirements of Subsection (3)(b) from the county or city that annexes the annexing area.
52010 (b) The notice described in Subsection (3)(a)(ii) shall state:
52011 (i) that the annexation described in Subsection (3)(a) will result in an enactment,
52012 repeal, or change in the rate of a tax under this part for the annexing area;
52013 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);
52014 (iii) the effective date of the tax described in Subsection (3)(b)(i); and

52015 (iv) if the county or city enacts the tax or changes the rate of the tax described in
52016 Subsection (3)(b)(i), the rate of the tax.
52017 (c) (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
52018 (3)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
52019 first billing period:
52020 (A) that begins after the effective date of the enactment of the tax or the tax rate
52021 increase; and
52022 (B) if the billing period for the transaction begins before the effective date of the
52023 enactment of the tax or the tax rate increase imposed under:
52024 (I) Section 59-12-802; or
52025 (II) Section 59-12-804.
52026 (ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
52027 (3)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
52028 billing period:
52029 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
52030 and
52031 (B) if the billing period for the transaction begins before the effective date of the repeal
52032 of the tax or the tax rate decrease imposed under:
52033 (I) Section 59-12-802; or
52034 (II) Section 59-12-804.
52035 (iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:
52036 (A) Subsection 59-12-103(1)(b);
52037 (B) Subsection 59-12-103(1)(c);
52038 (C) Subsection 59-12-103(1)(d);
52039 (D) Subsection 59-12-103(1)(e);
52040 (E) Subsection 59-12-103(1)(f);
52041 (F) Subsection 59-12-103(1)(g);
52042 (G) Subsection 59-12-103(1)(h);
52043 (H) Subsection 59-12-103(1)(i);
52044 (I) Subsection 59-12-103(1)(j); or
52045 (J) Subsection 59-12-103(1)(k).

52046 (d) (i) Notwithstanding Subsection (3)(a), if a tax due under this chapter on a catalogue
52047 sale is computed on the basis of sales and use tax rates published in the catalogue, an
52048 enactment, repeal, or change in the rate of a tax described in Subsection (3)(a) takes effect:
52049 (A) on the first day of a calendar quarter; and
52050 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
52051 rate of a tax under Subsection (3)(a).
52052 (ii) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
52053 Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
52054 Section 1036. Section **59-12-902** is amended to read:
52055 **59-12-902. Sales tax refund for qualified emergency food agencies -- Use of**
52056 **amounts received as refund -- Administration -- Rulemaking authority.**
52057 (1) Beginning on January 1, 1998, a qualified emergency food agency may claim a
52058 sales tax refund as provided in this section on the pounds of food and food ingredients donated
52059 to the qualified emergency food agency.
52060 (2) (a) Subject to the adjustments provided for in Subsection (2)(b), a qualified
52061 emergency food agency may claim a refund in an amount equal to the pounds of food and food
52062 ingredients donated to the qualified emergency food agency multiplied by:
52063 (i) $1.70; and
52064 (ii) the sum of:
52065 (A) 4.75%; and
52066 (B) the sum of the tax rates provided for in Subsection (2)(b).
52067 (b) Tax rates authorized under the following apply to Subsection (2)(a)(ii)(B):
52068 (i) the tax rate authorized by Section 59-12-204;
52069 (ii) the tax rate authorized by Section 59-12-501 or Section 59-12-1001, but only if all
52070 of the counties, cities, and towns in the state impose the tax:
52071 (A) under Section 59-12-501; or
52072 (B) under Section 59-12-1001;
52073 (iii) the tax rate authorized by Section 59-12-502, but only if all of the counties, cities,
52074 and towns in the state impose the tax under Section 59-12-502;
52075 (iv) the tax rate authorized by Section 59-12-703, but only if all of the counties in the
52076 state impose the tax under Section 59-12-703; and

52077 (v) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the
52078 state impose the tax under Section 59-12-1102.
52079 (c) Beginning on January 1, 1999, the commission shall annually adjust on or before
52080 the second Monday of February the $1.70 provided in Subsection (2)(a)(i) by a percentage
52081 equal to the percentage difference between the food at home category of the Consumer Price
52082 Index for:
52083 (i) the preceding calendar year; and
52084 (ii) calendar year 1997.
52085 (3) To claim a sales tax refund under this section, a qualified emergency food agency
52086 shall file an application with the commission.
52087 (4) A qualified emergency food agency may use amounts received as a sales tax refund
52088 under this section only for a purpose related to:
52089 (a) warehousing and distributing food and food ingredients to other agencies and
52090 organizations providing food and food ingredients to low-income persons; or
52091 (b) providing food and food ingredients directly to low-income persons.
52092 (5) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
52093 Administrative Rulemaking Act, the commission may make rules providing procedures for
52094 implementing the sales tax refund under this section, including:
52095 (a) standards for determining and verifying the amount of the sales tax refund; and
52096 (b) procedures for a qualified emergency food agency to apply for a sales tax refund,
52097 including the frequency with which a qualified emergency food agency may apply for a sales
52098 tax refund.
52099 (6) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
52100 Administrative Rulemaking Act, the Division of Housing and Community Development may
52101 establish rules providing for the certification of emergency food agencies to claim a refund
52102 under this part.
52103 Section 1037. Section **59-12-1001 (Effective 01/01/08)** is amended to read:
52104 **59-12-1001 (Effective 01/01/08). Authority to impose tax for highways or to fund**
52105 **a system for public transit -- Base -- Rate -- Ordinance requirements -- Voter approval**
52106 **requirements -- Election requirements -- Notice of election requirements -- Exceptions to**
52107 **voter approval requirements -- Enactment or repeal of tax -- Effective date -- Notice**

52108 **requirements.**
52109 (1) (a) A city or town in which the transactions described in Subsection 59-12-103(1)
52110 are not subject to a sales and use tax under Section 59-12-501 may as provided in this part
52111 impose a sales and use tax of:
52112 (i) beginning on January 1, 1998, and ending on December 31, 2007, .25% on the
52113 transactions described in Subsection 59-12-103(1) located within the city or town; or
52114 (ii) beginning on January 1, 2008, .30% on the transactions described in Subsection
52115 59-12-103(1) located within the city or town.
52116 (b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this
52117 section on:
52118 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
52119 are exempt from taxation under Section 59-12-104;
52120 (ii) amounts paid or charged by a seller that collects a tax under Subsection
52121 59-12-107(1)(b); and
52122 (iii) except as provided in Subsection (1)(d), amounts paid or charged for food and
52123 food ingredients.
52124 (c) For purposes of this Subsection (1), the location of a transaction shall be
52125 determined in accordance with Section 59-12-207.
52126 (d) A city or town imposing a tax under this section shall impose the tax on amounts
52127 paid or charged for food and food ingredients if:
52128 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
52129 food and food ingredients and tangible personal property other than food and food ingredients;
52130 and
52131 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
52132 accordance with Subsection 59-12-107(1)(b).
52133 (2) (a) A city or town imposing a tax under this part may use the revenues generated by
52134 the tax:
52135 (i) for the construction and maintenance of highways under the jurisdiction of the city
52136 or town imposing the tax;
52137 (ii) subject to Subsection (2)(b), to fund a system for public transit; or
52138 (iii) for a combination of the purposes described in Subsections (2)(a)(i) and (ii).

52139 (b) (i) For purposes of Subsection (2)(a)(ii) and except as provided in Subsection
52140 (2)(b)(ii), "public transit" is as defined in Section 17B-2a-802.
52141 (ii) Notwithstanding Subsection (2)(b)(i), "public transit" does not include a fixed
52142 guideway system.
52143 (3) To impose a tax under this part, the governing body of the city or town shall:
52144 (a) pass an ordinance approving the tax; and
52145 (b) except as provided in Subsection (7) or (8), obtain voter approval for the tax as
52146 provided in Subsection (4).
52147 (4) To obtain voter approval for a tax under Subsection (3)(b), a city or town shall:
52148 (a) hold an election during:
52149 (i) a regular general election; or
52150 (ii) a municipal general election; and
52151 (b) publish notice of the election:
52152 (i) 15 days or more before the day on which the election is held; and
52153 (ii) in a newspaper of general circulation in the city or town.
52154 (5) An ordinance approving a tax under this part shall provide an effective date for the
52155 tax as provided in Subsection (6).
52156 (6) (a) For purposes of this Subsection (6):
52157 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
52158 4, Annexation.
52159 (ii) "Annexing area" means an area that is annexed into a city or town.
52160 (b) (i) Except as provided in Subsection (6)(c) or (d), if, on or after April 1, 2008, a city
52161 or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:
52162 (A) on the first day of a calendar quarter; and
52163 (B) after a 90-day period beginning on the date the commission receives notice meeting
52164 the requirements of Subsection (6)(b)(ii) from the city or town.
52165 (ii) The notice described in Subsection (6)(b)(i)(B) shall state:
52166 (A) that the city or town will enact or repeal a tax under this part;
52167 (B) the statutory authority for the tax described in Subsection (6)(b)(ii)(A);
52168 (C) the effective date of the tax described in Subsection (6)(b)(ii)(A); and
52169 (D) if the city or town enacts the tax described in Subsection (6)(b)(ii)(A), the rate of

52170 the tax.
52171 (c) (i) Notwithstanding Subsection (6)(b)(i), for a transaction described in Subsection
52172 (6)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
52173 (A) that begins after the effective date of the enactment of the tax; and
52174 (B) if the billing period for the transaction begins before the effective date of the
52175 enactment of the tax under Subsection (1).
52176 (ii) Notwithstanding Subsection (6)(b)(i), for a transaction described in Subsection
52177 (6)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
52178 (A) that began before the effective date of the repeal of the tax; and
52179 (B) if the billing period for the transaction begins before the effective date of the repeal
52180 of the tax imposed under Subsection (1).
52181 (iii) Subsections (6)(c)(i) and (ii) apply to transactions subject to a tax under:
52182 (A) Subsection 59-12-103(1)(b);
52183 (B) Subsection 59-12-103(1)(c);
52184 (C) Subsection 59-12-103(1)(d);
52185 (D) Subsection 59-12-103(1)(e);
52186 (E) Subsection 59-12-103(1)(f);
52187 (F) Subsection 59-12-103(1)(g);
52188 (G) Subsection 59-12-103(1)(h);
52189 (H) Subsection 59-12-103(1)(i);
52190 (I) Subsection 59-12-103(1)(j); or
52191 (J) Subsection 59-12-103(1)(k).
52192 (d) (i) Notwithstanding Subsection (6)(b)(i), if a tax due under this chapter on a
52193 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
52194 enactment or repeal of a tax described in Subsection (6)(b)(i) takes effect:
52195 (A) on the first day of a calendar quarter; and
52196 (B) beginning 60 days after the effective date of the enactment or repeal under
52197 Subsection (6)(b)(i).
52198 (ii) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
52199 Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
52200 (e) (i) Except as provided in Subsection (6)(f) or (g), if, for an annexation that occurs

52201 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
52202 part for an annexing area, the enactment or repeal shall take effect:
52203 (A) on the first day of a calendar quarter; and
52204 (B) after a 90-day period beginning on the date the commission receives notice meeting
52205 the requirements of Subsection (6)(e)(ii) from the city or town that annexes the annexing area.
52206 (ii) The notice described in Subsection (6)(e)(i)(B) shall state:
52207 (A) that the annexation described in Subsection (6)(e)(i) will result in an enactment or
52208 repeal of a tax under this part for the annexing area;
52209 (B) the statutory authority for the tax described in Subsection (6)(e)(ii)(A);
52210 (C) the effective date of the tax described in Subsection (6)(e)(ii)(A); and
52211 (D) the rate of the tax described in Subsection (6)(e)(ii)(A).
52212 (f) (i) Notwithstanding Subsection (6)(e)(i), for a transaction described in Subsection
52213 (6)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
52214 (A) that begins after the effective date of the enactment of the tax; and
52215 (B) if the billing period for the transaction begins before the effective date of the
52216 enactment of the tax under Subsection (1).
52217 (ii) Notwithstanding Subsection (6)(e)(i), for a transaction described in Subsection
52218 (6)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
52219 (A) that began before the effective date of the repeal of the tax; and
52220 (B) if the billing period for the transaction begins before the effective date of the repeal
52221 of the tax imposed under Subsection (1).
52222 (iii) Subsections (6)(f)(i) and (ii) apply to transactions subject to a tax under:
52223 (A) Subsection 59-12-103(1)(b);
52224 (B) Subsection 59-12-103(1)(c);
52225 (C) Subsection 59-12-103(1)(d);
52226 (D) Subsection 59-12-103(1)(e);
52227 (E) Subsection 59-12-103(1)(f);
52228 (F) Subsection 59-12-103(1)(g);
52229 (G) Subsection 59-12-103(1)(h);
52230 (H) Subsection 59-12-103(1)(i);
52231 (I) Subsection 59-12-103(1)(j); or

52232 (J) Subsection 59-12-103(1)(k).
52233 (g) (i) Notwithstanding Subsection (6)(e)(i), if a tax due under this chapter on a
52234 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
52235 enactment or repeal of a tax described in Subsection (6)(e)(i) takes effect:
52236 (A) on the first day of a calendar quarter; and
52237 (B) beginning 60 days after the effective date of the enactment or repeal under
52238 Subsection (6)(e)(i).
52239 (ii) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
52240 Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
52241 (7) (a) Except as provided in Subsection (7)(b), a city or town is not subject to the
52242 voter approval requirements of Subsection (3)(b) if:
52243 (i) on or before January 1, 1996, the city or town imposed a license fee or tax on
52244 businesses based on gross receipts pursuant to Section 10-1-203; or
52245 (ii) the city or town:
52246 (A) on or before June 30, 2002, obtained voter approval in accordance with Subsection
52247 (3)(b) to impose a tax under this part for a purpose described in Subsection (2)(a)(i); and
52248 (B) on or after July 1, 2002, uses the revenues generated by a tax under this part for a
52249 purpose described in Subsection (2)(a).
52250 (b) Notwithstanding Subsection (7)(a), the exception from the voter approval
52251 requirements in Subsection (7)(a)(i) does not apply to a city or town that, on or before January
52252 1, 1996, imposed a license fee or tax on only one class of businesses based on gross receipts
52253 pursuant to Section 10-1-203.
52254 (8) A city or town is not subject to the voter approval requirements of Subsection
52255 (3)(b) if:
52256 (a) on December 31, 2007, the city or town imposes a tax of .25% under this section;
52257 and
52258 (b) on or after January 1, 2008, the city or town increases the tax rate under this section
52259 to .30%.
52260 Section 1038. Section **59-12-1102** is amended to read:
52261 **59-12-1102. Base -- Rate -- Imposition of tax -- Distribution of revenue --**
52262 **Administration -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

52263 (1) (a) (i) Subject to Subsections (2) through (5), and in addition to any other tax
52264 authorized by this chapter, a county may impose by ordinance a county option sales and use tax
52265 of .25% upon the transactions described in Subsection 59-12-103(1).
52266 (ii) Notwithstanding Subsection (1)(a)(i), a county may not impose a tax under this
52267 section on:
52268 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses
52269 are exempt from taxation under Section 59-12-104; and
52270 (B) any amounts paid or charged by a seller that collects a tax under Subsection
52271 59-12-107(1)(b) unless all of the counties in the state impose a tax under this section.
52272 (b) For purposes of this Subsection (1), the location of a transaction shall be
52273 determined in accordance with Section 59-12-207.
52274 (c) The county option sales and use tax under this section shall be imposed:
52275 (i) upon transactions that are located within the county, including transactions that are
52276 located within municipalities in the county; and
52277 (ii) except as provided in Subsection (1)(d) or (5), beginning on the first day of
52278 January:
52279 (A) of the next calendar year after adoption of the ordinance imposing the tax if the
52280 ordinance is adopted on or before May 25; or
52281 (B) of the second calendar year after adoption of the ordinance imposing the tax if the
52282 ordinance is adopted after May 25.
52283 (d) Notwithstanding Subsection (1)(c)(ii), the county option sales and use tax under
52284 this section shall be imposed:
52285 (i) beginning January 1, 1998, if an ordinance adopting the tax imposed on or before
52286 September 4, 1997; or
52287 (ii) beginning January 1, 1999, if an ordinance adopting the tax is imposed during 1997
52288 but after September 4, 1997.
52289 (2) (a) Before imposing a county option sales and use tax under Subsection (1), a
52290 county shall hold two public hearings on separate days in geographically diverse locations in
52291 the county.
52292 (b) (i) At least one of the hearings required by Subsection (2)(a) shall have a starting
52293 time of no earlier than 6 p.m.

52294 (ii) The earlier of the hearings required by Subsection (2)(a) shall be no less than seven
52295 days after the day the first advertisement required by Subsection (2)(c) is published.
52296 (c) (i) Before holding the public hearings required by Subsection (2)(a), the county
52297 shall advertise in a newspaper of general circulation in the county:
52298 (A) its intent to adopt a county option sales and use tax;
52299 (B) the date, time, and location of each public hearing; and
52300 (C) a statement that the purpose of each public hearing is to obtain public comments
52301 regarding the proposed tax.
52302 (ii) The advertisement shall be published once each week for the two weeks preceding
52303 the earlier of the two public hearings.
52304 (iii) The advertisement shall be no less than 1/8 page in size, and the type used shall be
52305 no smaller than 18 point and surrounded by a 1/4-inch border.
52306 (iv) The advertisement may not be placed in that portion of the newspaper where legal
52307 notices and classified advertisements appear.
52308 (v) Whenever possible:
52309 (A) the advertisement shall appear in a newspaper that is published at least five days a
52310 week, unless the only newspaper in the county is published less than five days a week; and
52311 (B) the newspaper selected shall be one of general interest and readership in the
52312 community, and not one of limited subject matter.
52313 (d) The adoption of an ordinance imposing a county option sales and use tax is subject
52314 to a local referendum election as provided in Title 20A, Chapter 7, Part 6, Local Referenda -
52315 Procedures, except that:
52316 (i) notwithstanding Subsection 20A-7-609(2)(a), the county clerk shall hold a
52317 referendum election that qualifies for the ballot on the earlier of the next regular general
52318 election date or the next municipal general election date more than 155 days after adoption of
52319 an ordinance under this section;
52320 (ii) for 1997 only, the 120-day period in Subsection 20A-7-606(1) shall be 30 days; and
52321 (iii) the deadlines in Subsections 20A-7-606(2) and (3) do not apply, and the clerk shall
52322 take the actions required by those subsections before the referendum election.
52323 (3) (a) If the aggregate population of the counties imposing a county option sales and
52324 use tax under Subsection (1) is less than 75% of the state population, the tax levied under

52325 Subsection (1) shall be distributed to the county in which the tax was collected.
52326 (b) If the aggregate population of the counties imposing a county option sales and use
52327 tax under Subsection (1) is greater than or equal to 75% of the state population:
52328 (i) 50% of the tax collected under Subsection (1) in each county shall be distributed to
52329 the county in which the tax was collected; and
52330 (ii) except as provided in Subsection (3)(c), 50% of the tax collected under Subsection
52331 (1) in each county shall be distributed proportionately among all counties imposing the tax,
52332 based on the total population of each county.
52333 (c) If the amount to be distributed annually to a county under Subsection (3)(b)(ii),
52334 when combined with the amount distributed to the county under Subsection (3)(b)(i), does not
52335 equal at least $75,000, then:
52336 (i) the amount to be distributed annually to that county under Subsection (3)(b)(ii) shall
52337 be increased so that, when combined with the amount distributed to the county under
52338 Subsection (3)(b)(i), the amount distributed annually to the county is $75,000; and
52339 (ii) the amount to be distributed annually to all other counties under Subsection
52340 (3)(b)(ii) shall be reduced proportionately to offset the additional amount distributed under
52341 Subsection (3)(c)(i).
52342 (d) The commission shall establish rules to implement the distribution of the tax under
52343 Subsections (3)(a), (b), and (c).
52344 (e) Notwithstanding Subsections (3)(a) and (b), if a county imposes a tax under this
52345 section on any amounts paid or charged by a seller that collects a tax in accordance with
52346 Subsection 59-12-107(1)(b), the revenues generated by the tax shall be distributed as provided
52347 in Subsection 59-12-103(3)(c).
52348 (4) (a) Except as provided in Subsection (4)(b) or (c), a tax authorized under this part
52349 shall be administered, collected, and enforced in accordance with:
52350 (i) the same procedures used to administer, collect, and enforce the tax under:
52351 (A) Part 1, Tax Collection; or
52352 (B) Part 2, Local Sales and Use Tax Act; and
52353 (ii) Chapter 1, General Taxation Policies.
52354 (b) Notwithstanding Subsection (4)(a), a tax under this part is not subject to
52355 Subsections 59-12-205(2) through (7).

52356 (c) Notwithstanding Subsection (4)(a), the fee charged by the commission under
52357 Section 59-12-206 shall be based on the distribution amounts resulting after all the applicable
52358 distribution calculations under Subsection (3) have been made.
52359 (5) (a) For purposes of this Subsection (5):
52360 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,
52361 Annexation to County.
52362 (ii) "Annexing area" means an area that is annexed into a county.
52363 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
52364 county enacts or repeals a tax under this part:
52365 (A) (I) the enactment shall take effect as provided in Subsection (1)(c); or
52366 (II) the repeal shall take effect on the first day of a calendar quarter; and
52367 (B) after a 90-day period beginning on the date the commission receives notice meeting
52368 the requirements of Subsection (5)(b)(ii) from the county.
52369 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:
52370 (A) that the county will enact or repeal a tax under this part;
52371 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);
52372 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and
52373 (D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the
52374 tax.
52375 (c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
52376 (5)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
52377 (A) that begins after the effective date of the enactment of the tax; and
52378 (B) if the billing period for the transaction begins before the effective date of the
52379 enactment of the tax under Subsection (1).
52380 (ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
52381 (5)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
52382 (A) that began before the effective date of the repeal of the tax; and
52383 (B) if the billing period for the transaction begins before the effective date of the repeal
52384 of the tax imposed under Subsection (1).
52385 (iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:
52386 (A) Subsection 59-12-103(1)(b);

52387 (B) Subsection 59-12-103(1)(c);
52388 (C) Subsection 59-12-103(1)(d);
52389 (D) Subsection 59-12-103(1)(e);
52390 (E) Subsection 59-12-103(1)(f);
52391 (F) Subsection 59-12-103(1)(g);
52392 (G) Subsection 59-12-103(1)(h);
52393 (H) Subsection 59-12-103(1)(i);
52394 (I) Subsection 59-12-103(1)(j); or
52395 (J) Subsection 59-12-103(1)(k).
52396 (d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a
52397 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
52398 enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:
52399 (A) on the first day of a calendar quarter; and
52400 (B) beginning 60 days after the effective date of the enactment or repeal under
52401 Subsection (5)(b)(i).
52402 (ii) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
52403 Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
52404 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
52405 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
52406 part for an annexing area, the enactment or repeal shall take effect:
52407 (A) on the first day of a calendar quarter; and
52408 (B) after a 90-day period beginning on the date the commission receives notice meeting
52409 the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.
52410 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:
52411 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or
52412 repeal of a tax under this part for the annexing area;
52413 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);
52414 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and
52415 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).
52416 (f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
52417 (5)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

52418 (A) that begins after the effective date of the enactment of the tax; and
52419 (B) if the billing period for the transaction begins before the effective date of the
52420 enactment of the tax under Subsection (1).
52421 (ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
52422 (5)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
52423 (A) that began before the effective date of the repeal of the tax; and
52424 (B) if the billing period for the transaction begins before the effective date of the repeal
52425 of the tax imposed under Subsection (1).
52426 (iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:
52427 (A) Subsection 59-12-103(1)(b);
52428 (B) Subsection 59-12-103(1)(c);
52429 (C) Subsection 59-12-103(1)(d);
52430 (D) Subsection 59-12-103(1)(e);
52431 (E) Subsection 59-12-103(1)(f);
52432 (F) Subsection 59-12-103(1)(g);
52433 (G) Subsection 59-12-103(1)(h);
52434 (H) Subsection 59-12-103(1)(i);
52435 (I) Subsection 59-12-103(1)(j); or
52436 (J) Subsection 59-12-103(1)(k).
52437 (g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a
52438 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
52439 enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:
52440 (A) on the first day of a calendar quarter; and
52441 (B) beginning 60 days after the effective date of the enactment or repeal under
52442 Subsection (5)(e)(i).
52443 (ii) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
52444 Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
52445 Section 1039. Section **59-12-1302 (Effective 01/01/08)** is amended to read:
52446 **59-12-1302 (Effective 01/01/08). Imposition of tax -- Base -- Rate -- Enactment or**
52447 **repeal of tax -- Tax rate change -- Effective date -- Notice requirements.**
52448 (1) Beginning on or after January 1, 1998, the governing body of a town may impose a

52449 tax as provided in this part in an amount that does not exceed 1%.
52450 (2) A town may impose a tax as provided in this part if the town imposed a license fee
52451 or tax on businesses based on gross receipts under Section 10-1-203 on or before January 1,
52452 1996.
52453 (3) A town imposing a tax under this section shall:
52454 (a) except as provided in Subsection (4), impose the tax on the transactions described
52455 in Subsection 59-12-103(1) located within the town; and
52456 (b) provide an effective date for the tax as provided in Subsection (5).
52457 (4) (a) Notwithstanding Subsection (3)(a), a town may not impose a tax under this
52458 section on:
52459 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
52460 are exempt from taxation under Section 59-12-104;
52461 (ii) amounts paid or charged by a seller that collects a tax under Subsection
52462 59-12-107(1)(b); and
52463 (iii) except as provided in Subsection (4)(c), amounts paid or charged for food and
52464 food ingredients.
52465 (b) For purposes of this Subsection (4), the location of a transaction shall be
52466 determined in accordance with Section 59-12-207.
52467 (c) A town imposing a tax under this section shall impose the tax on amounts paid or
52468 charged for food and food ingredients if:
52469 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
52470 food and food ingredients and tangible personal property other than food and food ingredients;
52471 and
52472 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
52473 accordance with Subsection 59-12-107(1)(b).
52474 (5) (a) For purposes of this Subsection (5):
52475 (i) "Annexation" means an annexation to a town under Title 10, Chapter 2, Part 4,
52476 Annexation.
52477 (ii) "Annexing area" means an area that is annexed into a town.
52478 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
52479 town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal,

52480 or change shall take effect:
52481 (A) on the first day of a calendar quarter; and
52482 (B) after a 90-day period beginning on the date the commission receives notice meeting
52483 the requirements of Subsection (5)(b)(ii) from the town.
52484 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:
52485 (A) that the town will enact or repeal a tax or change the rate of a tax under this part;
52486 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);
52487 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and
52488 (D) if the town enacts the tax or changes the rate of the tax described in Subsection
52489 (5)(b)(ii)(A), the rate of the tax.
52490 (c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
52491 (5)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
52492 first billing period:
52493 (A) that begins after the effective date of the enactment of the tax or the tax rate
52494 increase; and
52495 (B) if the billing period for the transaction begins before the effective date of the
52496 enactment of the tax or the tax rate increase imposed under Subsection (1).
52497 (ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
52498 (5)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
52499 billing period:
52500 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
52501 and
52502 (B) if the billing period for the transaction begins before the effective date of the repeal
52503 of the tax or the tax rate decrease imposed under Subsection (1).
52504 (iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:
52505 (A) Subsection 59-12-103(1)(b);
52506 (B) Subsection 59-12-103(1)(c);
52507 (C) Subsection 59-12-103(1)(d);
52508 (D) Subsection 59-12-103(1)(e);
52509 (E) Subsection 59-12-103(1)(f);
52510 (F) Subsection 59-12-103(1)(g);

52511 (G) Subsection 59-12-103(1)(h);
52512 (H) Subsection 59-12-103(1)(i);
52513 (I) Subsection 59-12-103(1)(j); or
52514 (J) Subsection 59-12-103(1)(k).
52515 (d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a
52516 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
52517 enactment, repeal, or change in the rate of a tax described in Subsection (5)(b)(i) takes effect:
52518 (A) on the first day of a calendar quarter; and
52519 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
52520 rate of the tax under Subsection (5)(b)(i).
52521 (ii) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
52522 Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
52523 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
52524 on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the
52525 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
52526 effect:
52527 (A) on the first day of a calendar quarter; and
52528 (B) after a 90-day period beginning on the date the commission receives notice meeting
52529 the requirements of Subsection (5)(e)(ii) from the town that annexes the annexing area.
52530 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:
52531 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment,
52532 repeal, or change in the rate of a tax under this part for the annexing area;
52533 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);
52534 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and
52535 (D) if the town enacts the tax or changes the rate of the tax described in Subsection
52536 (5)(e)(ii)(A), the rate of the tax.
52537 (f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
52538 (5)(f)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
52539 first billing period:
52540 (A) that begins after the effective date of the enactment of the tax or the tax rate
52541 increase; and

52542 (B) if the billing period for the transaction begins before the effective date of the
52543 enactment of the tax or the tax rate increase imposed under Subsection (1).
52544 (ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
52545 (5)(f)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
52546 billing period:
52547 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
52548 and
52549 (B) if the billing period for the transaction begins before the effective date of the repeal
52550 of the tax or the tax rate decrease imposed under Subsection (1).
52551 (iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:
52552 (A) Subsection 59-12-103(1)(b);
52553 (B) Subsection 59-12-103(1)(c);
52554 (C) Subsection 59-12-103(1)(d);
52555 (D) Subsection 59-12-103(1)(e);
52556 (E) Subsection 59-12-103(1)(f);
52557 (F) Subsection 59-12-103(1)(g);
52558 (G) Subsection 59-12-103(1)(h);
52559 (H) Subsection 59-12-103(1)(i);
52560 (I) Subsection 59-12-103(1)(j); or
52561 (J) Subsection 59-12-103(1)(k).
52562 (g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a
52563 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
52564 enactment, repeal, or change in the rate of a tax described in Subsection (5)(e)(i) takes effect:
52565 (A) on the first day of a calendar quarter; and
52566 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
52567 rate of the tax under Subsection (5)(e)(i).
52568 (ii) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
52569 Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
52570 (6) The commission shall:
52571 (a) except as provided in Subsection (6)(c), distribute the revenues generated by the tax
52572 under this section to the town imposing the tax;

52573 (b) except as provided in Subsection (7), administer, collect, and enforce the tax
52574 authorized under this section in accordance with:
52575 (i) the same procedures used to administer, collect, and enforce the tax under:
52576 (A) Part 1, Tax Collection; or
52577 (B) Part 2, Local Sales and Use Tax Act; and
52578 (ii) Chapter 1, General Taxation Policies; and
52579 (c) deduct from the distribution under Subsection (6)(a) an administrative charge for
52580 collecting the tax as provided in Section 59-12-206.
52581 (7) Notwithstanding Subsection (6)(b), a tax under this section is not subject to
52582 Subsections 59-12-205(2) through (7).
52583 Section 1040. Section **59-12-1402 (Effective 01/01/08)** is amended to read:
52584 **59-12-1402 (Effective 01/01/08). Opinion question election -- Base -- Rate --**
52585 **Imposition of tax -- Uses of tax monies -- Enactment or repeal of tax -- Effective date --**
52586 **Notice requirements.**
52587 (1) (a) (i) Subject to Subsection (6), beginning on January 1, 2003, a city or town
52588 legislative body subject to this part may submit an opinion question to the residents of that city
52589 or town, by majority vote of all members of the legislative body, so that each resident of the
52590 city or town has an opportunity to express the resident's opinion on the imposition of a local
52591 sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located
52592 within the city or town, to fund recreational and zoological facilities and botanical, cultural,
52593 and zoological organizations in that city or town.
52594 (ii) Notwithstanding Subsection (1)(a)(i), a city or town legislative body may not
52595 impose a tax under this section:
52596 (A) if the county in which the city or town is located imposes a tax under Part 7,
52597 County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or
52598 Facilities;
52599 (B) on the sales and uses described in Section 59-12-104 to the extent the sales and
52600 uses are exempt from taxation under Section 59-12-104;
52601 (C) on amounts paid or charged by a seller that collects a tax under Subsection
52602 59-12-107(1)(b); and
52603 (D) except as provided in Subsection (1)(c), on amounts paid or charged for food and

52604 food ingredients.
52605 (b) For purposes of this Subsection (1), the location of a transaction shall be
52606 determined in accordance with Section 59-12-207.
52607 (c) A city or town legislative body imposing a tax under this section shall impose the
52608 tax on amounts paid or charged for food and food ingredients if:
52609 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
52610 food and food ingredients and tangible personal property other than food and food ingredients;
52611 and
52612 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
52613 accordance with Subsection 59-12-107(1)(b).
52614 (d) The election shall be held at a regular general election or a municipal general
52615 election, as those terms are defined in Section 20A-1-102, and shall follow the procedures
52616 outlined in Title 11, Chapter 14, Local Government Bonding Act, except as provided in
52617 Subsection (6).
52618 (2) If the city or town legislative body determines that a majority of the city's or town's
52619 registered voters voting on the imposition of the tax have voted in favor of the imposition of
52620 the tax as prescribed in Subsection (1)(a), the city or town legislative body may impose the tax
52621 by a majority vote of all members of the legislative body.
52622 (3) The monies generated from any tax imposed under Subsection (2) shall be used for
52623 financing:
52624 (a) recreational and zoological facilities within the city or town or within the
52625 geographic area of entities that are parties to an interlocal agreement, to which the city or town
52626 is a party, providing for recreational or zoological facilities; and
52627 (b) ongoing operating expenses of botanical, cultural, and zoological organizations
52628 within the city or town or within the geographic area of entities that are parties to an interlocal
52629 agreement, to which the city or town is a party, providing for the support of botanical, cultural,
52630 or zoological organizations.
52631 (4) (a) A tax authorized under this part shall be:
52632 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
52633 accordance with:
52634 (A) the same procedures used to administer, collect, and enforce the tax under:

52635 (I) Part 1, Tax Collection; or
52636 (II) Part 2, Local Sales and Use Tax Act; and
52637 (B) Chapter 1, General Taxation Policies; and
52638 (ii) (A) levied for a period of eight years; and
52639 (B) may be reauthorized at the end of the eight-year period in accordance with this
52640 section.
52641 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to
52642 Subsections 59-12-205(2) through (7).
52643 (5) (a) For purposes of this Subsection (5):
52644 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
52645 4, Annexation.
52646 (ii) "Annexing area" means an area that is annexed into a city or town.
52647 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a city
52648 or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:
52649 (A) on the first day of a calendar quarter; and
52650 (B) after a 90-day period beginning on the date the commission receives notice meeting
52651 the requirements of Subsection (5)(b)(ii) from the city or town.
52652 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:
52653 (A) that the city or town will enact or repeal a tax under this part;
52654 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);
52655 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and
52656 (D) if the city or town enacts the tax described in Subsection (5)(b)(ii)(A), the rate of
52657 the tax.
52658 (c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
52659 (5)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
52660 (A) that begins after the effective date of the enactment of the tax; and
52661 (B) if the billing period for the transaction begins before the effective date of the
52662 enactment of the tax under this section.
52663 (ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
52664 (5)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
52665 (A) that began before the effective date of the repeal of the tax; and

52666 (B) if the billing period for the transaction begins before the effective date of the repeal
52667 of the tax imposed under this section.
52668 (iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:
52669 (A) Subsection 59-12-103(1)(b);
52670 (B) Subsection 59-12-103(1)(c);
52671 (C) Subsection 59-12-103(1)(d);
52672 (D) Subsection 59-12-103(1)(e);
52673 (E) Subsection 59-12-103(1)(f);
52674 (F) Subsection 59-12-103(1)(g);
52675 (G) Subsection 59-12-103(1)(h);
52676 (H) Subsection 59-12-103(1)(i);
52677 (I) Subsection 59-12-103(1)(j); or
52678 (J) Subsection 59-12-103(1)(k).
52679 (d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a
52680 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
52681 enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:
52682 (A) on the first day of a calendar quarter; and
52683 (B) beginning 60 days after the effective date of the enactment or repeal under
52684 Subsection (5)(b)(i).
52685 (ii) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
52686 Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
52687 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
52688 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
52689 part for an annexing area, the enactment or repeal shall take effect:
52690 (A) on the first day of a calendar quarter; and
52691 (B) after a 90-day period beginning on the date the commission receives notice meeting
52692 the requirements of Subsection (5)(e)(ii) from the city or town that annexes the annexing area.
52693 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:
52694 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or
52695 repeal a tax under this part for the annexing area;
52696 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

52697 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and
52698 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).
52699 (f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
52700 (5)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
52701 (A) that begins after the effective date of the enactment of the tax; and
52702 (B) if the billing period for the transaction begins before the effective date of the
52703 enactment of the tax under this section.
52704 (ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
52705 (5)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
52706 (A) that began before the effective date of the repeal of the tax; and
52707 (B) if the billing period for the transaction begins before the effective date of the repeal
52708 of the tax imposed under this section.
52709 (iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:
52710 (A) Subsection 59-12-103(1)(b);
52711 (B) Subsection 59-12-103(1)(c);
52712 (C) Subsection 59-12-103(1)(d);
52713 (D) Subsection 59-12-103(1)(e);
52714 (E) Subsection 59-12-103(1)(f);
52715 (F) Subsection 59-12-103(1)(g);
52716 (G) Subsection 59-12-103(1)(h);
52717 (H) Subsection 59-12-103(1)(i);
52718 (I) Subsection 59-12-103(1)(j); or
52719 (J) Subsection 59-12-103(1)(k).
52720 (g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a
52721 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
52722 enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:
52723 (A) on the first day of a calendar quarter; and
52724 (B) beginning 60 days after the effective date of the enactment or repeal under
52725 Subsection (5)(e)(i).
52726 (ii) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
52727 Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

52728 (6) (a) Before a city or town legislative body submits an opinion question to the
52729 residents of the city or town under Subsection (1)(a)(i), the city or town legislative body shall:
52730 (i) submit to the county legislative body in which the city or town is located a written
52731 notice of the intent to submit the opinion question to the residents of the city or town; and
52732 (ii) receive from the county legislative body:
52733 (A) a written resolution passed by the county legislative body stating that the county
52734 legislative body is not seeking to impose a tax under Part 7, County Option Funding for
52735 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or
52736 (B) a written statement that in accordance with Subsection (6)(b) the results of a county
52737 opinion question submitted to the residents of the county under Part 7, County Option Funding
52738 for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, permit the city
52739 or town legislative body to submit the opinion question to the residents of the city or town in
52740 accordance with this part.
52741 (b) (i) Within 60 days after the day the county legislative body receives from a city or
52742 town legislative body described in Subsection (6)(a) the notice of the intent to submit an
52743 opinion question to the residents of the city or town, the county legislative body shall provide
52744 the city or town legislative body:
52745 (A) the written resolution described in Subsection (6)(a)(ii)(A); or
52746 (B) written notice that the county legislative body will submit an opinion question to
52747 the residents of the county under Part 7, County Option Funding for Botanical, Cultural,
52748 Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under
52749 that part.
52750 (ii) If the county legislative body provides the city or town legislative body the written
52751 notice that the county legislative body will submit an opinion question as provided in
52752 Subsection (6)(b)(i)(B), the county legislative body shall submit the opinion question by no
52753 later than, from the date the county legislative body sends the written notice, the later of:
52754 (A) a 12-month period;
52755 (B) the next regular primary election; or
52756 (C) the next regular general election.
52757 (iii) Within 30 days of the date of the canvass of the election at which the opinion
52758 question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the

52759 city or town legislative body described in Subsection (6)(a) written results of the opinion
52760 question submitted by the county legislative body under Part 7, County Option Funding for
52761 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:
52762 (A) (I) the city or town legislative body may not impose a tax under this part because a
52763 majority of the county's registered voters voted in favor of the county imposing the tax and the
52764 county legislative body by a majority vote approved the imposition of the tax; or
52765 (II) for at least 12 months from the date the written results are submitted to the city or
52766 town legislative body, the city or town legislative body may not submit to the county legislative
52767 body a written notice of the intent to submit an opinion question under this part because a
52768 majority of the county's registered voters voted against the county imposing the tax and the
52769 majority of the registered voters who are residents of the city or town described in Subsection
52770 (6)(a) voted against the imposition of the county tax; or
52771 (B) the city or town legislative body may submit the opinion question to the residents
52772 of the city or town in accordance with this part because although a majority of the county's
52773 registered voters voted against the county imposing the tax, the majority of the registered voters
52774 who are residents of the city or town voted for the imposition of the county tax.
52775 (c) Notwithstanding Subsection (6)(b), at any time a county legislative body may
52776 provide a city or town legislative body described in Subsection (6)(a) a written resolution
52777 passed by the county legislative body stating that the county legislative body is not seeking to
52778 impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and
52779 Zoological Organizations or Facilities, which permits the city or town legislative body to
52780 submit under Subsection (1)(a)(i) an opinion question to the city's or town's residents.
52781 Section 1041. Section **59-12-1503 (Effective 01/01/08)** is amended to read:
52782 **59-12-1503 (Effective 01/01/08). Opinion question election -- Base -- Rate --**
52783 **Imposition of tax -- Use of tax revenues -- Administration, collection, and enforcement of**
52784 **tax by commission -- Administrative fee -- Enactment or repeal of tax -- Annexation --**
52785 **Notice.**
52786 (1) (a) Subject to the other provisions of this part, the county legislative body of a
52787 qualifying county may impose a sales and use tax of:
52788 (i) beginning on April 1, 2004, and ending on December 31, 2007, .25%:
52789 (A) on the transactions:

52790 (I) described in Subsection 59-12-103(1); and
52791 (II) within the county, including the cities and towns within the county;
52792 (B) for the purposes determined by the county legislative body in accordance with
52793 Subsection (2); and
52794 (C) in addition to any other sales and use tax authorized under this chapter; or
52795 (ii) beginning on January 1, 2008, up to .30%:
52796 (A) on the transactions:
52797 (I) described in Subsection 59-12-103(1); and
52798 (II) within the county, including the cities and towns within the county;
52799 (B) for the purposes determined by the county legislative body in accordance with
52800 Subsection (2); and
52801 (C) in addition to any other sales and use tax authorized under this chapter.
52802 (b) Notwithstanding Subsection (1)(a), a county legislative body may not impose a tax
52803 under this section on:
52804 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
52805 are exempt from taxation under Section 59-12-104;
52806 (ii) amounts paid or charged by a seller that collects a tax under Subsection
52807 59-12-107(1)(b); and
52808 (iii) except as provided in Subsection (1)(d), amounts paid or charged for food and
52809 food ingredients.
52810 (c) For purposes of this Subsection (1), the location of a transaction shall be
52811 determined in accordance with Section 59-12-207.
52812 (d) A county legislative body imposing a tax under this section shall impose the tax on
52813 amounts paid or charged for food and food ingredients if:
52814 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
52815 food and food ingredients and tangible personal property other than food and food ingredients;
52816 and
52817 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
52818 accordance with Subsection 59-12-107(1)(b).
52819 (2) (a) Subject to Subsection (2)(b), before obtaining the approval required by
52820 Subsection (3), a county legislative body shall adopt a resolution specifying the percentage of

52821 revenues the county will receive from the tax under this part that will be allocated to fund one
52822 or more of the following:
52823 (i) a project or service relating to a fixed guideway system for the portion of the project
52824 or service that is performed within the county;
52825 (ii) a project or service relating to a system for public transit for the portion of the
52826 project or service that is performed within the county; or
52827
52828 (iii) the following relating to a state highway or a local highway of regional
52829 significance within the county:
52830 (A) a project beginning on or after the day on which a county legislative body imposes
52831 a tax under this part only within the county involving:
52832 (I) new construction;
52833 (II) a renovation;
52834 (III) an improvement; or
52835 (IV) an environmental study;
52836 (B) debt service on a project described in Subsections (2)(a)(iii)(A)(I) through (IV); or
52837 (C) bond issuance costs relating to a project described in Subsections (2)(a)(iii)(A)(I)
52838 through (IV).
52839 (b) (i) A county legislative body shall in the resolution required by Subsection (2)(a)
52840 allocate as required by Subsection (2)(a) 100% of the revenues the county will receive from the
52841 tax under this part.
52842 (ii) For purposes of this Subsection (2)(b), the revenues a county will receive from the
52843 tax under this part do not include amounts retained by the commission in accordance with
52844 Subsection (8).
52845 (3) (a) Except as provided in Subsection (3)(d), before imposing a tax under this part, a
52846 county legislative body shall:
52847 (i) obtain approval from a majority of the members of the county legislative body to:
52848 (A) impose the tax; and
52849 (B) allocate the revenues the county will receive from the tax in accordance with the
52850 resolution adopted in accordance with Subsection (2); and
52851 (ii) subject to Subsection (3)(b), submit an opinion question to the county's registered

52852 voters voting on the imposition of the tax so that each registered voter has the opportunity to
52853 express the registered voter's opinion on whether a tax should be imposed under this part.
52854 (b) The opinion question required by Subsection (3)(a)(ii) shall state the allocations
52855 specified in the resolution:
52856 (i) adopted in accordance with Subsection (2); and
52857 (ii) approved by the county legislative body in accordance with Subsection (3)(a).
52858 (c) The election required by this Subsection (3) shall be held:
52859 (i) (A) at a regular general election; and
52860 (B) in accordance with the procedures and requirements of Title 20A, Election Code,
52861 governing regular general elections; or
52862 (ii) (A) at a special election called by the county legislative body;
52863 (B) only on the date of a municipal general election provided in Subsection
52864 20A-1-202(1); and
52865 (C) in accordance with the procedures and requirements of Section 20A-1-203.
52866 (d) A county is not subject to the voter approval requirements of this section if:
52867 (i) on December 31, 2007, the county imposes a tax of .25% under this section; and
52868 (ii) on or after January 1, 2008, the county increases the tax rate under this section to
52869 up to .30%.
52870 (4) (a) Subject to Subsection (8), if a county legislative body determines that a majority
52871 of the county's registered voters voting on the imposition of the tax have voted in favor of the
52872 imposition of the tax in accordance with Subsection (3), the county legislative body may
52873 impose the tax by a majority vote of all of the members of the county legislative body.
52874 (b) If a county legislative body imposes a tax under Subsection (4)(a), the revenues
52875 generated by the tax shall be:
52876 (i) allocated in accordance with the allocations specified in the resolution under
52877 Subsection (2); and
52878 (ii) expended as provided in this part.
52879 (5) If a county legislative body allocates revenues generated by the tax for a project
52880 described in Subsection (2)(a)(iii)(A), before beginning the state highway project within the
52881 county, the county legislative body shall:
52882 (a) obtain approval from the Transportation Commission to complete the project; and

52883 (b) enter into an interlocal agreement:
52884 (i) established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act;
52885 (ii) with the Department of Transportation; and
52886 (iii) to complete the project.
52887 (6) (a) If after a county legislative body imposes a tax under Subsection (4) the county
52888 legislative body seeks to change the allocation of the tax specified in the resolution under
52889 Subsection (2), the county legislative body may change the allocation of the tax by:
52890 (i) adopting a resolution in accordance with Subsection (2) specifying the percentage of
52891 revenues the county will receive from the tax under this part that will be allocated to fund one
52892 or more of the systems or projects described in Subsection (2);
52893 (ii) obtaining approval to change the allocation of the tax from a majority of the
52894 members of the county legislative body; and
52895 (iii) (A) submitting an opinion question to the county's registered voters voting on
52896 changing the allocation of the tax so that each registered voter has the opportunity to express
52897 the registered voter's opinion on whether the allocation of the tax should be changed; and
52898 (B) obtaining approval to change the allocation of the tax from a majority of the
52899 county's registered voters voting on changing the allocation of the tax.
52900 (b) (i) The opinion question required by Subsection (6)(a)(iii) shall state the allocations
52901 specified in the resolution:
52902 (A) adopted in accordance with Subsection (6)(a)(i); and
52903 (B) approved by the county legislative body in accordance with Subsection (6)(a)(ii).
52904 (ii) The election required by Subsection (6)(a)(iii) shall follow the procedures and
52905 requirements of Title 11, Chapter 14, Local Government Bonding Act.
52906 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), revenues generated by a tax
52907 under this part that are allocated for a purpose described in Subsection (2)(a)(i) or (ii) shall be
52908 transmitted:
52909 (A) by the commission;
52910 (B) to the county;
52911 (C) monthly; and
52912 (D) by electronic funds transfer.
52913 (ii) Notwithstanding Subsection (7)(a)(i), a county may request that the commission

52914 transfer the revenues described in Subsection (7)(a)(i):
52915 (A) directly to a public transit district:
52916 (I) organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act; and
52917 (II) designated by the county; and
52918 (B) by providing written notice to the commission:
52919 (I) requesting the revenues to be transferred directly to a public transit district as
52920 provided in Subsection (7)(a)(ii)(A); and
52921 (II) designating the public transit district to which the revenues are requested to be
52922 transferred.
52923 (b) Revenues generated by a tax under this part that are allocated for a purpose
52924 described in Subsection (2)(a)(iii) shall be:
52925 (i) deposited into the State Highway Projects Within Counties Fund created by Section
52926 72-2-121.1; and
52927 (ii) expended as provided in Section 72-2-121.1.
52928 (8) (a) (i) Except as provided in Subsection (8)(a)(ii), the tax authorized under this part
52929 shall be administered, collected, and enforced in accordance with:
52930 (A) the same procedures used to administer, collect, and enforce the tax under:
52931 (I) Part 1, Tax Collection; or
52932 (II) Part 2, Local Sales and Use Tax Act; and
52933 (B) Chapter 1, General Taxation Policies.
52934 (ii) Notwithstanding Subsection (8)(a)(i), a tax under this part is not subject to
52935 Subsections 59-12-205(2) through (7).
52936 (b) (i) The commission may retain an amount of tax collected under this part of not to
52937 exceed the lesser of:
52938 (A) 1.5%; or
52939 (B) an amount equal to the cost to the commission of administering this part.
52940 (ii) Any amount the commission retains under Subsection (8)(b)(i) shall be:
52941 (A) placed in the Sales and Use Tax Administrative Fees Account; and
52942 (B) used as provided in Subsection 59-12-206(2).
52943 (9) (a) (i) Except as provided in Subsection (9)(b) or (c), if, on or after April 1, 2008, a
52944 county enacts or repeals a tax under this part, the enactment or repeal shall take effect:

52945 (A) on the first day of a calendar quarter; and
52946 (B) after a 90-day period beginning on the date the commission receives notice meeting
52947 the requirements of Subsection (9)(a)(ii) from the county.
52948 (ii) The notice described in Subsection (9)(a)(i)(B) shall state:
52949 (A) that the county will enact or repeal a tax under this part;
52950 (B) the statutory authority for the tax described in Subsection (9)(a)(ii)(A);
52951 (C) the effective date of the tax described in Subsection (9)(a)(ii)(A); and
52952 (D) if the county enacts the tax described in Subsection (9)(a)(ii)(A), the rate of the tax.
52953 (b) (i) Notwithstanding Subsection (9)(a)(i), for a transaction described in Subsection
52954 (9)(b)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
52955 (A) that begins after the effective date of the enactment of the tax; and
52956 (B) if the billing period for the transaction begins before the effective date of the
52957 enactment of the tax under Subsection (1).
52958 (ii) Notwithstanding Subsection (9)(a)(i), for a transaction described in Subsection
52959 (9)(b)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
52960 (A) that began before the effective date of the repeal of the tax; and
52961 (B) if the billing period for the transaction begins before the effective date of the repeal
52962 of the tax imposed under Subsection (1).
52963 (iii) Subsections (9)(b)(i) and (ii) apply to transactions subject to a tax under:
52964 (A) Subsection 59-12-103(1)(b);
52965 (B) Subsection 59-12-103(1)(c);
52966 (C) Subsection 59-12-103(1)(d);
52967 (D) Subsection 59-12-103(1)(e);
52968 (E) Subsection 59-12-103(1)(f);
52969 (F) Subsection 59-12-103(1)(g);
52970 (G) Subsection 59-12-103(1)(h);
52971 (H) Subsection 59-12-103(1)(i);
52972 (I) Subsection 59-12-103(1)(j); or
52973 (J) Subsection 59-12-103(1)(k).
52974 (c) (i) Notwithstanding Subsection (9)(a)(i), if a tax due under this chapter on a
52975 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an

52976 enactment or repeal of a tax described in Subsection (9)(a)(i) takes effect:
52977 (A) on the first day of a calendar quarter; and
52978 (B) beginning 60 days after the effective date of the enactment or repeal under
52979 Subsection (9)(a)(i).
52980 (ii) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
52981 Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
52982 (d) (i) Except as provided in Subsection (9)(e) or (f), if, for an annexation that occurs
52983 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
52984 part for an annexing area, the enactment or repeal shall take effect:
52985 (A) on the first day of a calendar quarter; and
52986 (B) after a 90-day period beginning on the date the commission receives notice meeting
52987 the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.
52988 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:
52989 (A) that the annexation described in Subsection (9)(d)(i)(B) will result in an enactment
52990 or repeal of a tax under this part for the annexing area;
52991 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);
52992 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and
52993 (D) the rate of the tax described in Subsection (9)(d)(ii)(A).
52994 (e) (i) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection
52995 (9)(e)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
52996 (A) that begins after the effective date of the enactment of the tax; and
52997 (B) if the billing period for the transaction begins before the effective date of the
52998 enactment of the tax under Subsection (1).
52999 (ii) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection
53000 (9)(e)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
53001 (A) that began before the effective date of the repeal of the tax; and
53002 (B) if the billing period for the transaction begins before the effective date of the repeal
53003 of the tax imposed under Subsection (1).
53004 (iii) Subsections (9)(e)(i) and (ii) apply to transactions subject to a tax under:
53005 (A) Subsection 59-12-103(1)(b);
53006 (B) Subsection 59-12-103(1)(c);

53007 (C) Subsection 59-12-103(1)(d);
53008 (D) Subsection 59-12-103(1)(e);
53009 (E) Subsection 59-12-103(1)(f);
53010 (F) Subsection 59-12-103(1)(g);
53011 (G) Subsection 59-12-103(1)(h);
53012 (H) Subsection 59-12-103(1)(i);
53013 (I) Subsection 59-12-103(1)(j); or
53014 (J) Subsection 59-12-103(1)(k).
53015 (f) (i) Notwithstanding Subsection (9)(d)(i), if a tax due under this chapter on a
53016 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
53017 enactment or repeal of a tax described in Subsection (9)(d)(i) takes effect:
53018 (A) on the first day of a calendar quarter; and
53019 (B) beginning 60 days after the effective date of the enactment or repeal under
53020 Subsection (9)(d)(i).
53021 (ii) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
53022 Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
53023 (10) A county that imposed a sales and use tax under this section prior to July 1, 2007,
53024 may expend revenues allocated in the resolution for the purpose described in Subsection
53025 (2)(a)(iii) on local highway of regional significance projects in addition to or in substitution of
53026 state highway projects within the county.
53027 Section 1042. Section **59-12-1703 (Effective 01/01/08)** is amended to read:
53028 **59-12-1703 (Effective 01/01/08). Opinion question election -- Base -- Rate --**
53029 **Imposition of tax -- Use of tax revenues -- Administration, collection, and enforcement of**
53030 **tax by commission -- Administrative fee -- Enactment or repeal of tax -- Annexation --**
53031 **Notice.**
53032 (1) (a) Subject to the other provisions of this part, a county legislative body may
53033 impose a sales and use tax of up to .25%:
53034 (i) on the transactions:
53035 (A) described in Subsection 59-12-103(1); and
53036 (B) within the county, including the cities and towns within the county;
53037 (ii) for the purposes described in Subsection (4); and

53038 (iii) in addition to any other sales and use tax authorized under this chapter.
53039 (b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a
53040 tax under this section on:
53041 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
53042 are exempt from taxation under Section 59-12-104;
53043 (ii) amounts paid or charged by a seller that collects a tax under Subsection
53044 59-12-107(1)(b); and
53045 (iii) except as provided in Subsection (1)(d), amounts paid or charged for food and
53046 food ingredients.
53047 (c) For purposes of this Subsection (1), the location of a transaction shall be
53048 determined in accordance with Section 59-12-207.
53049 (d) A county legislative body imposing a tax under this section shall impose the tax on
53050 amounts paid or charged for food and food ingredients if:
53051 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
53052 food and food ingredients and tangible personal property other than food and food ingredients;
53053 and
53054 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
53055 accordance with Subsection 59-12-107(1)(b).
53056 (2) (a) Except as provided in Subsection (2)(d), before imposing a tax under this part, a
53057 county legislative body shall:
53058 (i) obtain approval from a majority of the members of the county legislative body to
53059 impose the tax; and
53060 (ii) submit an opinion question to the county's registered voters voting on the
53061 imposition of the tax so that each registered voter has the opportunity to express the registered
53062 voter's opinion on whether a tax should be imposed under this part.
53063 (b) (i) In a county of the first or second class, the opinion question required by
53064 Subsection (2)(a)(ii) shall state the following:
53065 "Shall (insert the name of the county), Utah, be authorized to impose a (insert the
53066 amount of the sales and use tax up to .25%) sales and use tax for corridor preservation,
53067 congestion mitigation, or to expand capacity for regionally significant transportation facilities?"
53068 (ii) In a county of the third, fourth, fifth, or sixth class, the opinion question required by

53069 Subsection (2)(a)(ii) shall state the following:
53070 "Shall (insert the name of the county), Utah, be authorized to impose a (insert the
53071 amount of the sales and use tax up to .25%) sales and use tax for transportation projects,
53072 corridor preservation, congestion mitigation, or to expand capacity for regionally significant
53073 transportation facilities?"
53074 (c) Except as provided in Subsection (2)(d), the election required by this Subsection (2)
53075 shall be held:
53076 (i) at a regular general election conducted in accordance with the procedures and
53077 requirements of Title 20A, Election Code, governing regular elections; or
53078 (ii) at a special election called by the county legislative body that is:
53079 (A) held only on the date of a municipal general election as provided in Subsection
53080 20A-1-202(1); and
53081 (B) authorized in accordance with the procedures and requirements of Section
53082 20A-1-203.
53083 (d) Notwithstanding Subsection (2)(a) or (c), if a county seeks to impose a tax under
53084 this part on or after April 1, 2007, but on or before December 31, 2007, the county legislative
53085 body shall:
53086 (i) obtain the approval required by Subsection (2)(a)(i) within five calendar days of
53087 September 20, 2006;
53088 (ii) direct the county clerk to submit the opinion question required by Subsection
53089 (2)(a)(ii) during the November 7, 2006 general election; and
53090 (iii) hold the election required by this section on November 7, 2006.
53091 (3) If a county legislative body determines that a majority of the county's registered
53092 voters voting on the imposition of the tax have voted in favor of the imposition of the tax in
53093 accordance with Subsection (2), the county legislative body shall impose the tax in accordance
53094 with this section.
53095 (4) (a) Subject to Subsections (5) and (6), the revenues generated by a tax under this
53096 part may only be expended for:
53097 (i) a project or service:
53098 (A) relating to a regionally significant transportation facility;
53099 (B) for the portion of the project or service that is performed within the county;

53100 (C) for new capacity or congestion mitigation if the project or service is performed
53101 within a county:
53102 (I) of the first class;
53103 (II) of the second class; or
53104 (III) that is part of an area metropolitan planning organization;
53105 (D) (I) if the project or service is a principal arterial highway or a minor arterial
53106 highway in a county of the first or second class, that is part of the county and municipal master
53107 plan and part of:
53108 (Aa) the statewide long-range plan; or
53109 (Bb) the regional transportation plan of the area metropolitan planning organization if a
53110 metropolitan planning organization exists for the area; or
53111 (II) if the project or service is for a fixed guideway or an airport, that is part of the
53112 regional transportation plan of the area metropolitan planning organization if a metropolitan
53113 planning organization exists for the area; and
53114 (E) that is on a priority list:
53115 (I) created by the county's council of governments in accordance with Subsection (5);
53116 and
53117 (II) approved by the county legislative body in accordance with Subsection (6);
53118 (ii) corridor preservation for a project described in Subsection (4)(a)(i) as provided in
53119 Subsection (7)(b); or
53120 (iii) any debt service and bond issuance costs related to a project described in
53121 Subsection (4)(a)(i) or (ii).
53122 (b) In a county of the first or second class, a regionally significant transportation
53123 facility project or service described in Subsection (4)(a)(i)(A) must have a funded year priority
53124 designation on a Statewide Transportation Improvement Program and Transportation
53125 Improvement Program if the project or service described in Subsection (4)(a)(i) is:
53126 (i) a principal arterial highway as defined in Section 72-4-102.5;
53127 (ii) a minor arterial highway as defined in Section 72-4-102.5; or
53128 (iii) a major collector highway:
53129 (A) as defined in Section 72-4-102.5; and
53130 (B) in a rural area.

53131 (c) Notwithstanding the designated use of revenues in Subsection (4)(a), of the
53132 revenues generated by the tax imposed under this section by any county of the first or second
53133 class, 25% or more shall be expended for the purpose described in Subsection (4)(a)(ii).
53134 (d) For purposes of this Subsection (4), the revenues a county will receive from a tax
53135 under this part do not include amounts retained by the commission in accordance with
53136 Subsection (8).
53137 (5) (a) The county's council of governments shall create a priority list of regionally
53138 significant transportation facility projects described in Subsection (4)(a) using the process
53139 described in Subsection (5)(b) and present the priority list to the county's legislative body for
53140 approval as described in Subsection (6).
53141 (b) Subject to Sections 59-12-1704 and 59-12-1705, a council of governments shall
53142 establish a council of governments' endorsement process which includes prioritization and
53143 application procedures for use of the revenues a county will receive from a tax under this part.
53144 (6) (a) The council of governments shall submit the priority list described in
53145 Subsection (5) to the county's legislative body and obtain approval of the list from a majority of
53146 the members of the county legislative body.
53147 (b) A county's council of governments may only submit one priority list per calendar
53148 year.
53149 (c) A county legislative body may only consider and approve one priority list per
53150 calendar year.
53151 (7) (a) (i) Except as provided in Subsections (7)(a)(ii) and (7)(b), revenues described in
53152 Subsection (4) shall be transmitted:
53153 (A) by the commission;
53154 (B) to the county;
53155 (C) monthly; and
53156 (D) by electronic funds transfer.
53157 (ii) A county may request that the commission transfer a portion of the revenues
53158 described in Subsection (4):
53159 (A) directly to a public transit district:
53160 (I) organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act; and
53161 (II) designated by the county; and

53162 (B) by providing written notice to the commission:
53163 (I) requesting the revenues to be transferred directly to a public transit district as
53164 provided in Subsection (7)(a)(ii)(A); and
53165 (II) designating the public transit district to which the revenues are requested to be
53166 transferred.
53167 (b) (i) Except as provided in Subsection (7)(b)(ii), revenues generated by a tax under
53168 this part that are allocated for a purpose described in Subsection (4)(a)(ii) shall be:
53169 (A) deposited in or transferred to the Local Transportation Corridor Preservation Fund
53170 created by Section 72-2-117.5; and
53171 (B) expended as provided in Section 72-2-117.5.
53172 (ii) In a county of the first class, revenues generated by a tax under this part that are
53173 allocated for a purpose described in Subsection (4)(a)(ii) shall be:
53174 (A) deposited in or transferred to the County of the First Class State Highway Projects
53175 Fund created by Section 72-2-121; and
53176 (B) expended as provided in Section 72-2-121.
53177 (8) (a) (i) Except as provided in Subsection (8)(b), the tax authorized under this part
53178 shall be administered, collected, and enforced in accordance with:
53179 (A) the same procedures used to administer, collect, and enforce the tax under:
53180 (I) Part 1, Tax Collection; or
53181 (II) Part 2, Local Sales and Use Tax Act; and
53182 (B) Chapter 1, General Taxation Policies.
53183 (ii) A tax under this part is not subject to Subsections 59-12-205(2) through (7).
53184 (b) (i) The commission may retain an amount of tax collected under this part of not to
53185 exceed the lesser of:
53186 (A) 1.5%; or
53187 (B) an amount equal to the cost to the commission of administering this part.
53188 (ii) Any amount the commission retains under Subsection (8)(b)(i) shall be:
53189 (A) placed in the Sales and Use Tax Administrative Fees Account; and
53190 (B) used as provided in Subsection 59-12-206(2).
53191 (9) (a) (i) Except as provided in Subsection (9)(b) or (c), if, on or after April 1, 2007, a
53192 county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal,

53193 or change shall take effect:
53194 (A) on the first day of a calendar quarter; and
53195 (B) after a 90-day period beginning on the date the commission receives notice meeting
53196 the requirements of Subsection (9)(a)(ii) from the county.
53197 (ii) The notice described in Subsection (9)(a)(i)(B) shall state:
53198 (A) that the county will enact, repeal, or change the rate of a tax under this part;
53199 (B) the statutory authority for the tax described in Subsection (9)(a)(ii)(A);
53200 (C) the effective date of the tax described in Subsection (9)(a)(ii)(A); and
53201 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
53202 (9)(a)(ii)(A), the rate of the tax.
53203 (b) (i) For a transaction described in Subsection (9)(b)(iii), if the billing period for the
53204 transaction begins before the effective date of the enactment of the tax or tax rate increase
53205 under Subsection (1), the enactment of a tax or a tax rate increase shall take effect on the first
53206 day of the first billing period that begins after the effective date of the enactment of the tax or
53207 the tax rate increase.
53208 (ii) For a transaction described in Subsection (9)(b)(iii), if the billing period for the
53209 transaction begins before the effective date of the repeal of the tax or the tax rate decrease
53210 imposed under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the
53211 first day of the last billing period that began before the effective date of the repeal of the tax or
53212 the tax rate decrease.
53213 (iii) Subsections (9)(b)(i) and (ii) apply to transactions subject to a tax under:
53214 (A) Subsection 59-12-103(1)(b);
53215 (B) Subsection 59-12-103(1)(c);
53216 (C) Subsection 59-12-103(1)(d);
53217 (D) Subsection 59-12-103(1)(e);
53218 (E) Subsection 59-12-103(1)(f);
53219 (F) Subsection 59-12-103(1)(g);
53220 (G) Subsection 59-12-103(1)(h);
53221 (H) Subsection 59-12-103(1)(i);
53222 (I) Subsection 59-12-103(1)(j); or
53223 (J) Subsection 59-12-103(1)(k).

53224 (c) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
53225 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of
53226 a tax described in Subsection (9)(a)(i) takes effect:
53227 (A) on the first day of a calendar quarter; and
53228 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
53229 rate of the tax under Subsection (9)(a)(i).
53230 (ii) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
53231 Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
53232 (d) (i) Except as provided in Subsection (9)(e) or (f), if, for an annexation that occurs
53233 on or after April 1, 2007, the annexation will result in the enactment, repeal, or change in the
53234 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
53235 effect:
53236 (A) on the first day of a calendar quarter; and
53237 (B) after a 90-day period beginning on the date the commission receives notice meeting
53238 the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.
53239 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:
53240 (A) that the annexation described in Subsection (9)(d)(i)(B) will result in an enactment,
53241 repeal, or change in the rate of a tax under this part for the annexing area;
53242 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);
53243 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and
53244 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
53245 (9)(d)(ii)(A), the rate of the tax.
53246 (e) (i) For a transaction described in Subsection (9)(e)(iii), if the billing period for the
53247 transaction begins before the effective date of the enactment of the tax or a tax rate increase
53248 under Subsection (1), the enactment of a tax or a tax rate increase shall take effect on the first
53249 day of the first billing period that begins after the effective date of the enactment of the tax or
53250 the tax rate increase.
53251 (ii) For a transaction described in Subsection (9)(e)(iii), if the billing period for the
53252 transaction begins before the effective date of the repeal of the tax or the tax rate decrease
53253 imposed under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the
53254 first day of the last billing period that began before the effective date of the repeal of the tax or

53255 the tax rate decrease.
53256 (iii) Subsections (9)(e)(i) and (ii) apply to transactions subject to a tax under:
53257 (A) Subsection 59-12-103(1)(b);
53258 (B) Subsection 59-12-103(1)(c);
53259 (C) Subsection 59-12-103(1)(d);
53260 (D) Subsection 59-12-103(1)(e);
53261 (E) Subsection 59-12-103(1)(f);
53262 (F) Subsection 59-12-103(1)(g);
53263 (G) Subsection 59-12-103(1)(h);
53264 (H) Subsection 59-12-103(1)(i);
53265 (I) Subsection 59-12-103(1)(j); or
53266 (J) Subsection 59-12-103(1)(k).
53267 (f) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
53268 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of
53269 a tax described in Subsection (9)(d)(i) takes effect:
53270 (A) on the first day of a calendar quarter; and
53271 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
53272 rate under Subsection (9)(d)(i).
53273 (ii) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
53274 Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
53275 Section 1043. Section **59-12-1803 (Effective 01/01/08)** is amended to read:
53276 **59-12-1803 (Effective 01/01/08). Enactment or repeal of tax -- Effective date --**
53277 **Administration, collection, and enforcement of tax.**
53278 (1) Subject to Subsections (2) and (3), a tax rate repeal or a tax rate change for a tax
53279 imposed under this part shall take effect on the first day of a calendar quarter.
53280 (2) (a) For a transaction described in Subsection (2)(c), the enactment of a tax shall
53281 take effect on the first day of the first billing period that begins after the effective date of the
53282 enactment of the tax if the billing period for the transaction begins before the effective date of
53283 the tax under this part.
53284 (b) For a transaction described in Subsection (2)(c), the repeal of a tax shall take effect
53285 on the first day of the last billing period that began before the effective date of the repeal of the

53286 tax if the billing period for the transaction begins before the effective date of the repeal of the
53287 tax imposed under this part.
53288 (c) Subsections (2)(a) and (b) apply to transactions subject to a tax under:
53289 (i) Subsection 59-12-103(1)(b);
53290 (ii) Subsection 59-12-103(1)(c);
53291 (iii) Subsection 59-12-103(1)(d);
53292 (iv) Subsection 59-12-103(1)(e);
53293 (v) Subsection 59-12-103(1)(f);
53294 (vi) Subsection 59-12-103(1)(g);
53295 (vii) Subsection 59-12-103(1)(h);
53296 (viii) Subsection 59-12-103(1)(i);
53297 (ix) Subsection 59-12-103(1)(j); or
53298 (x) Subsection 59-12-103(1)(k).
53299 (3) (a) If a tax due under this part on a catalogue sale is computed on the basis of sales
53300 and use tax rates published in the catalogue, an enactment or repeal of a tax under this part
53301 takes effect:
53302 (i) on the first day of a calendar quarter; and
53303 (ii) beginning 60 days after the effective date of the enactment or repeal of the tax
53304 under this part.
53305 (b) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
53306 Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
53307 (4) A tax imposed by this part shall be administered, collected, and enforced in
53308 accordance with:
53309 (a) the same procedures used to administer, collect, and enforce the tax under Part 1,
53310 Tax Collection; and
53311 (b) Chapter 1, General Taxation Policies.
53312 Section 1044. Section **59-13-201** is amended to read:
53313 **59-13-201. Rate -- Tax basis -- Exemptions -- Revenue deposited in the**
53314 **Transportation Fund -- Restricted account for boating uses -- Refunds -- Reduction of tax**
53315 **in limited circumstances.**
53316 (1) (a) Subject to the provisions of this section, a tax is imposed at the rate of 24-1/2

53317 cents per gallon upon all motor fuel that is sold, used, or received for sale or used in this state.
53318 (b) In lieu of the tax imposed under Subsection (1)(a) and subject to the provisions of
53319 this section, a tax is imposed at the rate of 3/19 of the rate imposed under Subsection (1)(a),
53320 rounded up to the nearest penny, upon all motor fuels that meet the definition of clean fuel in
53321 Section 59-13-102 and are sold, used, or received for sale or use in this state.
53322 (2) Any increase or decrease in tax rate applies to motor fuel that is imported to the
53323 state or sold at refineries in the state on or after the effective date of the rate change.
53324 (3) (a) No motor fuel tax is imposed upon:
53325 (i) motor fuel that is brought into and sold in this state in original packages as purely
53326 interstate commerce sales;
53327 (ii) motor fuel that is exported from this state if proof of actual exportation on forms
53328 prescribed by the commission is made within 180 days after exportation;
53329 (iii) motor fuel or components of motor fuel that is sold and used in this state and
53330 distilled from coal, oil shale, rock asphalt, bituminous sand, or solid hydrocarbons located in
53331 this state; or
53332 (iv) motor fuel that is sold to the United States government, this state, or the political
53333 subdivisions of this state.
53334 (b) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
53335 Administrative Rulemaking Act, the commission shall make rules governing the procedures for
53336 administering the tax exemption provided under Subsection (3)(a)(iv).
53337 (4) The commission may either collect no tax on motor fuel exported from the state or,
53338 upon application, refund the tax paid.
53339 (5) (a) All revenue received by the commission under this part shall be deposited daily
53340 with the state treasurer and credited to the Transportation Fund.
53341 (b) An appropriation from the Transportation Fund shall be made to the commission to
53342 cover expenses incurred in the administration and enforcement of this part and the collection of
53343 the motor fuel tax.
53344 (6) (a) The commission shall determine what amount of motor fuel tax revenue is
53345 received from the sale or use of motor fuel used in motorboats registered under the provisions
53346 of the State Boating Act, and this amount shall be deposited in a restricted revenue account in
53347 the General Fund of the state.

53348 (b) The funds from this account shall be used for the construction, improvement,
53349 operation, and maintenance of state-owned boating facilities and for the payment of the costs
53350 and expenses of the Division of Parks and Recreation in administering and enforcing the State
53351 Boating Act.
53352 (7) (a) The United States government or any of its instrumentalities, this state, or a
53353 political subdivision of this state that has purchased motor fuel from a licensed distributor or
53354 from a retail dealer of motor fuel and has paid the tax on the motor fuel as provided in this
53355 section is entitled to a refund of the tax and may file with the commission for a quarterly
53356 refund.
53357 (b) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
53358 Administrative Rulemaking Act, the commission shall make rules governing the application
53359 and refund provided for in Subsection (7)(a).
53360 (8) (a) The commission shall refund annually into the Off-Highway Vehicle Account in
53361 the General Fund an amount equal to the lesser of the following:
53362 (i) .5% of the motor fuel tax revenues collected under this section; or
53363 (ii) $1,050,000.
53364 (b) This amount shall be used as provided in Section 41-22-19.
53365 (c) This Subsection (8) sunsets on July 1, 2010.
53366 (9) (a) Beginning on April 1, 2001, a tax imposed under this section on motor fuel that
53367 is sold, used, or received for sale or use in this state is reduced to the extent provided in
53368 Subsection (9)(b) if:
53369 (i) a tax imposed on the basis of the sale, use, or receipt for sale or use of the motor
53370 fuel is paid to the Navajo Nation;
53371 (ii) the tax described in Subsection (9)(a)(i) is imposed without regard to whether or
53372 not the person required to pay the tax is an enrolled member of the Navajo Nation; and
53373 (iii) the commission and the Navajo Nation execute and maintain an agreement as
53374 provided in this Subsection (9) for the administration of the reduction of tax.
53375 (b) (i) If but for Subsection (9)(a) the motor fuel is subject to a tax imposed by this
53376 section:
53377 (A) the state shall be paid the difference described in Subsection (9)(b)(ii) if that
53378 difference is greater than $0; and

53379 (B) a person may not require the state to provide a refund, a credit, or similar tax relief
53380 if the difference described in Subsection (9)(b)(ii) is less than or equal to $0.
53381 (ii) The difference described in Subsection (9)(b)(i) is equal to the difference between:
53382 (A) the amount of tax imposed on the motor fuel by this section; less
53383 (B) the tax imposed and collected by the Navajo Nation on the motor fuel.
53384 (c) For purposes of Subsections (9)(a) and (b), the tax paid to the Navajo Nation under
53385 a tax imposed by the Navajo Nation on the basis of the sale, use, or receipt for sale or use of
53386 motor fuel does not include any interest or penalties a taxpayer may be required to pay to the
53387 Navajo Nation.
53388 (d) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
53389 Administrative Rulemaking Act, the commission shall make rules governing the procedures for
53390 administering the reduction of tax provided under this Subsection (9).
53391 (e) The agreement required under Subsection (9)(a):
53392 (i) may not:
53393 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;
53394 (B) provide a reduction of taxes greater than or different from the reduction described
53395 in this Subsection (9); or
53396 (C) affect the power of the state to establish rates of taxation;
53397 (ii) shall:
53398 (A) be in writing;
53399 (B) be signed by:
53400 (I) the chair of the commission or the chair's designee; and
53401 (II) a person designated by the Navajo Nation that may bind the Navajo Nation;
53402 (C) be conditioned on obtaining any approval required by federal law;
53403 (D) state the effective date of the agreement; and
53404 (E) state any accommodation the Navajo Nation makes related to the construction and
53405 maintenance of state highways and other infrastructure within the Utah portion of the Navajo
53406 Nation; and
53407 (iii) may:
53408 (A) notwithstanding Section 59-1-403, authorize the commission to disclose to the
53409 Navajo Nation information that is:

53410 (I) contained in a document filed with the commission; and
53411 (II) related to the tax imposed under this section;
53412 (B) provide for maintaining records by the commission or the Navajo Nation; or
53413 (C) provide for inspections or audits of distributors, carriers, or retailers located or
53414 doing business within the Utah portion of the Navajo Nation.
53415 (f) (i) If, on or after April 1, 2001, the Navajo Nation changes the tax rate of a tax
53416 imposed on motor fuel, any change in the reduction of taxes under this Subsection (9) as a
53417 result of the change in the tax rate is not effective until the first day of the calendar quarter after
53418 a 60-day period beginning on the date the commission receives notice:
53419 (A) from the Navajo Nation; and
53420 (B) meeting the requirements of Subsection (9)(f)(ii).
53421 (ii) The notice described in Subsection (9)(f)(i) shall state:
53422 (A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on
53423 motor fuel;
53424 (B) the effective date of the rate change of the tax described in Subsection (9)(f)(ii)(A);
53425 and
53426 (C) the new rate of the tax described in Subsection (9)(f)(ii)(A).
53427 (g) If the agreement required by Subsection (9)(a) terminates, a reduction of tax is not
53428 permitted under this Subsection (9) beginning on the first day of the calendar quarter after a
53429 30-day period beginning on the day the agreement terminates.
53430 (h) If there is a conflict between this Subsection (9) and the agreement required by
53431 Subsection (9)(a), this Subsection (9) governs.
53432 Section 1045. Section **59-13-201.5** is amended to read:
53433 **59-13-201.5. Refund of taxes impacting Ute tribe and Ute tribal members.**
53434 (1) In accordance with this section, the Ute tribe may receive a refund from the state of
53435 amounts paid to a distributor for taxes imposed on the distributor in accordance with Section
53436 59-13-204 if:
53437 (a) the motor fuel is purchased from a licensed distributor;
53438 (b) the Ute tribe pays the distributor as provided in Section 59-13-204;
53439 (c) the motor fuel is purchased for use by:
53440 (i) the Ute tribe; or

53441 (ii) a Ute tribal member from a retail station:
53442 (A) wholly owned by the Ute tribe; and
53443 (B) that is located on Ute trust land; and
53444 (d) the governor and the Ute tribe execute and maintain an agreement meeting the
53445 requirements of Subsection (3).
53446 (2) In addition to the agreement required by Subsection (1), the commission shall enter
53447 into an agreement with the Ute tribe that:
53448 (a) provides an allocation formula or procedure for determining:
53449 (i) the amount of motor fuel sold by the Ute tribe to a Ute tribal member; and
53450 (ii) the amount of motor fuel sold by the Ute tribe to a person who is not a Ute tribal
53451 member; and
53452 (b) provides a process by which:
53453 (i) the Ute tribe obtains a refund permitted by this section; and
53454 (ii) reports and remits motor fuel tax to the state for sales made to persons who are not
53455 Ute tribal members.
53456 (3) The agreement required under Subsection (1):
53457 (a) may not:
53458 (i) authorize the state to impose a tax in addition to a tax imposed under this chapter; or
53459 (ii) provide a refund, credit, or similar tax relief that is greater or different than the
53460 refund permitted under this section;
53461 (iii) affect the power of the state to establish rates of taxation; and
53462 (b) shall:
53463 (i) provide that the state agrees to allow the refund described in this section;
53464 (ii) be in writing;
53465 (iii) be signed by:
53466 (A) the governor; and
53467 (B) the chair of the Business Committee of the Ute tribe;
53468 (iv) be conditioned on obtaining any approval required by federal law; and
53469 (v) state the effective date of the agreement.
53470 (4) (a) The governor shall report to the commission by no later than February 1 of each
53471 year as to whether or not an agreement meeting the requirements of this Subsection (4) is in

53472 effect.
53473 (b) If an agreement meeting the requirements of this Subsection (4) is terminated, the
53474 refund permitted under this section is not allowed beginning the January 1 following the date
53475 the agreement terminates.
53476 (5) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
53477 Administrative Rulemaking Act, the commission may make rules regarding the procedures for
53478 seeking a refund agreed to under the agreement described in Subsection (2).
53479 Section 1046. Section **59-13-202.5** is amended to read:
53480 **59-13-202.5. Refunds of tax due to fire, flood, storm, accident, crime, or discharge**
53481 **in bankruptcy -- Filing claims and affidavits -- Commission approval -- Rulemaking --**
53482 **Appeals -- Penalties.**
53483 (1) (a) A retailer, wholesaler, or licensed distributor, who without fault, sustains a loss
53484 or destruction of 8,000 or more gallons of motor fuel in a single incident due to fire, flood,
53485 storm, accident, or the commission of a crime and who has paid or is required to pay the tax on
53486 the motor fuel as provided by this part, is entitled to a refund or credit of the tax subject to the
53487 conditions and limitations provided under this section.
53488 (b) The claimant shall file a claim for a refund or credit with the commission within 90
53489 days of the incident.
53490 (c) Any part of a loss or destruction eligible for indemnification under an insurance
53491 policy for the taxes paid or required on the loss or destruction of motor fuel is not eligible for a
53492 refund or credit under this section.
53493 (d) Any claimant filing a claim for a refund or credit shall furnish any or all of the
53494 information outlined in this section upon request of the commission.
53495 (e) The burden of proof of loss or destruction is on the claimant who shall provide
53496 evidence of loss or destruction to the satisfaction of the commission.
53497 (f) (i) The claim shall include an affidavit containing the:
53498 (A) name of claimant;
53499 (B) claimant's address;
53500 (C) date, time, and location of the incident;
53501 (D) cause of the incident;
53502 (E) name of the investigating agencies at the scene;

53503 (F) number of gallons actually lost from sale; and
53504 (G) information on any insurance coverages related to the incident.
53505 (ii) The claimant shall support the claim by submitting the original invoices or copy of
53506 the original invoices.
53507 (iii) This original claim and all information contained in it constitutes a permanent file
53508 with the commission in the name of the claimant.
53509 (2) (a) A retailer, wholesaler, or licensed distributor who has paid the tax on motor fuel
53510 as provided by this part is entitled to a refund for taxes paid on that portion of an account that:
53511 (i) relates to 4,500 or more gallons of motor fuel purchased in a single transaction for
53512 which no payment has been received; and
53513 (ii) has been discharged in a bankruptcy proceeding.
53514 (b) The claimant shall file a claim for refund with the commission within 90 days from
53515 the date of the discharge.
53516 (c) Any claimant filing a claim for a refund shall furnish any or all of the information
53517 outlined in this section upon request of the commission.
53518 (d) The burden of proof of discharge is on the claimant who shall provide evidence of
53519 discharge to the satisfaction of the commission.
53520 (e) The claim shall include an affidavit containing the following:
53521 (i) the name of the claimant;
53522 (ii) the claimant's address;
53523 (iii) the name of the debtor that received a discharge in bankruptcy; and
53524 (iv) the portion of the account that is subject to an order granting a discharge.
53525 (f) The claimant shall support the claim by submitting:
53526 (i) the original invoices or a copy of the original invoices; and
53527 (ii) a certified copy of the notice of discharge.
53528 (g) This original claim and all information contained in it constitutes a permanent file
53529 with the commission in the name of the claimant.
53530 (h) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
53531 Administrative Rulemaking Act, the commission shall promulgate rules for the allocation of
53532 the discharge under this Subsection (2) to maximize the claimant's refund amount.
53533 (3) Upon commission approval of the claim for a refund, the commission shall pay the

53534 amount found due to the claimant. The total amount of claims for refunds shall be paid from
53535 the Transportation Fund.
53536 (4) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
53537 Administrative Rulemaking Act, the commission may promulgate rules to enforce this part,
53538 and may refuse to accept unsubstantiated evidence for the claim. If the commission is not
53539 satisfied with the evidence submitted in connection with the claim, it may reject the claim or
53540 require additional evidence.
53541 (5) Any person aggrieved by the decision of the commission with respect to a refund or
53542 credit may file a request for agency action, requesting a hearing before the commission.
53543 (6) Any person who makes any false claim, report, or statement, either as claimant,
53544 agent, or creditor, with intent to defraud or secure a refund or credit to which the claimant is
53545 not entitled, is subject to the criminal penalties provided under Section 59-1-401, and the
53546 commission shall initiate the filing of a complaint for alleged violations of this part. In
53547 addition to these penalties, the person may not receive any refund or credit as a claimant or as a
53548 creditor of a claimant for refund or credit for a period of five years.
53549 (7) Any refund or credit made under this section does not affect any deduction allowed
53550 under Section 59-13-207.
53551 Section 1047. Section **59-13-203.1** is amended to read:
53552 **59-13-203.1. Definitions -- License requirements -- Penalty -- Application process**
53553 **and requirements -- Fee not required -- Bonds.**
53554 (1) As used in this section:
53555 (a) "applicant" means a person that:
53556 (i) is required by this section to obtain a license; and
53557 (ii) submits an application:
53558 (A) to the commission; and
53559 (B) for a license under this section;
53560 (b) "application" means an application for a license under this section;
53561 (c) "fiduciary of the applicant" means a person that:
53562 (i) is required to collect, truthfully account for, and pay over a tax under this part for an
53563 applicant; and
53564 (ii) (A) is a corporate officer of the applicant described in Subsection (1)(c)(i);

53565 (B) is a director of the applicant described in Subsection (1)(c)(i);
53566 (C) is an employee of the applicant described in Subsection (1)(c)(i);
53567 (D) is a partner of the applicant described in Subsection (1)(c)(i);
53568 (E) is a trustee of the applicant described in Subsection (1)(c)(i); or
53569 (F) has a relationship to the applicant described in Subsection (1)(c)(i) that is similar to
53570 a relationship described in Subsections (1)(c)(ii)(A) through (E) as determined by the
53571 commission by rule made in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
53572 Utah Administrative Rulemaking Act;
53573 (d) "fiduciary of the licensee" means a person that:
53574 (i) is required to collect, truthfully account for, and pay over a tax under this part for a
53575 licensee; and
53576 (ii) (A) is a corporate officer of the licensee described in Subsection (1)(d)(i);
53577 (B) is a director of the licensee described in Subsection (1)(d)(i);
53578 (C) is an employee of the licensee described in Subsection (1)(d)(i);
53579 (D) is a partner of the licensee described in Subsection (1)(d)(i);
53580 (E) is a trustee of the licensee described in Subsection (1)(d)(i); or
53581 (F) has a relationship to the licensee described in Subsection (1)(d)(i) that is similar to
53582 a relationship described in Subsections (1)(d)(ii)(A) through (E) as determined by the
53583 commission by rule made in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
53584 Utah Administrative Rulemaking Act;
53585 (e) "license" means a license under this section; and
53586 (f) "licensee" means a person that is licensed under this section by the commission.
53587 (2) A person that is required to collect a tax under this part is guilty of a criminal
53588 violation as provided in Section 59-1-401 if before obtaining a license under this section that
53589 person engages in business within the state.
53590 (3) The license described in Subsection (2):
53591 (a) shall be granted and issued:
53592 (i) by the commission in accordance with this section;
53593 (ii) without a license fee; and
53594 (iii) if:
53595 (A) an applicant:

53596 (I) states the applicant's name and address in the application; and
53597 (II) provides other information in the application that the commission may require; and
53598 (B) the person meets the requirements of this section to be granted a license as
53599 determined by the commission;
53600 (b) may not be assigned to another person; and
53601 (c) is valid:
53602 (i) only for the person named on the license; and
53603 (ii) until:
53604 (A) the person described in Subsection (3)(c)(i):
53605 (I) ceases to do business; or
53606 (II) changes that person's business address; or
53607 (B) the commission revokes the license.
53608 (4) The commission shall review an application and determine whether:
53609 (a) the applicant meets the requirements of this section to be issued a license; and
53610 (b) a bond is required to be posted with the commission in accordance with Subsection
53611 (5) before the applicant may be issued a license.
53612 (5) (a) An applicant shall post a bond with the commission before the commission may
53613 issue the applicant a license if:
53614 (i) a license under this section was revoked for a delinquency under this part for:
53615 (A) the applicant;
53616 (B) a fiduciary of the applicant; or
53617 (C) a person for which the applicant or the fiduciary of the applicant is required to
53618 collect, truthfully account for, and pay over a tax under this part; or
53619 (ii) there is a delinquency in paying a tax under this part for:
53620 (A) the applicant;
53621 (B) a fiduciary of the applicant; or
53622 (C) a person for which the applicant or the fiduciary of the applicant is required to
53623 collect, truthfully account for, and pay over a tax under this part.
53624 (b) If the commission determines it is necessary to ensure compliance with this part,
53625 the commission may require a licensee to:
53626 (i) for a licensee that has not posted a bond under this section with the commission,

53627 post a bond with the commission in accordance with Subsections (5)(c) through (g); or
53628 (ii) for a licensee that has posted a bond under this section with the commission,
53629 increase the amount of the bond posted with the commission.
53630 (c) A bond under this Subsection (5) shall be:
53631 (i) executed by:
53632 (A) for an applicant, the applicant as principal, with a corporate surety; or
53633 (B) for a licensee, the licensee as principal, with a corporate surety; and
53634 (ii) payable to the commission conditioned upon the faithful performance of all of the
53635 requirements of this part including:
53636 (A) the payment of all taxes under this part;
53637 (B) the payment of any:
53638 (I) penalty as provided in Section 59-1-401; or
53639 (II) interest as provided in Section 59-1-402; or
53640 (C) any other obligation of the:
53641 (I) applicant under this part; or
53642 (II) licensee under this part.
53643 (d) Except as provided in Subsection (5)(f), the commission shall calculate the amount
53644 of a bond under this Subsection (5) on the basis of:
53645 (i) commission estimates of:
53646 (A) an applicant's tax liability under this part; or
53647 (B) a licensee's tax liability under this part; and
53648 (ii) the amount of a delinquency described in Subsection (5)(e) if:
53649 (A) a license under this section was revoked for a delinquency under this part for:
53650 (I) (Aa) an applicant; or
53651 (Bb) a licensee;
53652 (II) a fiduciary of the:
53653 (Aa) applicant; or
53654 (Bb) licensee; or
53655 (III) a person for which the applicant, licensee, fiduciary of the applicant, or fiduciary
53656 of the licensee is required to collect, truthfully account for, and pay over a tax under this part;
53657 or

53658 (B) there is a delinquency in paying a tax under this part for:
53659 (I) (Aa) an applicant; or
53660 (Bb) a licensee;
53661 (II) a fiduciary of the:
53662 (Aa) applicant; or
53663 (Bb) licensee; or
53664 (III) a person for which the applicant, licensee, fiduciary of the applicant, or fiduciary
53665 of the licensee is required to collect, truthfully account for, and pay over a tax under this part.
53666 (e) Except as provided in Subsection (5)(f), for purposes of Subsection (5)(d)(ii):
53667 (i) for an applicant, the amount of the delinquency is the sum of:
53668 (A) the amount of any delinquency that served as a basis for revoking the license under
53669 this section of:
53670 (I) the applicant;
53671 (II) a fiduciary of the applicant; or
53672 (III) a person for which the applicant or the fiduciary of the applicant is required to
53673 collect, truthfully account for, and pay over a tax under this part; or
53674 (B) the amount of tax that any of the following owe under this part:
53675 (I) the applicant;
53676 (II) a fiduciary of the applicant; and
53677 (III) a person for which the applicant or the fiduciary of the applicant is required to
53678 collect, truthfully account for, and pay over a tax under this part; or
53679 (ii) for a licensee, the amount of the delinquency is the sum of:
53680 (A) the amount of any delinquency that served as a basis for revoking the license under
53681 this section of:
53682 (I) the licensee;
53683 (II) a fiduciary of the licensee; or
53684 (III) a person for which the licensee or the fiduciary of the licensee is required to
53685 collect, truthfully account for, and pay over a tax under this part; or
53686 (B) the amount of tax that any of the following owe under this part:
53687 (I) the licensee;
53688 (II) a fiduciary of the licensee; and

53689 (III) a person for which the licensee or the fiduciary of the licensee is required to
53690 collect, truthfully account for, and pay over a tax under this part.
53691 (f) Notwithstanding Subsection (5)(d) or (e), a bond required by this Subsection (5)
53692 may not:
53693 (i) be less than $10,000; or
53694 (ii) exceed $500,000.
53695 (g) (i) Subject to Subsection (5)(g)(ii), a bond required by this section may be
53696 combined into one bond with any other bond required by this chapter.
53697 (ii) For purposes of Subsection (5)(g)(i), if a bond required by this section is combined
53698 into one bond with any other bond required by this chapter, the amount of that combined bond
53699 is determined by:
53700 (A) calculating the separate amount of each bond required for each type of fuel
53701 included in the combined bond; and
53702 (B) aggregating the separate amounts calculated in Subsection (5)(g)(ii)(A).
53703 (6) (a) The commission shall revoke a license under this section if:
53704 (i) a licensee violates any provision of this part; and
53705 (ii) before the commission revokes the license the commission provides the licensee:
53706 (A) reasonable notice; and
53707 (B) a hearing.
53708 (b) If the commission revokes a licensee's license in accordance with Subsection (6)(a),
53709 the commission may not issue another license to that licensee until that licensee complies with
53710 the requirements of this part, including:
53711 (i) paying any:
53712 (A) tax due under this part;
53713 (B) penalty as provided in Section 59-1-401; or
53714 (C) interest as provided in Section 59-1-402; and
53715 (ii) posting a bond in accordance with Subsection (5).
53716 Section 1048. Section **59-13-301** is amended to read:
53717 **59-13-301. Tax basis -- Rate -- Exemptions -- Revenue deposited with treasurer**
53718 **and credited to Transportation Fund -- Reduction of tax in limited circumstances.**
53719 (1) (a) Except as provided in Subsections (2), (3), and (11) and Section 59-13-304, a

53720 tax is imposed at the same rate imposed under Subsection 59-13-201(1)(a) on the:
53721 (i) removal of undyed diesel fuel from any refinery;
53722 (ii) removal of undyed diesel fuel from any terminal;
53723 (iii) entry into the state of any undyed diesel fuel for consumption, use, sale, or
53724 warehousing;
53725 (iv) sale of undyed diesel fuel to any person who is not registered as a supplier under
53726 this part unless the tax has been collected under this section;
53727 (v) any untaxed special fuel blended with undyed diesel fuel; or
53728 (vi) use of untaxed special fuel, other than a clean special fuel.
53729 (b) The tax imposed under this section shall only be imposed once upon any special
53730 fuel.
53731 (2) (a) No special fuel tax is imposed or collected upon dyed diesel fuel which:
53732 (i) is sold or used for any purpose other than to operate or propel a motor vehicle upon
53733 the public highways of the state, but this exemption applies only in those cases where the
53734 purchasers or the users of special fuel establish to the satisfaction of the commission that the
53735 special fuel was used for purposes other than to operate a motor vehicle upon the public
53736 highways of the state; or
53737 (ii) is sold to this state or any of its political subdivisions.
53738 (b) No special fuel tax is imposed on undyed diesel fuel which:
53739 (i) is sold to the United States government or any of its instrumentalities or to this state
53740 or any of its political subdivisions;
53741 (ii) is exported from this state if proof of actual exportation on forms prescribed by the
53742 commission is made within 180 days after exportation;
53743 (iii) is used in a vehicle off-highway;
53744 (iv) is used to operate a power take-off unit of a vehicle;
53745 (v) is used for off-highway agricultural uses;
53746 (vi) is used in a separately fueled engine on a vehicle that does not propel the vehicle
53747 upon the highways of the state; or
53748 (vii) is used in machinery and equipment not registered and not required to be
53749 registered for highway use.
53750 (3) No tax is imposed or collected on special fuel if it is:

53751 (a) purchased for business use in machinery and equipment not registered and not
53752 required to be registered for highway use; and
53753 (b) used pursuant to the conditions of a state implementation plan approved under Title
53754 19, Chapter 2, Air Conservation Act.
53755 (4) Upon request of a buyer meeting the requirements under Subsection (3), the
53756 Division of Air Quality shall issue an exemption certificate that may be shown to a seller.
53757 (5) The special fuel tax shall be paid by the supplier.
53758 (6) (a) The special fuel tax shall be paid by every user who is required by Sections
53759 59-13-303 and 59-13-305 to obtain a special fuel user permit and file special fuel tax reports.
53760 (b) The user shall receive a refundable credit for special fuel taxes paid on purchases
53761 which are delivered into vehicles and for which special fuel tax liability is reported.
53762 (7) (a) Except as provided under Subsections (7)(b) and (c), all revenue received by the
53763 commission from taxes and license fees under this part shall be deposited daily with the state
53764 treasurer and credited to the Transportation Fund.
53765 (b) An appropriation from the Transportation Fund shall be made to the commission to
53766 cover expenses incurred in the administration and enforcement of this part and the collection of
53767 the special fuel tax.
53768 (c) Five dollars of each special fuel user trip permit fee paid under Section 59-13-303
53769 may be used by the commission as a dedicated credit to cover the costs of electronic
53770 credentialing as provided in Section 41-1a-303.
53771 (8) The commission may either collect no tax on special fuel exported from the state
53772 or, upon application, refund the tax paid.
53773 (9) (a) The United States government or any of its instrumentalities, this state, or a
53774 political subdivision of this state that has purchased special fuel from a supplier or from a retail
53775 dealer of special fuel and has paid the tax on the special fuel as provided in this section is
53776 entitled to a refund of the tax and may file with the commission for a quarterly refund in a
53777 manner prescribed by the commission.
53778 (b) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
53779 Administrative Rulemaking Act, the commission shall make rules governing the application
53780 and refund provided for in Subsection (9)(a).
53781 (10) (a) The purchaser shall pay the tax on diesel fuel purchased for uses under

53782 Subsections (2)(b)(i), (iii), (iv), (v), (vi), and (vii) and apply for a refund for the tax paid as
53783 provided in Subsection (9) and this Subsection (10).
53784 (b) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
53785 Administrative Rulemaking Act, the commission shall make rules governing the application
53786 and refund for off-highway and nonhighway uses provided under Subsections (2)(b)(iii), (iv),
53787 (vi), and (vii).
53788 (c) A refund of tax paid under this part on diesel fuel used for nonhighway agricultural
53789 uses shall be made in accordance with the tax return procedures under Section 59-13-202.
53790 (11) (a) Beginning on April 1, 2001, a tax imposed under this section on special fuel is
53791 reduced to the extent provided in Subsection (11)(b) if:
53792 (i) the Navajo Nation imposes a tax on the special fuel;
53793 (ii) the tax described in Subsection (11)(a)(i) is imposed without regard to whether the
53794 person required to pay the tax is an enrolled member of the Navajo Nation; and
53795 (iii) the commission and the Navajo Nation execute and maintain an agreement as
53796 provided in this Subsection (11) for the administration of the reduction of tax.
53797 (b) (i) If but for Subsection (11)(a) the special fuel is subject to a tax imposed by this
53798 section:
53799 (A) the state shall be paid the difference described in Subsection (11)(b)(ii) if that
53800 difference is greater than $0; and
53801 (B) a person may not require the state to provide a refund, a credit, or similar tax relief
53802 if the difference described in Subsection (11)(b)(ii) is less than or equal to $0.
53803 (ii) The difference described in Subsection (11)(b)(i) is equal to the difference
53804 between:
53805 (A) the amount of tax imposed on the special fuel by this section; less
53806 (B) the tax imposed and collected by the Navajo Nation on the special fuel.
53807 (c) For purposes of Subsections (11)(a) and (b), the tax paid to the Navajo Nation on
53808 the special fuel does not include any interest or penalties a taxpayer may be required to pay to
53809 the Navajo Nation.
53810 (d) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
53811 Administrative Rulemaking Act, the commission shall make rules governing the procedures for
53812 administering the reduction of tax provided under this Subsection (11).

53813 (e) The agreement required under Subsection (11)(a):
53814 (i) may not:
53815 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;
53816 (B) provide a reduction of taxes greater than or different from the reduction described
53817 in this Subsection (11); or
53818 (C) affect the power of the state to establish rates of taxation;
53819 (ii) shall:
53820 (A) be in writing;
53821 (B) be signed by:
53822 (I) the chair of the commission or the chair's designee; and
53823 (II) a person designated by the Navajo Nation that may bind the Navajo Nation;
53824 (C) be conditioned on obtaining any approval required by federal law;
53825 (D) state the effective date of the agreement; and
53826 (E) state any accommodation the Navajo Nation makes related to the construction and
53827 maintenance of state highways and other infrastructure within the Utah portion of the Navajo
53828 Nation; and
53829 (iii) may:
53830 (A) notwithstanding Section 59-1-403, authorize the commission to disclose to the
53831 Navajo Nation information that is:
53832 (I) contained in a document filed with the commission; and
53833 (II) related to the tax imposed under this section;
53834 (B) provide for maintaining records by the commission or the Navajo Nation; or
53835 (C) provide for inspections or audits of suppliers, distributors, carriers, or retailers
53836 located or doing business within the Utah portion of the Navajo Nation.
53837 (f) (i) If, on or after April 1, 2001, the Navajo Nation changes the tax rate of a tax
53838 imposed on special fuel, any change in the amount of the reduction of taxes under this
53839 Subsection (11) as a result of the change in the tax rate is not effective until the first day of the
53840 calendar quarter after a 60-day period beginning on the date the commission receives notice:
53841 (A) from the Navajo Nation; and
53842 (B) meeting the requirements of Subsection (11)(f)(ii).
53843 (ii) The notice described in Subsection (11)(f)(i) shall state:

53844 (A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on
53845 special fuel;
53846 (B) the effective date of the rate change of the tax described in Subsection
53847 (11)(f)(ii)(A); and
53848 (C) the new rate of the tax described in Subsection (11)(f)(ii)(A).
53849 (g) If the agreement required by Subsection (11)(a) terminates, a reduction of tax is not
53850 permitted under this Subsection (11) beginning on the first day of the calendar quarter after a
53851 30-day period beginning on the day the agreement terminates.
53852 (h) If there is a conflict between this Subsection (11) and the agreement required by
53853 Subsection (11)(a), this Subsection (11) governs.
53854 Section 1049. Section **59-13-301.5** is amended to read:
53855 **59-13-301.5. Refund of taxes impacting Ute tribe and Ute tribal members.**
53856 (1) In accordance with this section, the Ute tribe may receive a refund from the state of
53857 amounts paid in accordance with Section 59-13-301 if:
53858 (a) the amounts paid by the Ute tribe when it purchases the special fuel includes the
53859 amount paid in taxes on the special fuel;
53860 (b) the special fuel is purchased for use by:
53861 (i) the Ute tribe; or
53862 (ii) a Ute tribal member from a retail station that is:
53863 (A) wholly owned by the Ute tribe; and
53864 (B) located on Ute trust land; and
53865 (c) the governor and the Ute tribe execute and maintain an agreement meeting the
53866 requirements of Subsection (3).
53867 (2) In addition to the agreement required by Subsection (1), the commission shall enter
53868 into an agreement with the Ute tribe that:
53869 (a) provides an allocation formula or procedure for determining:
53870 (i) the amount of special fuel sold by the Ute tribe to a Ute tribal member; and
53871 (ii) the amount of special fuel sold by the Ute tribe to a person who is not a Ute tribal
53872 member; and
53873 (b) provides a process by which:
53874 (i) the Ute tribe obtains a refund permitted by this section; and

53875 (ii) reports and remits special fuel tax to the state for sales made to persons who are not
53876 Ute tribal members.
53877 (3) The agreement required under Subsection (1):
53878 (a) may not:
53879 (i) authorize the state to impose a tax in addition to a tax imposed under this chapter;
53880 (ii) provide a refund, credit, or similar tax relief that is greater or different than the
53881 refund permitted under this section; or
53882 (iii) affect the power of the state to establish rates of taxation; and
53883 (b) shall:
53884 (i) provide that the state agrees to allow the refund described in this section;
53885 (ii) be in writing;
53886 (iii) be signed by:
53887 (A) the governor; and
53888 (B) the chair of the Business Committee of the Ute tribe;
53889 (iv) be conditioned on obtaining any approval required by federal law; and
53890 (v) state the effective date of the agreement.
53891 (4) (a) The governor shall report to the commission by no later than February 1 of each
53892 year as to whether or not an agreement meeting the requirements of this Subsection (4) is in
53893 effect.
53894 (b) If an agreement meeting the requirements of this Subsection (4) is terminated, the
53895 refund permitted under this section is not allowed beginning the January 1 following the date
53896 the agreement terminates.
53897 (5) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
53898 Administrative Rulemaking Act, the commission may make rules regarding the procedures for
53899 seeking a refund agreed to under the agreement described in Subsection (2).
53900 Section 1050. Section **59-13-302** is amended to read:
53901 **59-13-302. Definitions -- License requirements -- Penalty -- Application process**
53902 **and requirements -- Fee not required -- Bonds -- Discontinuance of business -- Liens upon**
53903 **property.**
53904 (1) As used in this section:
53905 (a) "applicant" means a person that:

53906 (i) is required by this section to obtain a license; and
53907 (ii) submits an application:
53908 (A) to the commission; and
53909 (B) for a license under this section;
53910 (b) "application" means an application for a license under this section;
53911 (c) "fiduciary of the applicant" means a person that:
53912 (i) is required to collect, truthfully account for, and pay over an amount under this part
53913 for an applicant; and
53914 (ii) (A) is a corporate officer of the applicant described in Subsection (1)(c)(i);
53915 (B) is a director of the applicant described in Subsection (1)(c)(i);
53916 (C) is an employee of the applicant described in Subsection (1)(c)(i);
53917 (D) is a partner of the applicant described in Subsection (1)(c)(i);
53918 (E) is a trustee of the applicant described in Subsection (1)(c)(i); or
53919 (F) has a relationship to the applicant described in Subsection (1)(c)(i) that is similar to
53920 a relationship described in Subsections (1)(c)(ii)(A) through (E) as determined by the
53921 commission by rule made in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
53922 Utah Administrative Rulemaking Act;
53923 (d) "fiduciary of the licensee" means a person that:
53924 (i) is required to collect, truthfully account for, and pay over an amount under this part
53925 for a licensee; and
53926 (ii) (A) is a corporate officer of the licensee described in Subsection (1)(d)(i);
53927 (B) is a director of the licensee described in Subsection (1)(d)(i);
53928 (C) is an employee of the licensee described in Subsection (1)(d)(i);
53929 (D) is a partner of the licensee described in Subsection (1)(d)(i);
53930 (E) is a trustee of the licensee described in Subsection (1)(d)(i); or
53931 (F) has a relationship to the licensee described in Subsection (1)(d)(i) that is similar to
53932 a relationship described in Subsections (1)(d)(ii)(A) through (E) as determined by the
53933 commission by rule made in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
53934 Utah Administrative Rulemaking Act;
53935 (e) "license" means a license under this section; and
53936 (f) "licensee" means a person that is licensed under this section by the commission.

53937 (2) A person that is required to collect an amount under this part is guilty of a criminal
53938 violation as provided in Section 59-1-401 if before obtaining a license under this section that
53939 person engages in business within the state.
53940 (3) The license described in Subsection (2):
53941 (a) shall be granted and issued:
53942 (i) by the commission in accordance with this section;
53943 (ii) without a license fee; and
53944 (iii) if:
53945 (A) an applicant:
53946 (I) states the applicant's name and address in the application; and
53947 (II) provides other information in the application that the commission may require; and
53948 (B) the person meets the requirements of this section to be granted a license as
53949 determined by the commission;
53950 (b) may not be assigned to another person; and
53951 (c) is valid:
53952 (i) only for the person named on the license; and
53953 (ii) until:
53954 (A) the person described in Subsection (3)(c)(i):
53955 (I) ceases to do business; or
53956 (II) changes that person's business address; or
53957 (B) the commission revokes the license.
53958 (4) The commission shall review an application and determine whether:
53959 (a) the applicant meets the requirements of this section to be issued a license; and
53960 (b) a bond is required to be posted with the commission in accordance with Subsection
53961 (5) before the applicant may be issued a license.
53962 (5) (a) An applicant shall post a bond with the commission before the commission may
53963 issue the applicant a license if:
53964 (i) a license under this section was revoked for a delinquency under this part for:
53965 (A) the applicant;
53966 (B) a fiduciary of the applicant; or
53967 (C) a person for which the applicant or the fiduciary of the applicant is required to

53968 collect, truthfully account for, and pay over a tax under this part; or
53969 (ii) there is a delinquency in paying a tax under this part for:
53970 (A) the applicant;
53971 (B) a fiduciary of the applicant; or
53972 (C) a person for which the applicant or the fiduciary of the applicant is required to
53973 collect, truthfully account for, and pay over a tax under this part.
53974 (b) If the commission determines it is necessary to ensure compliance with this part,
53975 the commission may require a licensee to:
53976 (i) for a licensee that has not posted a bond under this section with the commission,
53977 post a bond with the commission in accordance with Subsections (5)(c) through (g); or
53978 (ii) for a licensee that has posted a bond under this section with the commission,
53979 increase the amount of the bond posted with the commission.
53980 (c) A bond under this Subsection (5) shall be:
53981 (i) executed by:
53982 (A) for an applicant, the applicant as principal, with a corporate surety; or
53983 (B) for a licensee, the licensee as principal, with a corporate surety; and
53984 (ii) payable to the commission conditioned upon the faithful performance of all of the
53985 requirements of this part including:
53986 (A) the payment of all amounts under this part;
53987 (B) the payment of any:
53988 (I) penalty as provided in Section 59-1-401; or
53989 (II) interest as provided in Section 59-1-402; or
53990 (C) any other obligation of the:
53991 (I) applicant under this part; or
53992 (II) licensee under this part.
53993 (d) Except as provided in Subsection (5)(f), the commission shall calculate the amount
53994 of a bond under this Subsection (5) on the basis of:
53995 (i) commission estimates of:
53996 (A) an applicant's liability for any amount under this part; or
53997 (B) a licensee's liability for any amount under this part; and
53998 (ii) the amount of a delinquency described in Subsection (5)(e) if:

53999 (A) a license under this section was revoked for a delinquency under this part for:
54000 (I) (Aa) an applicant; or
54001 (Bb) a licensee;
54002 (II) a fiduciary of the:
54003 (Aa) applicant; or
54004 (Bb) licensee; or
54005 (III) a person for which the applicant, licensee, fiduciary of the applicant, or fiduciary
54006 of the licensee is required to collect, truthfully account for, and pay over an amount under this
54007 part; or
54008 (B) there is a delinquency in paying an amount under this part for:
54009 (I) (Aa) an applicant; or
54010 (Bb) a licensee;
54011 (II) a fiduciary of the:
54012 (Aa) applicant; or
54013 (Bb) licensee; or
54014 (III) a person for which the applicant, licensee, fiduciary of the applicant, or fiduciary
54015 of the licensee is required to collect, truthfully account for, and pay over an amount under this
54016 part.
54017 (e) Except as provided in Subsection (5)(f), for purposes of Subsection (5)(d)(ii):
54018 (i) for an applicant, the amount of the delinquency is the sum of:
54019 (A) the amount of any delinquency that served as a basis for revoking the license under
54020 this section of:
54021 (I) the applicant;
54022 (II) a fiduciary of the applicant; or
54023 (III) a person for which the applicant or the fiduciary of the applicant is required to
54024 collect, truthfully account for, and pay over an amount under this part; or
54025 (B) the amount that any of the following owe under this part:
54026 (I) the applicant;
54027 (II) a fiduciary of the applicant; and
54028 (III) a person for which the applicant or the fiduciary of the applicant is required to
54029 collect, truthfully account for, and pay over an amount under this part; or

54030 (ii) for a licensee, the amount of the delinquency is the sum of:
54031 (A) the amount of any delinquency that served as a basis for revoking the license under
54032 this section of:
54033 (I) the licensee;
54034 (II) a fiduciary of the licensee; or
54035 (III) a person for which the licensee or the fiduciary of the licensee is required to
54036 collect, truthfully account for, and pay over an amount under this part; or
54037 (B) the amount that any of the following owe under this part:
54038 (I) the licensee;
54039 (II) a fiduciary of the licensee; and
54040 (III) a person for which the licensee or the fiduciary of the licensee is required to
54041 collect, truthfully account for, and pay over an amount under this part.
54042 (f) Notwithstanding Subsection (5)(d) or (e), a bond required by this Subsection (5)
54043 may not:
54044 (i) be less than $10,000; or
54045 (ii) exceed $500,000.
54046 (g) (i) Subject to Subsection (5)(g)(ii), a bond required by this section may be
54047 combined into one bond with any other bond required by this chapter.
54048 (ii) For purposes of Subsection (5)(g)(i), if a bond required by this section is combined
54049 into one bond with any other bond required by this chapter, the amount of that combined bond
54050 is determined by:
54051 (A) calculating the separate amount of each bond required for each type of fuel
54052 included in the combined bond; and
54053 (B) aggregating the separate amounts calculated in Subsection (5)(g)(ii)(A).
54054 (6) (a) The commission shall revoke a license under this section if:
54055 (i) a licensee violates any provision of this part; and
54056 (ii) before the commission revokes the license the commission provides the licensee:
54057 (A) reasonable notice; and
54058 (B) a hearing.
54059 (b) If the commission revokes a licensee's license in accordance with Subsection (6)(a),
54060 the commission may not issue another license to that licensee until that licensee complies with

54061 the requirements of this part, including:
54062 (i) paying any:
54063 (A) amounts due under this part;
54064 (B) penalty as provided in Section 59-1-401; or
54065 (C) interest as provided in Section 59-1-402; and
54066 (ii) posting a bond in accordance with Subsection (5).
54067 (7) (a) If any person ceases to be a supplier within the state by reason of the
54068 discontinuance, sale, or transfer of the person's business, the supplier shall notify the
54069 commission in writing at the time the discontinuance, sale, or transfer takes effect.
54070 (b) The notice shall give the date of discontinuance and, in the event of a sale, the date
54071 of the sale and the name and address of the purchaser or transferee.
54072 (c) Taxes on all special fuel delivery or removal made prior to the discontinuance, sale,
54073 or transfer, shall become due and payable on the date of discontinuance, sale, or transfer.
54074 (d) The supplier shall make a report and pay all taxes, interest, and penalties and
54075 surrender to the commission the license certificate that was issued to the supplier by the
54076 commission.
54077 (8) (a) The tax imposed by this part shall be a lien upon the property of any supplier
54078 liable for an amount of tax that is required to be collected, if the supplier sells the business,
54079 stock of goods, or quits business, and if the supplier fails to make a final return and payment
54080 within 15 days after the date of selling or quitting business.
54081 (b) The successor or assigns, if any, shall be required to withhold a sufficient amount
54082 of the purchase money to cover the amount of the taxes that are required to be collected and
54083 interest or penalties due and paid under Sections 59-1-401 and 59-1-402 until the former owner
54084 produces a receipt from the commission showing that the taxes have been paid or a certificate
54085 stating that no amount of tax is due. If the purchaser of a business or stock of goods fails to
54086 withhold sufficient purchase money, the purchaser shall be personally liable for the payment of
54087 the amount that is due.
54088 Section 1051. Section **59-13-322** is amended to read:
54089 **59-13-322. Refunds of tax due to fire, flood, storm, accident, crime, or discharge**
54090 **in bankruptcy -- Filing claims and affidavits -- Commission approval -- Rulemaking --**
54091 **Appeals -- Penalties.**

54092 (1) (a) A retailer, wholesaler, or licensed supplier, who without fault, sustains a loss or
54093 destruction of 7,000 or more gallons of diesel fuel in a single incident due to fire, flood, storm,
54094 accident, or the commission of a crime and who has paid or is required to pay the tax on the
54095 special fuel as provided by this part, is entitled to a refund or credit of the tax subject to the
54096 conditions and limitations provided under this section.
54097 (b) The claimant shall file a claim for a refund or credit with the commission within 90
54098 days of the incident.
54099 (c) Any part of a loss or destruction eligible for indemnification under an insurance
54100 policy for the taxes paid or required on the loss or destruction of special fuel is not eligible for
54101 a refund or credit under this section.
54102 (d) Any claimant filing a claim for a refund or credit shall furnish any or all of the
54103 information outlined in this section upon request of the commission.
54104 (e) The burden of proof of loss or destruction is on the claimant who shall provide
54105 evidence of loss or destruction to the satisfaction of the commission.
54106 (f) (i) The claim shall include an affidavit containing the:
54107 (A) name of claimant;
54108 (B) claimant's address;
54109 (C) date, time, and location of the incident;
54110 (D) cause of the incident;
54111 (E) name of the investigating agencies at the scene;
54112 (F) number of gallons actually lost from sale; and
54113 (G) information on any insurance coverages related to the incident.
54114 (ii) The claimant shall support the claim by submitting the original invoices or copy of
54115 the original invoices.
54116 (iii) This original claim and all information contained in it constitutes a permanent file
54117 with the commission in the name of the claimant.
54118 (2) (a) A retailer, wholesaler, or licensed distributor who has paid the tax on special
54119 fuel as provided by this part is entitled to a refund for taxes paid on that portion of an account
54120 that:
54121 (i) relates to 4,500 or more gallons of special fuel purchased in a single transaction for
54122 which no payment has been received; and

54123 (ii) has been discharged in a bankruptcy proceeding.
54124 (b) The claimant shall file a claim for refund with the commission within 90 days from
54125 the date of the discharge.
54126 (c) Any claimant filing a claim for a refund shall furnish any or all of the information
54127 outlined in this section upon request of the commission.
54128 (d) The burden of proof of discharge is on the claimant who shall provide evidence of
54129 discharge to the satisfaction of the commission.
54130 (e) The claim shall include an affidavit containing the following:
54131 (i) the name of the claimant;
54132 (ii) the claimant's address;
54133 (iii) the name of the debtor that received a discharge in bankruptcy; and
54134 (iv) the portion of the account that is subject to an order granting a discharge.
54135 (f) The claimant shall support the claim by submitting:
54136 (i) the original invoices or a copy of the original invoices; and
54137 (ii) a certified copy of the notice of discharge.
54138 (g) This original claim and all information contained in it constitutes a permanent file
54139 with the commission in the name of the claimant.
54140 (h) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
54141 Administrative Rulemaking Act, the commission shall promulgate rules for the allocation of
54142 the discharge under this Subsection (2) to maximize the claimant's refund amount.
54143 (3) Upon commission approval of the claim for a refund, the commission shall pay the
54144 amount found due to the claimant. The total amount of claims for refunds shall be paid from
54145 the Transportation Fund.
54146 (4) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
54147 Administrative Rulemaking Act, the commission may promulgate rules to enforce this part,
54148 and may refuse to accept unsubstantiated evidence for the claim. If the commission is not
54149 satisfied with the evidence submitted in connection with the claim, it may reject the claim or
54150 require additional evidence.
54151 (5) Any person aggrieved by the decision of the commission with respect to a refund or
54152 credit may file a request for agency action, requesting a hearing before the commission.
54153 (6) Any person who makes any false claim, report, or statement, either as claimant,

54154 agent, or creditor, with intent to defraud or secure a refund or credit to which the claimant is
54155 not entitled, is subject to the criminal penalties provided under Section 59-1-401, and the
54156 commission shall initiate the filing of a complaint for alleged violations of this part. In
54157 addition to these penalties, the person may not receive any refund or credit as a claimant or as a
54158 creditor of a claimant for refund or credit for a period of five years.
54159 Section 1052. Section **59-13-404** is amended to read:
54160 **59-13-404. Refunds of aviation fuel tax -- Filing claims -- Commission approval --**
54161 **Rulemaking -- Appeals -- Penalties.**
54162 (1) A federally certificated air carrier is entitled to a $.015 refund or credit of the
54163 aviation fuel tax paid on gallons of aviation fuel purchased at the Salt Lake International
54164 Airport, subject to the conditions and limitations provided under this section.
54165 (2) (a) A federally certificated air carrier shall file a claim for a refund or credit with
54166 the commission within 90 days of the end of the tax year for which a claim is made.
54167 (b) A federally certificated air carrier filing a claim for a refund or credit shall furnish
54168 any or all of the information outlined in this section upon request of the commission.
54169 (3) (a) The claim shall include an application containing:
54170 (i) the name of the federally certificated air carrier claimant;
54171 (ii) the number of gallons actually purchased;
54172 (iii) the place of purchase; and
54173 (iv) any other information required by the commission to support the claim.
54174 (b) This original claim and all information contained in it, constitutes a permanent file
54175 with the commission in the name of the federally certificated air carrier claimant.
54176 (4) Upon commission approval of the claim for a refund, the commission shall pay the
54177 amount found due to the federally certificated air carrier claimant. The total amount of claims
54178 for refunds shall be paid from the Transportation Fund.
54179 (5) (a) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
54180 Administrative Rulemaking Act, the commission may promulgate rules to enforce this part,
54181 and may refuse to accept unsubstantiated evidence for the claim.
54182 (b) If the commission is not satisfied with the evidence submitted in connection with
54183 the claim, it may reject the claim or require additional evidence.
54184 (6) A federally certificated air carrier aggrieved by the decision of the commission with

54185 respect to a refund or credit may file a request for agency action, requesting a hearing before
54186 the commission.
54187 (7) A federally certificated air carrier who makes any false claim, report, or statement,
54188 with intent to defraud or secure a refund or credit to which the claimant is not entitled, is
54189 subject to the criminal penalties provided under Section 59-1-401, and the commission shall
54190 initiate the filing of a complaint for alleged violations of this part. In addition to these
54191 penalties, the federally certificated air carrier may not receive any refund or credit as a claimant
54192 for a period of five years.
54193 Section 1053. Section **59-13-502** is amended to read:
54194 **59-13-502. Interstate fuel tax agreements -- Compliance procedures.**
54195 (1) After the commission's membership in an agreement provided for under Section
54196 59-13-501 becomes effective, a taxpayer shall, for vehicles powered by special fuel qualifying
54197 under the agreement, be required to pay the special fuel tax at the rate established under Part 3
54198 in accordance with the provisions of the agreement.
54199 (2) Any taxpayer who has vehicles, qualifying under an agreement entered into under
54200 this part, which operate on motor fuel as defined under Section 59-13-102, shall account for
54201 and pay tax on fuel used in those vehicles at the rate established under Part 2 in accordance
54202 with the agreement, and receive credit for taxes paid under Part 2 on purchases as provided for
54203 in the agreement.
54204 (3) The statutory notice procedures of this chapter, penalty provisions of Section
54205 59-1-401, and adjudicative procedures in [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
54206 Administrative Procedures Act, are applicable to this part.
54207 Section 1054. Section **59-14-204** is amended to read:
54208 **59-14-204. Tax basis -- Rate -- Future increase -- Restricted account -- Use of**
54209 **revenues.**
54210 (1) Except for cigarettes described under Subsection 59-14-210(3), there is levied a tax
54211 upon the sale, use, storage, or distribution of cigarettes in the state.
54212 (2) The rates of the tax levied under Subsection (1) are:
54213 (a) 3.475 cents on each cigarette, for all cigarettes weighing not more than three
54214 pounds per thousand cigarettes; and
54215 (b) 4.075 cents on each cigarette, for all cigarettes weighing in excess of three pounds

54216 per thousand cigarettes.
54217 (3) Except as otherwise provided under this chapter, the tax levied under Subsection
54218 (1) shall be paid by any person who is the manufacturer, jobber, importer, distributor,
54219 wholesaler, retailer, user, or consumer.
54220 (4) The tax rates specified in this section shall be increased by the commission by the
54221 same amount as any future reduction in the federal excise tax on cigarettes.
54222 (5) (a) There is created within the General Fund a restricted account known as the
54223 "Cigarette Tax Restricted Account."
54224 (b) Beginning on July 1, 1998, $250,000 of the revenues generated by the increase in
54225 the cigarette tax under this section enacted during the 1997 Annual General Session shall be
54226 annually deposited into the account.
54227 (c) The Department of Health shall expend the funds deposited in the account under
54228 Subsection (5)(b) for a tobacco prevention and control media campaign targeted towards
54229 children.
54230 (d) The following revenue generated from the tax increase imposed under Subsection
54231 (1) during the 2002 General Session shall be deposited in the Cigarette Tax Restricted
54232 Account:
54233 (i) 22% of the revenue to be annually appropriated to the Department of Health for
54234 tobacco prevention, reduction, cessation, and control programs;
54235 (ii) 15% of the revenue to be annually appropriated to the University of Utah Health
54236 Sciences Center for the Huntsman Cancer Institute for cancer research; and
54237 (iii) 21% of the revenue to be annually appropriated to the University of Utah Health
54238 Sciences Center for medical education at the University of Utah School of Medicine.
54239 (e) Any balance remaining in the Cigarette Tax Restricted Account at the end of the
54240 fiscal year shall be appropriated during the next fiscal year for the purposes set forth in
54241 Subsections (5)(d)(i) through (5)(d)(iii) in proportion to the amount of revenue deposited into
54242 the account for each purpose.
54243 (f) The Legislature shall give particular consideration to appropriating any revenues
54244 resulting from the change in tax rates under Subsection (2) adopted during the 2002 Annual
54245 General Session and not otherwise appropriated pursuant to Subsection (5)(d) to enhance
54246 Medicaid provider reimbursement rates and medical coverage for the uninsured.

54247 (g) Any program or entity that receives funding under Subsection (5)(d) shall provide
54248 an annual report to the Health and Human Services Interim Committee no later that September
54249 1 of each year. The report shall include:
54250 (i) the amount funded;
54251 (ii) the amount expended;
54252 (iii) a description of the effectiveness of the program; and
54253 (iv) if the program is a tobacco cessation program, the report required in Section
54254 [~~63-97-401~~] 51-9-203.
54255 Section 1055. Section **59-14-407** is amended to read:
54256 **59-14-407. Reporting of manufacturer name.**
54257 (1) As used in this section:
54258 (a) "Cigarette" has the same meaning as defined in Section 59-22-202.
54259 (b) "Tobacco product manufacturer" has the same meaning as defined in Section
54260 59-22-202.
54261 (2) Any manufacturer, distributor, wholesaler, or retail dealer who under Section
54262 59-14-205 affixes a stamp to an individual package or container of cigarettes manufactured or
54263 sold by a tobacco product manufacturer required to place funds into escrow under Section
54264 59-22-203 shall report quarterly to the commission:
54265 (a) the quantity of cigarettes in the package or container; and
54266 (b) the name of the manufacturer of the cigarettes.
54267 (3) Any manufacturer, distributor, wholesaler, retail dealer, or other person who is
54268 required to pay the tax levied under Part 3, Tobacco Products, on a tobacco product defined as
54269 a cigarette under Section 59-22-202 and manufactured or sold by a tobacco product
54270 manufacturer required to place funds into escrow under Section 59-22-203 shall report
54271 quarterly to the commission:
54272 (a) the quantity of cigarettes upon which the tax is levied; and
54273 (b) the name of the manufacturer of each cigarette.
54274 (4) (a) The reports under Subsections (2) and (3) shall be made no later than quarterly
54275 on or before the last day of the month following each calendar quarterly period pursuant to
54276 rules established by the commission in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
54277 Chapter 3, Utah Administrative Rulemaking Act.

54278 (b) A person required to file a report under this section is subject to the penalties under
54279 Section 59-1-401 for failing to file a report in a timely manner, or for supplying false or
54280 fraudulent information.
54281 Section 1056. Section **59-14-409** is amended to read:
54282 **59-14-409. Definitions -- Credit or refund for tax paid on cigarette or tobacco**
54283 **product that is destroyed or returned to the manufacturer -- Interest -- Rulemaking**
54284 **authority.**
54285 (1) As used in this section, "licensed person" means a person:
54286 (a) licensed by the commission in accordance with Section 59-14-202; and
54287 (b) that is a:
54288 (i) distributor;
54289 (ii) jobber;
54290 (iii) manufacturer;
54291 (iv) retailer;
54292 (v) wholesaler; or
54293 (vi) a person similar to a person described in Subsections (1)(b)(i) through (v) as
54294 determined by the commission by rule.
54295 (2) A licensed person may apply to the commission for a credit or refund as provided
54296 in Subsection (3) if:
54297 (a) on or after July 1, 2005, the following are removed from retail sale or from storage:
54298 (i) a cigarette; or
54299 (ii) a tobacco product;
54300 (b) before a cigarette or tobacco product is removed from retail sale or from storage in
54301 accordance with Subsection (2)(a), the licensed person remits a tax:
54302 (i) to the commission;
54303 (ii) on the:
54304 (A) cigarette; or
54305 (B) tobacco product; and
54306 (iii) in accordance with:
54307 (A) Part 2, Cigarettes; or
54308 (B) Part 3, Tobacco Products; and

54309 (c) the licensed person verifies to the commission that the cigarette or tobacco product
54310 described in Subsection (2)(a) has been:
54311 (i) returned to the manufacturer of the cigarette or tobacco product; or
54312 (ii) destroyed.
54313 (3) The amount of the credit or refund described in Subsection (2) is equal to:
54314 (a) for a cigarette removed from retail sale or from storage, the amount of tax the
54315 licensed person paid on the cigarette in accordance with Part 2, Cigarettes; or
54316 (b) for a tobacco product removed from retail sale or from storage, the amount of tax
54317 the licensed person paid on the tobacco product in accordance with Part 3, Tobacco Products.
54318 (4) (a) The commission shall grant a credit or refund under this section if the
54319 commission determines that a licensed person meets the requirements of Subsection (2).
54320 (b) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
54321 Administrative Rulemaking Act, the commission may make rules establishing procedures and
54322 requirements for a licensed person to verify to the commission that a cigarette or tobacco
54323 product described in Subsection (2)(a) has been:
54324 (i) returned to the manufacturer of the cigarette or tobacco product; or
54325 (ii) destroyed.
54326 (5) (a) If the commission makes a credit or refund under this section within a 90-day
54327 period after the day on which a licensed person submits an application to the commission for
54328 the credit or refund, interest may not be added to the amount of credit or refund.
54329 (b) If the commission makes a credit or refund under this section more than 90 days
54330 after the day on which a licensed person submits an application to the commission for the
54331 credit or refund, interest shall be added to the amount of credit or refund as provided in Section
54332 59-1-402.
54333 (6) (a) The commission may create a form for:
54334 (i) a licensed person to:
54335 (A) submit a claim for a credit or refund; or
54336 (B) verify to the commission that a cigarette or tobacco product has been:
54337 (I) returned to the manufacturer of the cigarette or tobacco product; or
54338 (II) destroyed; or
54339 (ii) processing a claim for a credit or refund for payment.

54340 (b) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
54341 Administrative Rulemaking Act, the commission may make rules defining a person similar to a
54342 person described in Subsections (1)(b)(i) through (v).
54343 Section 1057. Section **59-14-603** is amended to read:
54344 **59-14-603. Directory of cigarettes approved for stamping and sale.**
54345 (1) No later than August 30, 2005, the commission shall develop and publish on its
54346 website a directory listing:
54347 (a) all tobacco product manufacturers that have provided current and accurate
54348 certifications conforming to the requirements of Section 59-14-602; and
54349 (b) all brand families that are listed in the certifications required by Section 59-14-602,
54350 except the commission shall not include or retain in the directory:
54351 (i) the name or brand families of any nonparticipating manufacturer:
54352 (A) who failed to provide the certification required by Section 59-14-602; or
54353 (B) whose certification is determined by the commission to be out of compliance with
54354 Section 59-14-602, unless the commission has determined that the violation has been cured to
54355 the satisfaction of the commission; or
54356 (ii) a tobacco product manufacturer or brand family of a nonparticipating manufacturer
54357 for which the commission determines:
54358 (A) any escrow payment required by Section 59-22-203 for any period, for any brand
54359 family, whether or not listed by the nonparticipating manufacturer, has not been fully paid into
54360 a qualified escrow fund governed by a qualified escrow agreement; or
54361 (B) any outstanding final judgment, including interest thereon, for a violation of the
54362 Model Tobacco Settlement Act has not been fully satisfied for the brand family or the tobacco
54363 product manufacturer.
54364 (2) The commission shall update the directory required by this section as necessary:
54365 (a) to correct mistakes;
54366 (b) to add or remove a tobacco product manufacturer or brand family; and
54367 (c) to keep the directory in conformity with the requirements of this part.
54368 (3) (a) Every stamping agent shall provide to the commission a current and valid
54369 electronic mail address for the purpose of receiving notifications from the commission
54370 concerning information required by this section and this part.

54371 (b) The stamping agent shall update the electronic mail address as necessary.
54372 (4) A determination by the commission to not include or to remove a brand family or
54373 tobacco product manufacturer from the directory required by this section is subject to review in
54374 the manner prescribed by [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
54375 Procedures Act.
54376 Section 1058. Section **59-19-105** is amended to read:
54377 **59-19-105. Stamps to be affixed to marihuana and controlled substance --**
54378 **Anonymity provided when purchasing stamps -- Collection and distribution of tax --**
54379 **Property in kind.**
54380 (1) When a dealer purchases, acquires, transports, or imports into this state marihuana
54381 or controlled substances, [~~he~~] the dealer shall permanently affix the official indicia on the
54382 marihuana or controlled substances evidencing the payment of the tax required under this
54383 chapter. A stamp or other official indicia may not be used more than once.
54384 (2) Taxes imposed upon marihuana or controlled substances by this chapter are due
54385 and payable immediately upon acquisition or possession in this state by a dealer.
54386 (3) Payments required by this chapter shall be made to the commission on forms
54387 provided by the commission.
54388 (4) (a) A dealer is not required to give [~~his~~] the dealer's name, address, Social Security
54389 number, or other identifying information on the form.
54390 (b) The commission or its employees may not reveal any facts contained in any report,
54391 form, or return required by this chapter or any information obtained from a dealer.
54392 (c) None of the information contained in a report, form, or return or otherwise obtained
54393 from a dealer in connection with this section may be used against the dealer in any criminal
54394 proceeding unless it is independently obtained, except in connection with a proceeding
54395 involving taxes due under this chapter from the dealer making the return. This subsection
54396 supersedes any provision to the contrary.
54397 (d) A person who discloses information in violation of this subsection is guilty of a
54398 class A misdemeanor.
54399 (5) This section does not prohibit the commission from publishing statistics that do not
54400 disclose the identity of a dealer or the actual contents of any reports, forms, or returns.
54401 (6) (a) The commission shall collect all taxes imposed under this chapter. Amounts

54402 collected under this chapter, whether characterized as taxes, interest, or penalties, shall be
54403 deposited in the Drug Stamp Tax Fund as a dedicated credit and shall be applied and
54404 distributed under Section [~~63-38-9~~] 63J-1-404 of the Budgetary Procedures Act as follows:
54405 (i) forty percent to the commission for administrative costs of recovery; and
54406 (ii) sixty percent to the law enforcement agency conducting the controlled substance
54407 investigation, to be used and applied by the agency in the continued enforcement of controlled
54408 substance laws.
54409 (b) If there is more than one participating law enforcement agency, the 60% under
54410 Subsection (6)(a)(ii) shall be divided equitably and distributed among the agencies by the
54411 administrative law judge conducting the hearing to determine taxpayer liability. The
54412 distribution shall be based upon the extent of agency participation as appears from evidence
54413 submitted by each agency relative to actual time and expense incurred in the investigation.
54414 (c) If no law enforcement agency is involved in the collection of a specific amount
54415 under this chapter, the entire amount collected shall be applied under Subsection (6)(a)(i) to
54416 administrative costs of recovery.
54417 (7) (a) If property in kind obtained from the taxpayer is of use or benefit to the
54418 commission in the enforcement of this chapter or is of use or benefit to the participating law
54419 enforcement agency in the continued enforcement of controlled substance laws, either the
54420 commission or the law enforcement agency may apply to the administrative law judge for the
54421 award of the property. If the administrative law judge finds the property is of use or benefit
54422 either to the commission or the law enforcement agency, the property shall be awarded
54423 accordingly.
54424 (b) Before an award under this subsection is ordered, the property shall be appraised by
54425 a court-appointed appraiser and the appraised value shall be credited to the taxpayer. If the
54426 taxpayer objects to the results of the court-appointed appraisal, [~~he~~] the taxpayer may obtain
54427 [~~his~~] the taxpayer's own appraisal at [~~his~~] the taxpayer's own expense within ten days of the
54428 court-appointed appraisal. The decision of the administrative law judge as to value is
54429 controlling.
54430 (c) The value of any property in kind awarded to the commission or to the participating
54431 law enforcement agency shall be counted as a portion of its percentage share under Subsection
54432 (6).

54433 (8) Property of the taxpayer otherwise subject to forfeiture under Section 58-37-13 is
54434 not affected by this chapter if there is compliance with Section 58-37-13 regarding the
54435 forfeiture and the proceeds and property seized and forfeited are accordingly divided and
54436 distributed.
54437 Section 1059. Section **59-21-2** is amended to read:
54438 **59-21-2. Mineral Bonus Account created -- Contents -- Use of Mineral Bonus**
54439 **Account money -- Mineral Lease Account created -- Contents -- Appropriation of monies**
54440 **from Mineral Lease Account.**
54441 (1) (a) The Mineral Bonus Account is created within the General Fund.
54442 (b) The Mineral Bonus Account consists of federal mineral lease bonus payments
54443 deposited pursuant to Subsection 59-21-1(3).
54444 (c) The Legislature shall make appropriations from the Mineral Bonus Account in
54445 accordance with Section 35 of the Mineral Lands Leasing Act of 1920, 30 U.S.C. Sec. 191.
54446 (d) The state treasurer shall:
54447 (i) invest the money in the Mineral Bonus Account by following the procedures and
54448 requirements of Title 51, Chapter 7, State Money Management Act; and
54449 (ii) deposit all interest or other earnings derived from the account into the Mineral
54450 Bonus Account.
54451 (2) (a) The Mineral Lease Account is created within the General Fund.
54452 (b) The Mineral Lease Account consists of federal mineral lease money deposited
54453 pursuant to Subsection 59-21-1(1).
54454 (c) The Legislature shall make appropriations from the Mineral Lease Account as
54455 provided in Subsection 59-21-1(1) and this Subsection (2).
54456 (d) The Legislature shall annually appropriate 32.5% of all deposits made to the
54457 Mineral Lease Account to the Permanent Community Impact Fund established by Section
54458 9-4-303.
54459 (e) The Legislature shall annually appropriate 2.25% of all deposits made to the
54460 Mineral Lease Account to the State Board of Education, to be used for education research and
54461 experimentation in the use of staff and facilities designed to improve the quality of education in
54462 Utah.
54463 (f) The Legislature shall annually appropriate 2.25% of all deposits made to the

54464 Mineral Lease Account to the Utah Geological Survey, to be used for activities carried on by
54465 the survey having as a purpose the development and exploitation of natural resources in the
54466 state.
54467 (g) The Legislature shall annually appropriate 2.25% of all deposits made to the
54468 Mineral Lease Account to the Water Research Laboratory at Utah State University, to be used
54469 for activities carried on by the laboratory having as a purpose the development and exploitation
54470 of water resources in the state.
54471 (h) (i) The Legislature shall annually appropriate to the Department of Transportation
54472 40% of all deposits made to the Mineral Lease Account to be distributed as provided in
54473 Subsection (2)(h)(ii) to:
54474 (A) counties;
54475 (B) special service districts established:
54476 (I) by counties;
54477 (II) under Title 17A, Chapter 2, Part 13, Utah Special Service District Act; and
54478 (III) for the purpose of constructing, repairing, or maintaining roads; or
54479 (C) special service districts established:
54480 (I) by counties;
54481 (II) under Title 17A, Chapter 2, Part 13, Utah Special Service District Act; and
54482 (III) for other purposes authorized by statute.
54483 (ii) The Department of Transportation shall allocate the funds specified in Subsection
54484 (2)(h)(i):
54485 (A) in amounts proportionate to the amount of mineral lease money generated by each
54486 county; and
54487 (B) to a county or special service district established by a county under Title 17A,
54488 Chapter 2, Part 13, Utah Special Service District Act, as determined by the county legislative
54489 body.
54490 (i) (i) The Legislature shall annually appropriate 5% of all deposits made to the
54491 Mineral Lease Account to the Department of Community and Culture to be distributed to:
54492 (A) special service districts established:
54493 (I) by counties;
54494 (II) under Title 17A, Chapter 2, Part 13, Utah Special Service District Act; and

54495 (III) for the purpose of constructing, repairing, or maintaining roads; or
54496 (B) special service districts established:
54497 (I) by counties;
54498 (II) under Title 17A, Chapter 2, Part 13, Utah Special Service District Act; and
54499 (III) for other purposes authorized by statute.
54500 (ii) The Department of Community and Culture may distribute the amounts described
54501 in Subsection (2)(i)(i) only to special service districts established under Title 17A, Chapter 2,
54502 Part 13, Utah Special Service District Act, by counties:
54503 (A) of the third, fourth, fifth, or sixth class;
54504 (B) in which 4.5% or less of the mineral lease moneys within the state are generated;
54505 and
54506 (C) that are significantly socially or economically impacted as provided in Subsection
54507 (3)(i)(iii) by the development of minerals under the Mineral Lands Leasing Act, 30 U.S.C. Sec.
54508 181 et seq.
54509 (iii) The significant social or economic impact required under Subsection (2)(i)(ii)(C)
54510 shall be as a result of:
54511 (A) the transportation within the county of hydrocarbons, including solid hydrocarbons
54512 as defined in Section 59-5-101;
54513 (B) the employment of persons residing within the county in hydrocarbon extraction,
54514 including the extraction of solid hydrocarbons as defined in Section 59-5-101; or
54515 (C) a combination of Subsections (2)(i)(iii)(A) and (B).
54516 (iv) For purposes of distributing the appropriations under this Subsection (2)(i) to
54517 special service districts established by counties under Title 17A, Chapter 2, Part 13, Utah
54518 Special Service District Act, the Department of Community and Culture shall:
54519 (A) (I) allocate 50% of the appropriations equally among the counties meeting the
54520 requirements of Subsections (2)(i)(ii) and (iii); and
54521 (II) allocate 50% of the appropriations based on the ratio that the population of each
54522 county meeting the requirements of Subsections (2)(i)(ii) and (iii) bears to the total population
54523 of all of the counties meeting the requirements of Subsections (2)(i)(ii) and (iii); and
54524 (B) after making the allocations described in Subsection (2)(i)(iv)(A), distribute the
54525 allocated revenues to special service districts established by the counties under Title 17A,

54526 Chapter 2, Part 13, Utah Special Service District Act, as determined by the executive director
54527 of the Department of Community and Culture after consulting with the county legislative
54528 bodies of the counties meeting the requirements of Subsections (2)(i)(ii) and (iii).
54529 (v) The executive director of the Department of Community and Culture:
54530 (A) shall determine whether a county meets the requirements of Subsections (2)(i)(ii)
54531 and (iii);
54532 (B) shall distribute the appropriations under Subsection (2)(i)(i) to special service
54533 districts established by counties under Title 17A, Chapter 2, Part 13, Utah Special Service
54534 District Act, that meet the requirements of Subsections (2)(i)(ii) and (iii); and
54535 (C) in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
54536 Administrative Rulemaking Act, may make rules:
54537 (I) providing a procedure for making the distributions under this Subsection (2)(i) to
54538 special service districts; and
54539 (II) defining the term "population" for purposes of Subsection (2)(i)(iv).
54540 (j) (i) The Legislature shall annually make the following appropriations from the
54541 Mineral Lease Account:
54542 (A) an amount equal to 52 cents multiplied by the number of acres of school or
54543 institutional trust lands, lands owned by the Division of Parks and Recreation, and lands owned
54544 by the Division of Wildlife Resources that are not under an in lieu of taxes contract, to each
54545 county in which those lands are located;
54546 (B) to each county in which school or institutional trust lands are transferred to the
54547 federal government after December 31, 1992, an amount equal to the number of transferred
54548 acres in the county multiplied by a payment per acre equal to the difference between 52 cents
54549 per acre and the per acre payment made to that county in the most recent payment under the
54550 federal payment in lieu of taxes program, 31 U.S.C. Sec. 6901 et seq., unless the federal
54551 payment was equal to or exceeded the 52 cents per acre, in which case a payment under this
54552 Subsection (2)(j)(i)(B) may not be made for the transferred lands;
54553 (C) to each county in which federal lands, which are entitlement lands under the federal
54554 in lieu of taxes program, are transferred to the school or institutional trust, an amount equal to
54555 the number of transferred acres in the county multiplied by a payment per acre equal to the
54556 difference between the most recent per acre payment made under the federal payment in lieu of

54557 taxes program and 52 cents per acre, unless the federal payment was equal to or less than 52
54558 cents per acre, in which case a payment under this Subsection (2)(j)(i)(C) may not be made for
54559 the transferred land; and
54560 (D) to a county of the fifth or sixth class, an amount equal to the product of:
54561 (I) $1,000; and
54562 (II) the number of residences described in Subsection (2)(j)(iv) that are located within
54563 the county.
54564 (ii) A county receiving money under Subsection (2)(j)(i) may, as determined by the
54565 county legislative body, distribute the money or a portion of the money to:
54566 (A) special service districts established by the county under Title 17A, Chapter 2, Part
54567 13, Utah Special Service District Act;
54568 (B) school districts; or
54569 (C) public institutions of higher education.
54570 (iii) (A) Beginning in fiscal year 1994-95 and in each year after fiscal year 1994-95, the
54571 Division of Finance shall increase or decrease the amounts per acre provided for in Subsections
54572 (2)(j)(i)(A) through (C) by the average annual change in the Consumer Price Index for all urban
54573 consumers published by the Department of Labor.
54574 (B) For fiscal years beginning on or after fiscal year 2001-02, the Division of Finance
54575 shall increase or decrease the amount described in Subsection (2)(j)(i)(D)(I) by the average
54576 annual change in the Consumer Price Index for all urban consumers published by the
54577 Department of Labor.
54578 (iv) Residences for purposes of Subsection (2)(j)(i)(D)(II) are residences that are:
54579 (A) owned by:
54580 (I) the Division of Parks and Recreation; or
54581 (II) the Division of Wildlife Resources;
54582 (B) located on lands that are owned by:
54583 (I) the Division of Parks and Recreation; or
54584 (II) the Division of Wildlife Resources; and
54585 (C) are not subject to taxation under:
54586 (I) Chapter 2, Property Tax Act; or
54587 (II) Chapter 4, Privilege Tax.

54588 (k) The Legislature shall annually appropriate to the Permanent Community Impact
54589 Fund all deposits remaining in the Mineral Lease Account after making the appropriations
54590 provided for in Subsections (2)(d) through (j).
54591 (3) (a) Each agency, board, institution of higher education, and political subdivision
54592 receiving money under this chapter shall provide the Legislature, through the Office of the
54593 Legislative Fiscal Analyst, with a complete accounting of the use of that money on an annual
54594 basis.
54595 (b) The accounting required under Subsection (3)(a) shall:
54596 (i) include actual expenditures for the prior fiscal year, budgeted expenditures for the
54597 current fiscal year, and planned expenditures for the following fiscal year; and
54598 (ii) be reviewed by the Economic Development and Human Resources Appropriation
54599 Subcommittee as part of its normal budgetary process under [~~Title 63, Chapter 38~~] Title 63J,
54600 Chapter 1, Budgetary Procedures Act.
54601 Section 1060. Section **59-24-108** is amended to read:
54602 **59-24-108. Rulemaking authority.**
54603 The commission may make rules under [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
54604 Utah Administrative Rulemaking Act, to implement and enforce this chapter.
54605 Section 1061. Section **59-25-108** is amended to read:
54606 **59-25-108. Rulemaking authority.**
54607 The commission may make rules under [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
54608 Utah Administrative Rulemaking Act, to implement and enforce this chapter.
54609 Section 1062. Section **59-26-106** is amended to read:
54610 **59-26-106. Records.**
54611 (1) A multi-channel video or audio service provider shall maintain records, statements,
54612 books, or accounts necessary to determine the amount of tax that the multi-channel video or
54613 audio service provider is required to remit to the commission under this chapter.
54614 (2) The commission may require a multi-channel video or audio service provider to
54615 make or keep the records, statements, books, or accounts the commission considers sufficient
54616 to show the amount of tax for which the multi-channel video or audio service provider is
54617 required to remit to the commission under this chapter:
54618 (a) by notice served upon that multi-channel video or audio service provider; or

54619 (b) by administrative rule made in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
54620 Chapter 3, Utah Administrative Rulemaking Act.
54621 (3) After notice by the commission, a multi-channel video or audio service provider
54622 shall open the records, statements, books, or accounts specified in Subsection (2) for
54623 examination by the commission or a duly authorized agent of the commission.
54624 Section 1063. Section **59-26-108** is amended to read:
54625 **59-26-108. Rulemaking authority.**
54626 The commission may make rules in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
54627 Chapter 3, Utah Administrative Rulemaking Act, to implement and enforce this chapter.
54628 Section 1064. Section **59-27-104** is amended to read:
54629 **59-27-104. Payment of tax.**
54630 (1) Subject to Subsection (2), a sexually explicit business or escort service subject to
54631 the tax imposed by this chapter shall file a return with the commission and pay the tax
54632 calculated on the return to the commission:
54633 (a) quarterly on or before the last day of the month immediately following the last day
54634 of the previous calendar quarter if:
54635 (i) the sexually explicit business or escort service is required to file a quarterly sales
54636 and use tax return with the commission under Section 59-12-107; or
54637 (ii) the sexually explicit business or escort service is not required to file a sales and use
54638 tax return with the commission under Chapter 12, Sales and Use Tax Act; or
54639 (b) monthly on or before the last day of the month immediately following the last day
54640 of the previous calendar month if the sexually explicit business is required to file a monthly
54641 sales and use tax return with the commission under Section 59-12-108.
54642 (2) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
54643 Administrative Rulemaking Act, the commission may make rules to:
54644 (a) establish standards for determining whether an operation is a sexually explicit
54645 business or escort service; and
54646 (b) determine, for purposes of Section 59-27-102, amounts that are similar to an
54647 amount paid for:
54648 (i) a salary;
54649 (ii) a fee;

54650 (iii) a commission;
54651 (iv) hire; or
54652 (v) profit.
54653 Section 1065. Section **61-1-4** is amended to read:
54654 **61-1-4. Licensing and notice filing procedure.**
54655 (1) (a) A broker-dealer, agent, investment adviser, or investment adviser representative
54656 must obtain an initial or renewal license by filing with the division or its designee an
54657 application together with a consent to service of process under Section 61-1-26.
54658 (b) (i) The application shall contain the applicant's Social Security number and
54659 whatever information the division by rule requires concerning such matters as:
54660 (A) the applicant's form and place of organization;
54661 (B) the applicant's proposed method of doing business;
54662 (C) the qualifications and business history of the applicant; in the case of a
54663 broker-dealer or investment adviser, the qualifications and business history of any partner,
54664 officer, or director, any person occupying a similar status or performing similar functions, or
54665 any person directly or indirectly controlling the broker-dealer or investment adviser;
54666 (D) any injunction or administrative order or conviction of a misdemeanor involving a
54667 security or any aspect of the securities business and any conviction of a felony; and
54668 (E) the applicant's financial condition and history.
54669 (ii) An applicant's Social Security number is a private record under Subsection
54670 [~~63-2-302~~] 63G-2-302(1)(h).
54671 (c) The division may, by rule or order, require an applicant for an initial license to
54672 publish an announcement of the application in one or more specified newspapers published in
54673 this state.
54674 (d) Licenses or notice filings of broker-dealers, agents, investment advisers, and
54675 investment adviser representatives shall expire on December 31 of each year.
54676 (e) (i) If no denial order is in effect and no proceeding is pending under Section 61-1-6,
54677 a license becomes effective at noon of the 30th day after an application is filed.
54678 (ii) The division may by rule or order specify an earlier effective date and may by order
54679 defer the effective date until noon of the 30th day after the filing of any amendment.
54680 (iii) Licensing of a broker-dealer automatically constitutes licensing of only one

54681 partner, officer, director, or a person occupying a similar status or performing similar functions
54682 as a licensed agent of the broker-dealer.
54683 (iv) Licensing of an investment adviser automatically constitutes licensing of only one
54684 partner, officer, director, or a person occupying a similar status or performing similar functions.
54685 (2) Except with respect to federal covered advisers whose only clients are those
54686 described in Subsection 61-1-3(3)(b) or (c), a federal covered adviser shall file with the
54687 division, prior to acting as a federal covered adviser in this state, a notice filing consisting of
54688 such documents as have been filed with the Securities and Exchange Commission as the
54689 division by rule or order may require.
54690 (3) (a) Any applicant for an initial or renewal license as a broker-dealer or agent shall
54691 pay a reasonable filing fee as determined under Section 61-1-18.4.
54692 (b) Any applicant for an initial or renewal license as an investment adviser or
54693 investment adviser representative who is subject to licensing under this chapter shall pay a
54694 reasonable filing fee as determined under Section 61-1-18.4.
54695 (c) Any person acting as a federal covered adviser in this state shall pay an initial and
54696 renewal notice filing fee as determined under Section 61-1-18.4.
54697 (d) If the license or renewal is not granted or the application is withdrawn, the division
54698 shall retain the fee.
54699 (4) A licensed broker-dealer or investment adviser may file an application for licensing
54700 of a successor for the unexpired portion of the year. There shall be no filing fee.
54701 (5) The division may by rule or order require a minimum capital for licensed
54702 broker-dealers, subject to the limitations of Section 15 of the Securities Exchange Act of 1934,
54703 and establish minimum financial requirements for investment advisers, subject to the
54704 limitations of Section 222 of the Investment Advisers Act of 1940, which may include different
54705 requirements for those investment advisers who maintain custody of or have discretionary
54706 authority over client funds or securities and those investment advisers who do not.
54707 (6) (a) The division may by rule or order require licensed broker-dealers and
54708 investment advisers who have custody of or discretionary authority over client funds or
54709 securities to post bonds in amounts as the division may prescribe, subject to the limitations of
54710 Section 15 of the Securities Exchange Act of 1934 for broker-dealers and Section 222 of the
54711 Investment Advisers Act of 1940 for investment advisers, and may determine their conditions.

54712 (b) Any appropriate deposit of cash or securities may be accepted in lieu of any
54713 required bond.
54714 (c) No bond may be required of any licensee whose net capital, or in the case of an
54715 investment adviser whose minimum financial requirements, which may be defined by rule,
54716 exceeds the amounts required by the division.
54717 (d) Every bond shall provide for suit on the bond by any person who has a cause of
54718 action under Section 61-1-22 and, if the division by rule or order requires, by any person who
54719 has a cause of action not arising under this chapter.
54720 (e) Every bond shall provide that no suit may be maintained to enforce any liability on
54721 the bond unless brought before the expiration of four years after the act or transaction
54722 constituting the violation or the expiration of two years after the discovery by the plaintiff of
54723 the facts constituting the violation, whichever expires first.
54724 Section 1066. Section **61-1-6** is amended to read:
54725 **61-1-6. Denial, suspension, revocation, cancellation, or withdrawal of license --**
54726 **Sanctions.**
54727 (1) Subject to the requirements of Subsections (2) and (3), the director, by means of
54728 adjudicative proceedings conducted in accordance with [~~Title 63, Chapter 46b~~] Title 63G,
54729 Chapter 4, Administrative Procedures Act, may issue an order:
54730 (a) denying, suspending, or revoking any license;
54731 (b) barring or censuring any licensee or any officer, director, partner, or person
54732 occupying a similar status or performing similar functions for a licensee from employment with
54733 a licensed broker-dealer or investment adviser;
54734 (c) restricting or limiting a licensee as to any function or activity of the business for
54735 which a license is required in this state;
54736 (d) imposing a fine; or
54737 (e) any combination of Subsections (1)(a) through (d).
54738 (2) The director may impose the sanctions in Subsection (1) if the director finds that it
54739 is in the public interest and finds, with respect to the applicant or licensee or, in the case of a
54740 broker-dealer or investment adviser, any partner, officer, or director, or any person occupying a
54741 similar status or performing similar functions, or any person directly or indirectly controlling
54742 the broker-dealer or investment adviser, that the person:

54743 (a) has filed an application for a license that, as of its effective date or as of any date
54744 after filing in the case of an order denying effectiveness, was incomplete in any material respect
54745 or contained any statement that was, in light of the circumstances under which it was made,
54746 false or misleading with respect to any material fact;
54747 (b) has willfully violated or willfully failed to comply with any provision of this
54748 chapter or a predecessor act or any rule or order under this chapter or a predecessor act;
54749 (c) was convicted, within the past ten years, of any misdemeanor involving a security
54750 or any aspect of the securities business, or any felony;
54751 (d) is permanently or temporarily enjoined by any court of competent jurisdiction from
54752 engaging in or continuing any conduct or practice involving any aspect of the securities
54753 business;
54754 (e) is the subject of an order of the director or any predecessor denying, suspending, or
54755 revoking license as a broker-dealer, agent, investment adviser, or investment adviser
54756 representative;
54757 (f) is the subject of:
54758 (i) an adjudication or determination, within the past five years by a securities or
54759 commodities agency or administrator of another state, Canadian province or territory, or a court
54760 of competent jurisdiction that the person has willfully violated the Securities Act of 1933, the
54761 Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Investment
54762 Company Act of 1940, the Commodity Exchange Act, or the securities or commodities law of
54763 any other state; or
54764 (ii) an order entered within the past five years by the securities administrator of any
54765 state or Canadian province or territory or by the Securities and Exchange Commission denying
54766 or revoking license as a broker-dealer, agent, investment adviser, or investment adviser
54767 representative or the substantial equivalent of those terms or is the subject of an order of the
54768 Securities and Exchange Commission suspending or expelling the person from a national
54769 securities exchange or national securities association registered under the Securities Exchange
54770 Act of 1934, or is the subject of a United States post office fraud order; except that
54771 (iii) the division may not commence agency action to revoke or suspend any license
54772 under Subsection (2)(f) more than one year from the date of the order relied on, and the director
54773 may not enter an order under Subsection (2)(f) on the basis of an order under another state's

54774 law unless that order was based on facts that would currently constitute a ground for an agency
54775 action under this section;
54776 (g) has engaged in dishonest or unethical practices in the securities business;
54777 (h) is insolvent, either in the sense that liabilities exceed assets or in the sense that
54778 obligations cannot be met as they mature, except that the director may not enter an order
54779 against a broker-dealer or investment adviser under this Subsection (2)(h) without a finding of
54780 insolvency as to the broker-dealer or investment adviser;
54781 (i) is not qualified on the basis of the lack of training, experience, and knowledge of
54782 the securities business, except as otherwise provided in Subsection (6);
54783 (j) has failed reasonably to supervise [~~his~~] the person's agents or employees if the
54784 person is a broker-dealer, or his investment adviser representatives or employees if the person
54785 is an investment adviser; or
54786 (k) has failed to pay the proper filing fee within 30 days after being notified by the
54787 division of a deficiency.
54788 (3) Before the director may issue an order under Subsection (1) that: revokes any
54789 license; bars or censures any licensee or any officer, director, partner, or person occupying a
54790 similar status or performing similar functions for a licensee from employment with a licensed
54791 broker-dealer or investment adviser; or imposes a fine, the Securities Advisory Board shall:
54792 (a) review the order; and
54793 (b) if a majority of the Securities Advisory Board approves the order, authorize the
54794 director to issue it.
54795 (4) The division may enter a denial order under Subsection (2)(j) or (k), but shall
54796 vacate the order when the deficiency has been corrected.
54797 (5) The division may not institute a suspension or revocation proceeding on the basis
54798 of a fact or transaction known to it when the license became effective unless the proceeding is
54799 instituted within the next 120 days.
54800 (6) The following provisions govern the application of Subsection (2)(i):
54801 (a) The director may not enter an order against a broker-dealer on the basis of the lack
54802 of qualification of any person other than:
54803 (i) the broker-dealer [~~himself~~] if [~~he~~] the broker-dealer is an individual; or
54804 (ii) an agent of the broker-dealer.

54805 (b) The director may not enter an order against an investment adviser on the basis of
54806 the lack of qualification of any person other than:
54807 (i) the investment adviser [~~himself~~] if [~~he~~] the investment adviser is an individual; or
54808 (ii) an investment adviser representative.
54809 (c) The director may not enter an order solely on the basis of lack of experience if the
54810 applicant or licensee is qualified by training or knowledge.
54811 (d) The director shall consider that an agent who will work under the supervision of a
54812 licensed broker-dealer need not have the same qualifications as a broker-dealer and that an
54813 investment adviser representative who will work under the supervision of a licensed investment
54814 adviser need not have the same qualifications as an investment adviser.
54815 (e) (i) The director shall consider that an investment adviser is not necessarily qualified
54816 solely on the basis of experience as a broker-dealer or agent.
54817 (ii) When the director finds that an applicant for a license as a broker-dealer is not
54818 qualified as an investment adviser, the director may condition the applicant's license as a
54819 broker-dealer upon the applicant's not transacting business in this state as an investment
54820 adviser.
54821 (f) (i) The division may by rule provide for examinations, which may be written or oral
54822 or both, to be taken by any class of or all applicants.
54823 (ii) The division may by rule or order waive the examination requirement as to a person
54824 or class of persons if the division determines that the examination is not necessary for the
54825 protection of investors.
54826 (7) If the director finds that any licensee or applicant for a license is no longer in
54827 existence, has ceased to do business as a broker-dealer, agent, investment adviser, or
54828 investment adviser representative, or is subject to an adjudication of mental incompetence or to
54829 the control of a committee, conservator, or guardian, or cannot be located after reasonable
54830 search, the division may summarily cancel or deny the license or application according to the
54831 procedures and requirements of [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
54832 Procedures Act.
54833 (8) (a) Withdrawal from license as a broker-dealer, agent, investment adviser, or
54834 investment adviser representative becomes effective 30 days after receipt of an application to
54835 withdraw or within a shorter period of time as determined by the director, unless:

54836 (i) a revocation or suspension proceeding is pending when the application is filed;
54837 (ii) a proceeding to revoke or suspend or to impose conditions upon the withdrawal is
54838 instituted within 30 days after the application is filed; or
54839 (iii) additional information is requested by the division regarding the withdrawal
54840 application.
54841 (b) (i) If a proceeding described in Subsection (8)(a) is pending or instituted, the
54842 director shall designate by order when and under what conditions the withdrawal becomes
54843 effective.
54844 (ii) If additional information is requested, withdrawal is effective 30 days after the
54845 additional information is filed.
54846 (c) (i) If no proceeding is pending or instituted, and withdrawal automatically becomes
54847 effective, the director may initiate a revocation or suspension proceeding under this section
54848 within one year after withdrawal became effective.
54849 (ii) The director shall enter any order under Subsection (2)(b) as of the last date on
54850 which the license was effective.
54851 Section 1067. Section **61-1-11.1** is amended to read:
54852 **61-1-11.1. Hearings for certain exchanges of securities.**
54853 (1) An application may be made to the division for approval to issue securities or to
54854 deliver other consideration in exchange for:
54855 (a) one or more bona fide outstanding securities, claims, or property interests; or
54856 (b) partly in exchange for one or more bona fide outstanding securities, claims, or
54857 property interests, and partly for cash.
54858 (2) The director may:
54859 (a) hold a hearing upon the fairness of the terms and conditions of an exchange
54860 described in Subsection (1); and
54861 (b) approve or disapprove the terms and conditions of an exchange described in
54862 Subsection (1).
54863 (3) After conducting a hearing under this section, if the director finds that the terms and
54864 conditions of an exchange described in Subsection (1) are fair to those to whom the securities
54865 will be issued, the director may:
54866 (a) approve the fairness of the terms and conditions of the exchange described in

54867 Subsection (1); and
54868 (b) approve the exchange described in Subsection (1).
54869 (4) In a hearing under this section, all persons to whom it is proposed to issue securities
54870 or to deliver other consideration in an exchange under Subsection (1) may appear.
54871 (5) An application under Subsection (1) shall contain the information and be
54872 accompanied by the documents required by rule or order of the division.
54873 (6) Every person filing an application under Subsection (1) shall pay a filing fee as
54874 determined under Section 61-1-18.4.
54875 (7) An applicant under this section shall provide adequate notice of any hearing under
54876 this section to all persons that have a right to appear, under Subsection (4), at the hearing.
54877 (8) An application may be made under this section regardless of whether the security or
54878 transaction being issued is:
54879 (a) exempt from registration; or
54880 (b) not required to be registered.
54881 (9) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
54882 Administrative Rulemaking Act, the division may establish rules to govern the conduct of a
54883 hearing permitted by this section.
54884 (10) This section is intended to provide for a fairness hearing that satisfies the
54885 requirements of Section 3(a)(10) of the Securities Act of 1933, 15 U.S.C. Section 77c(a)(10),
54886 or any comparable section that may subsequently be enacted.
54887 Section 1068. Section **61-1-12** is amended to read:
54888 **61-1-12. Denial, suspension, and revocation of registration.**
54889 (1) Upon approval by a majority of the Securities Advisory Board, the director, by
54890 means of adjudicative proceedings conducted in accordance with [~~Title 63, Chapter 46b, the~~]
54891 Title 63G, Chapter 4, Administrative Procedures Act, may issue a stop order that denies
54892 effectiveness to, or suspends or revokes the effectiveness of, any securities registration
54893 statement and may impose a fine if [~~he~~] the director finds that the order is in the public interest
54894 and that:
54895 (a) the registration statement, as of its effective date or as of any earlier date in the case
54896 of an order denying effectiveness, or any amendment under Subsection 61-1-11 (10) as of its
54897 effective date, or any report under Subsection 61-1-11 (9), is incomplete in any material

54898 respect, or contains any statement that was, in the light of the circumstances under which it was
54899 made, false or misleading with respect to any material fact;
54900 (b) any provision of this chapter, or any rule, order, or condition lawfully imposed
54901 under this chapter, has been willfully violated, in connection with the offering, by:
54902 (i) the person filing the registration statement;
54903 (ii) the issuer, any partner, officer, or director of the issuer, any person occupying a
54904 similar status or performing similar functions, or any person directly or indirectly controlling or
54905 controlled by the issuer, but only if the person filing the registration statement is directly or
54906 indirectly controlled by or acting for the issuer; or
54907 (iii) any underwriter;
54908 (c) the security registered or sought to be registered is the subject of an administrative
54909 stop order or similar order, or a permanent or temporary injunction of any court of competent
54910 jurisdiction entered under any other federal or state act applicable to the offering; except that
54911 the division may not commence agency action against an effective registration statement under
54912 this subsection more than one year from the date of the order or injunction relied on, and it may
54913 not enter an order under this subsection on the basis of an order or injunction entered under the
54914 securities act of any other state unless that order or injunction was based on facts that would
54915 currently constitute a ground for a stop order under this section;
54916 (d) the issuer's enterprise or method of business includes or would include activities
54917 that are illegal where performed;
54918 (e) the offering has worked or tended to work a fraud upon purchasers or would so
54919 operate;
54920 (f) the offering has been or would be made with unreasonable amounts of underwriters'
54921 and sellers' discounts, commissions, or other compensation, or promoters' profits or
54922 participation, or unreasonable amounts or kinds of options;
54923 (g) when a security is sought to be registered by notification, it is not eligible for such
54924 registration;
54925 (h) when a security is sought to be registered by coordination, there has been a failure
54926 to comply with the undertaking required by Subsection 61-1-9 (2)(d); or
54927 (i) the applicant or registrant has failed to pay the proper filing fee.
54928 (2) The director may enter an order under this section but may vacate the order if [~~he~~]

54929 the director finds that the conditions that prompted its entry have changed or that it is otherwise
54930 in the public interest to do so.
54931 (3) The director may not issue a stop order against an effective registration statement
54932 on the basis of a fact or transaction known to the division when the registration statement
54933 became effective unless the proceeding is instituted within the next 120 days.
54934 (4) No person may be considered to have violated Section 61-1-7 or 61-1-15 by reason
54935 of any order or sale effected after the entry of an order under this section if that person proves
54936 by a preponderance of the evidence that [~~he~~] the person did not know, and in the exercise of
54937 reasonable care could not have known, of the order.
54938 Section 1069. Section **61-1-13** is amended to read:
54939 **61-1-13. Definitions.**
54940 (1) As used in this chapter:
54941 (a) "Affiliate" means a person that, directly or indirectly, through one or more
54942 intermediaries, controls or is controlled by, or is under common control with a person
54943 specified.
54944 (b) (i) "Agent" means any individual other than a broker-dealer who represents a
54945 broker-dealer or issuer in effecting or attempting to effect purchases or sales of securities.
54946 (ii) "Agent" does not include an individual who represents:
54947 (A) an issuer, who receives no commission or other remuneration, directly or
54948 indirectly, for effecting or attempting to effect purchases or sales of securities in this state, and
54949 who effects transactions:
54950 (I) in securities exempted by Subsection 61-1-14(1)(a), (b), (c), (i), or (j);
54951 (II) exempted by Subsection 61-1-14(2);
54952 (III) in a covered security as described in Sections 18(b)(3) and 18(b)(4)(D) of the
54953 Securities Act of 1933; or
54954 (IV) with existing employees, partners, officers, or directors of the issuer; or
54955 (B) a broker-dealer in effecting transactions in this state limited to those transactions
54956 described in Section 15(h)(2) of the Securities Exchange Act of 1934.
54957 (iii) A partner, officer, or director of a broker-dealer or issuer, or a person occupying a
54958 similar status or performing similar functions, is an agent only if the partner, officer, director,
54959 or person otherwise comes within the definition of "agent."

54960 (iv) "Agent" does not include a person described in Subsection (3).
54961 (c) (i) "Broker-dealer" means any person engaged in the business of effecting
54962 transactions in securities for the account of others or for the person's own account.
54963 (ii) "Broker-dealer" does not include:
54964 (A) an agent;
54965 (B) an issuer;
54966 (C) a bank, savings institution, or trust company;
54967 (D) a person who has no place of business in this state if:
54968 (I) the person effects transactions in this state exclusively with or through:
54969 (Aa) the issuers of the securities involved in the transactions;
54970 (Bb) other broker-dealers; or
54971 (Cc) banks, savings institutions, trust companies, insurance companies, investment
54972 companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts,
54973 or other financial institutions or institutional buyers, whether acting for themselves or as
54974 trustees; or
54975 (II) during any period of 12 consecutive months the person does not direct more than
54976 15 offers to sell or buy into this state in any manner to persons other than those specified in
54977 Subsection (1)(c)(ii)(D)(I), whether or not the offeror or any of the offerees is then present in
54978 this state;
54979 (E) a general partner who organizes and effects transactions in securities of three or
54980 fewer limited partnerships, of which the person is the general partner, in any period of 12
54981 consecutive months;
54982 (F) a person whose participation in transactions in securities is confined to those
54983 transactions made by or through a broker-dealer licensed in this state;
54984 (G) a person who is a real estate broker licensed in this state and who effects
54985 transactions in a bond or other evidence of indebtedness secured by a real or chattel mortgage
54986 or deed of trust, or by an agreement for the sale of real estate or chattels, if the entire mortgage,
54987 deed or trust, or agreement, together with all the bonds or other evidences of indebtedness
54988 secured thereby, is offered and sold as a unit;
54989 (H) a person effecting transactions in commodity contracts or commodity options;
54990 (I) a person described in Subsection (3); or

54991 (J) other persons as the division, by rule or order, may designate, consistent with the
54992 public interest and protection of investors, as not within the intent of this Subsection (1)(c).
54993 (d) "Buy" or "purchase" means every contract for purchase of, contract to buy, or
54994 acquisition of a security or interest in a security for value.
54995 (e) "Commodity" means, except as otherwise specified by the division by rule:
54996 (i) any agricultural, grain, or livestock product or byproduct, except real property or
54997 any timber, agricultural, or livestock product grown or raised on real property and offered or
54998 sold by the owner or lessee of the real property;
54999 (ii) any metal or mineral, including a precious metal, except a numismatic coin whose
55000 fair market value is at least 15% greater than the value of the metal it contains;
55001 (iii) any gem or gemstone, whether characterized as precious, semi-precious, or
55002 otherwise;
55003 (iv) any fuel, whether liquid, gaseous, or otherwise;
55004 (v) any foreign currency; and
55005 (vi) all other goods, articles, products, or items of any kind, except any work of art
55006 offered or sold by art dealers, at public auction or offered or sold through a private sale by the
55007 owner of the work.
55008 (f) (i) "Commodity contract" means any account, agreement, or contract for the
55009 purchase or sale, primarily for speculation or investment purposes and not for use or
55010 consumption by the offeree or purchaser, of one or more commodities, whether for immediate
55011 or subsequent delivery or whether delivery is intended by the parties, and whether characterized
55012 as a cash contract, deferred shipment or deferred delivery contract, forward contract, futures
55013 contract, installment or margin contract, leverage contract, or otherwise.
55014 (ii) Any commodity contract offered or sold shall, in the absence of evidence to the
55015 contrary, be presumed to be offered or sold for speculation or investment purposes.
55016 (iii) (A) A commodity contract shall not include any contract or agreement which
55017 requires, and under which the purchaser receives, within 28 calendar days from the payment in
55018 good funds any portion of the purchase price, physical delivery of the total amount of each
55019 commodity to be purchased under the contract or agreement.
55020 (B) The purchaser is not considered to have received physical delivery of the total
55021 amount of each commodity to be purchased under the contract or agreement when the

55022 commodity or commodities are held as collateral for a loan or are subject to a lien of any
55023 person when the loan or lien arises in connection with the purchase of each commodity or
55024 commodities.
55025 (g) (i) "Commodity option" means any account, agreement, or contract giving a party
55026 to the option the right but not the obligation to purchase or sell one or more commodities or
55027 one or more commodity contracts, or both whether characterized as an option, privilege,
55028 indemnity, bid, offer, put, call, advance guaranty, decline guaranty, or otherwise.
55029 (ii) "Commodity option" does not include an option traded on a national securities
55030 exchange registered:
55031 (A) with the United States Securities and Exchange Commission; or
55032 (B) on a board of trade designated as a contract market by the Commodity Futures
55033 Trading Commission.
55034 (h) "Director" means the director of the Division of Securities charged with the
55035 administration and enforcement of this chapter.
55036 (i) "Division" means the Division of Securities established by Section 61-1-18.
55037 (j) "Executive director" means the executive director of the Department of Commerce.
55038 (k) "Federal covered adviser" means a person who:
55039 (i) is registered under Section 203 of the Investment Advisers Act of 1940; or
55040 (ii) is excluded from the definition of "investment adviser" under Section 202(a)(11) of
55041 the Investment Advisers Act of 1940.
55042 (l) "Federal covered security" means any security that is a covered security under
55043 Section 18(b) of the Securities Act of 1933 or rules or regulations promulgated under Section
55044 18(b) of the Securities Act of 1933.
55045 (m) "Fraud," "deceit," and "defraud" are not limited to their common-law meanings.
55046 (n) "Guaranteed" means guaranteed as to payment of principal or interest as to debt
55047 securities, or dividends as to equity securities.
55048 (o) (i) "Investment adviser" means any person who:
55049 (A) for compensation, engages in the business of advising others, either directly or
55050 through publications or writings, as to the value of securities or as to the advisability of
55051 investing in, purchasing, or selling securities; or
55052 (B) for compensation and as a part of a regular business, issues or promulgates

55053 analyses or reports concerning securities.
55054 (ii) "Investment adviser" includes financial planners and other persons who:
55055 (A) as an integral component of other financially related services, provide the
55056 investment advisory services described in Subsection (1)(o)(i) to others for compensation and
55057 as part of a business; or
55058 (B) hold themselves out as providing the investment advisory services described in
55059 Subsection (1)(o)(i) to others for compensation.
55060 (iii) "Investment adviser" does not include:
55061 (A) an investment adviser representative;
55062 (B) a bank, savings institution, or trust company;
55063 (C) a lawyer, accountant, engineer, or teacher whose performance of these services is
55064 solely incidental to the practice of [~~his~~] the profession;
55065 (D) a broker-dealer or its agent whose performance of these services is solely
55066 incidental to the conduct of its business as a broker-dealer and who receives no special
55067 compensation for the services;
55068 (E) a publisher of any bona fide newspaper, news column, news letter, news magazine,
55069 or business or financial publication or service, of general, regular, and paid circulation, whether
55070 communicated in hard copy form, or by electronic means, or otherwise, that does not consist of
55071 the rendering of advice on the basis of the specific investment situation of each client;
55072 (F) any person who is a federal covered adviser;
55073 (G) a person described in Subsection (3); or
55074 (H) such other persons not within the intent of this Subsection (1)(o) as the division
55075 may by rule or order designate.
55076 (p) (i) "Investment adviser representative" means any partner, officer, director of, or a
55077 person occupying a similar status or performing similar functions, or other individual, except
55078 clerical or ministerial personnel, who:
55079 (A) (I) is employed by or associated with an investment adviser who is licensed or
55080 required to be licensed under this chapter; or
55081 (II) has a place of business located in this state and is employed by or associated with a
55082 federal covered adviser; and
55083 (B) does any of the following:

55084 (I) makes any recommendations or otherwise renders advice regarding securities;
55085 (II) manages accounts or portfolios of clients;
55086 (III) determines which recommendation or advice regarding securities should be given;
55087 (IV) solicits, offers, or negotiates for the sale of or sells investment advisory services;
55088 or
55089 (V) supervises employees who perform any of the acts described in this Subsection
55090 (1)(p)(i)(B).
55091 (ii) "Investment advisor representative" does not include a person described in
55092 Subsection (3).
55093 (q) (i) "Issuer" means any person who issues or proposes to issue any security or has
55094 outstanding a security that it has issued.
55095 (ii) With respect to a preorganization certificate or subscription, "issuer" means the
55096 promoter or the promoters of the person to be organized.
55097 (iii) "Issuer" means the person or persons performing the acts and assuming duties of a
55098 depositor or manager under the provisions of the trust or other agreement or instrument under
55099 which the security is issued with respect to:
55100 (A) interests in trusts, including collateral trust certificates, voting trust certificates, and
55101 certificates of deposit for securities; or
55102 (B) shares in an investment company without a board of directors.
55103 (iv) With respect to an equipment trust certificate, a conditional sales contract, or
55104 similar securities serving the same purpose, "issuer" means the person by whom the equipment
55105 or property is to be used.
55106 (v) With respect to interests in partnerships, general or limited, "issuer" means the
55107 partnership itself and not the general partner or partners.
55108 (vi) With respect to certificates of interest or participation in oil, gas, or mining titles or
55109 leases or in payment out of production under the titles or leases, "issuer" means the owner of
55110 the title or lease or right of production, whether whole or fractional, who creates fractional
55111 interests therein for the purpose of sale.
55112 (r) "Nonissuer" means not directly or indirectly for the benefit of the issuer.
55113 (s) "Person" means:
55114 (i) an individual;

55115 (ii) a corporation;
55116 (iii) a partnership;
55117 (iv) a limited liability company;
55118 (v) an association;
55119 (vi) a joint-stock company;
55120 (vii) a joint venture;
55121 (viii) a trust where the interests of the beneficiaries are evidenced by a security;
55122 (ix) an unincorporated organization;
55123 (x) a government; or
55124 (xi) a political subdivision of a government.
55125 (t) "Precious metal" means the following, whether in coin, bullion, or other form:
55126 (i) silver;
55127 (ii) gold;
55128 (iii) platinum;
55129 (iv) palladium;
55130 (v) copper; and
55131 (vi) such other substances as the division may specify by rule.
55132 (u) "Promoter" means any person who, acting alone or in concert with one or more
55133 persons, takes initiative in founding or organizing the business or enterprise of a person.
55134 (v) (i) "Sale" or "sell" includes every contract for sale of, contract to sell, or disposition
55135 of, a security or interest in a security for value.
55136 (ii) "Offer" or "offer to sell" includes every attempt or offer to dispose of, or
55137 solicitation of an offer to buy, a security or interest in a security for value.
55138 (iii) The following are examples of the definitions in Subsection (1)(v)(i) or (ii):
55139 (A) any security given or delivered with or as a bonus on account of any purchase of a
55140 security or any other thing, is part of the subject of the purchase, and has been offered and sold
55141 for value;
55142 (B) a purported gift of assessable stock is an offer or sale as is each assessment levied
55143 on the stock;
55144 (C) an offer or sale of a security that is convertible into, or entitles its holder to acquire
55145 or subscribe to another security of the same or another issuer is an offer or sale of that security,

55146 and also an offer of the other security, whether the right to convert or acquire is exercisable
55147 immediately or in the future;
55148 (D) any conversion or exchange of one security for another shall constitute an offer or
55149 sale of the security received in a conversion or exchange, and the offer to buy or the purchase
55150 of the security converted or exchanged;
55151 (E) securities distributed as a dividend wherein the person receiving the dividend
55152 surrenders the right, or the alternative right, to receive a cash or property dividend is an offer or
55153 sale;
55154 (F) a dividend of a security of another issuer is an offer or sale; or
55155 (G) the issuance of a security under a merger, consolidation, reorganization,
55156 recapitalization, reclassification, or acquisition of assets shall constitute the offer or sale of the
55157 security issued as well as the offer to buy or the purchase of any security surrendered in
55158 connection therewith, unless the sole purpose of the transaction is to change the issuer's
55159 domicile.
55160 (iv) The terms defined in Subsections (1)(v)(i) and (ii) do not include:
55161 (A) a good faith gift;
55162 (B) a transfer by death;
55163 (C) a transfer by termination of a trust or of a beneficial interest in a trust;
55164 (D) a security dividend not within Subsection (1)(v)(iii)(E) or (F);
55165 (E) a securities split or reverse split; or
55166 (F) any act incident to a judicially approved reorganization in which a security is issued
55167 in exchange for one or more outstanding securities, claims, or property interests, or partly in
55168 such exchange and partly for cash.
55169 (w) "Securities Act of 1933," "Securities Exchange Act of 1934," "Public Utility
55170 Holding Company Act of 1935," and "Investment Company Act of 1940" mean the federal
55171 statutes of those names as amended before or after the effective date of this chapter.
55172 (x) (i) "Security" means any:
55173 (A) note;
55174 (B) stock;
55175 (C) treasury stock;
55176 (D) bond;

55177 (E) debenture;
55178 (F) evidence of indebtedness;
55179 (G) certificate of interest or participation in any profit-sharing agreement;
55180 (H) collateral-trust certificate;
55181 (I) preorganization certificate or subscription;
55182 (J) transferable share;
55183 (K) investment contract;
55184 (L) burial certificate or burial contract;
55185 (M) voting-trust certificate;
55186 (N) certificate of deposit for a security;
55187 (O) certificate of interest or participation in an oil, gas, or mining title or lease or in
55188 payments out of production under such a title or lease;
55189 (P) commodity contract or commodity option;
55190 (Q) interest in a limited liability company;
55191 (R) viatical settlement interest; or
55192 (S) in general, any interest or instrument commonly known as a "security," or any
55193 certificate of interest or participation in, temporary or interim certificate for, receipt for,
55194 guarantee of, or warrant or right to subscribe to or purchase any of the foregoing.
55195 (ii) "Security" does not include any:
55196 (A) insurance or endowment policy or annuity contract under which an insurance
55197 company promises to pay money in a lump sum or periodically for life or some other specified
55198 period;
55199 (B) interest in a limited liability company in which the limited liability company is
55200 formed as part of an estate plan where all of the members are related by blood or marriage,
55201 there are five or fewer members, or the person claiming this exception can prove that all of the
55202 members are actively engaged in the management of the limited liability company; or
55203 (C) (I) a whole long-term estate in real property;
55204 (II) an undivided fractionalized long-term estate in real property that consists of ten or
55205 fewer owners; or
55206 (III) an undivided fractionalized long-term estate in real property that consists of more
55207 than ten owners if, when the real property estate is subject to a management agreement:

55208 (Aa) the management agreement permits a simple majority of owners of the real
55209 property estate to not renew or to terminate the management agreement at the earlier of the end
55210 of the management agreement's current term, or 180 days after the day on which the owners
55211 give notice of termination to the manager;
55212 (Bb) the management agreement prohibits, directly or indirectly, the lending of the
55213 proceeds earned from the real property estate or the use or pledge of its assets to any person or
55214 entity affiliated with or under common control of the manager; and
55215 (Cc) the management agreement complies with any other requirement imposed by rule
55216 by the Real Estate Commission under Section 61-2-26.
55217 (iii) For purposes of Subsection (1)(x)(ii)(B), evidence that members vote or have the
55218 right to vote, or the right to information concerning the business and affairs of the limited
55219 liability company, or the right to participate in management, shall not establish, without more,
55220 that all members are actively engaged in the management of the limited liability company.
55221 (y) "State" means any state, territory, or possession of the United States, the District of
55222 Columbia, and Puerto Rico.
55223 (z) (i) "Undivided fractionalized long-term estate" means an ownership interest in real
55224 property by two or more persons that is a:
55225 (A) tenancy in common; or
55226 (B) any other legal form of undivided estate in real property including:
55227 (I) a fee estate;
55228 (II) a life estate; or
55229 (III) other long-term estate.
55230 (ii) "Undivided fractionalized long-term estate" does not include a joint tenancy.
55231 (aa) (i) "Viatical settlement interest" means the entire interest or any fractional interest
55232 in any of the following that is the subject of a viatical settlement:
55233 (A) a life insurance policy; or
55234 (B) the death benefit under a life insurance policy.
55235 (ii) "Viatical settlement interest" does not include the initial purchase from the viator
55236 by a viatical settlement provider.
55237 (bb) "Whole long-term estate" means a person or persons through joint tenancy owns
55238 real property through:

55239 (i) a fee estate;
55240 (ii) a life estate; or
55241 (iii) other long-term estate.
55242 (cc) "Working days" means 8 a.m. to 5 p.m., Monday through Friday, exclusive of
55243 legal holidays listed in Section [~~63-13-2~~] 63G-1-301.
55244 (2) A term not defined in this section shall have the meaning as established by division
55245 rule. The meaning of a term neither defined in this section nor by rule of the division shall be
55246 the meaning commonly accepted in the business community.
55247 (3) (a) This Subsection (3) applies to:
55248 (i) the offer or sale of a real property estate exempted from the definition of security
55249 under Subsection (1)(x)(ii)(C); or
55250 (ii) the offer or sale of an undivided fractionalized long-term estate that is the offer of a
55251 security.
55252 (b) A person who, directly or indirectly receives compensation in connection with the
55253 offer or sale as provided in this Subsection (3) of a real property estate is not an agent,
55254 broker-dealer, investment adviser, or investor adviser representative under this chapter if that
55255 person is licensed under Chapter 2, Division of Real Estate, as:
55256 (i) a principal real estate broker;
55257 (ii) an associate real estate broker; or
55258 (iii) a real estate sales agent.
55259 (4) The list of real property estates excluded from the definition of securities under
55260 Subsection (1)(x)(ii)(C) is not an exclusive list of real property estates or interests that are not a
55261 security.
55262 Section 1070. Section **61-1-14** is amended to read:
55263 **61-1-14. Exemptions.**
55264 (1) The following securities are exempted from Sections 61-1-7 and 61-1-15:
55265 (a) any security, including a revenue obligation, issued or guaranteed by the United
55266 States, any state, any political subdivision of a state, or any agency or corporate or other
55267 instrumentality of one or more of the foregoing, or any certificate of deposit for any of the
55268 foregoing;
55269 (b) any security issued or guaranteed by Canada, any Canadian province, any political

55270 subdivision of any Canadian province, any agency or corporate or other instrumentality of one
55271 or more of the foregoing, or any other foreign government with which the United States
55272 currently maintains diplomatic relations, if the security is recognized as a valid obligation by
55273 the issuer or guarantor;
55274 (c) any security issued by and representing an interest in or a debt of, or guaranteed by,
55275 any bank organized under the laws of the United States, or any bank, savings institution, or
55276 trust company supervised under the laws of any state;
55277 (d) any security issued by and representing an interest in or a debt of, or guaranteed by,
55278 any federal savings and loan association, or any building and loan or similar association
55279 organized under the laws of any state and authorized to do business in this state;
55280 (e) any security issued or guaranteed by any federal credit union or any credit union,
55281 industrial loan association, or similar association organized and supervised under the laws of
55282 this state;
55283 (f) any security issued or guaranteed by any public utility or holding company which is
55284 a registered holding company under the Public Utility Holding Company Act of 1935 or a
55285 subsidiary of such a company within the meaning of that act, or any security regulated in
55286 respect of its rates or in its issuance by a governmental authority of the United States, any state,
55287 Canada, or any Canadian province;
55288 (g) any security listed on the National Association of Securities Dealers Automated
55289 Quotation National Market System, the New York Stock Exchange, the American Stock
55290 Exchange, or on any other stock exchange or medium approved by the division, except that the
55291 director may at any time suspend or revoke this exemption for any particular stock exchange,
55292 medium, security, or securities under Subsection (4); any other security of the same issuer
55293 which is of senior or substantially equal rank to any security so listed and approved by the
55294 director, any security called for by subscription rights or warrants so listed or approved, or any
55295 warrant or right to purchase or subscribe to any of the foregoing;
55296 (h) (i) any security issued by any person organized and operated not for private profit
55297 but exclusively for religious, educational, benevolent, charitable, fraternal, social, athletic, or
55298 reformatory purposes, or as a chamber of commerce or trade or professional association; and
55299 (ii) any security issued by a corporation organized under Title 3, Chapter 1, and any
55300 security issued by a corporation to which the provisions of that chapter are made applicable by

55301 compliance with the requirements of Section 3-1-21;
55302 (i) a promissory note, draft, bill of exchange, or banker's acceptance that evidences an
55303 obligation to pay cash within nine months after the date of issuance, exclusive of days of grace,
55304 or a renewal of such an obligation that is likewise limited, or a guarantee of such an obligation
55305 or of a renewal:
55306 (i) issued in denominations of at least $50,000; and
55307 (ii) either:
55308 (A) receives a rating in one of the three highest rating categories from a nationally
55309 recognized statistical rating organization; or
55310 (B) the issuer satisfies requirements established by rule or order of the division;
55311 (j) any investment contract issued in connection with an employees' stock purchase,
55312 option, savings, pension, profit-sharing, or similar benefit plan;
55313 (k) a security issued by an issuer registered as an open-end management investment
55314 company or unit investment trust under Section 8 of the Investment Company Act of 1940, if:
55315 (i) (A) the issuer is advised by an investment adviser that is a depository institution
55316 exempt from registration under the Investment Advisers Act of 1940 or that is currently
55317 registered as an investment adviser, and has been registered, or is affiliated with an adviser that
55318 has been registered, as an investment adviser under the Investment Advisers Act of 1940 for at
55319 least three years next preceding an offer or sale of a security claimed to be exempt under this
55320 subsection; and
55321 (B) the adviser has acted, or is affiliated with an investment adviser that has acted as
55322 investment adviser to one or more registered investment companies or unit investment trusts
55323 for at least three years next preceding an offer or sale of a security claimed to be exempt under
55324 this subsection; or
55325 (ii) the issuer has a sponsor that has at all times throughout the three years before an
55326 offer or sale of a security claimed to be exempt under this subsection sponsored one or more
55327 registered investment companies or unit investment trusts the aggregate total assets of which
55328 have exceeded $100,000,000;
55329 (iii) in addition to Subsection (i) or (ii), the division has received prior to any sale
55330 exempted herein:
55331 (A) a notice of intention to sell which has been executed by the issuer which sets forth

55332 the name and address of the issuer and the title of the securities to be offered in this state; and
55333 (B) a filing fee as determined under Section 61-1-18.4;
55334 (iv) in the event any offer or sale of a security of an open-end management investment
55335 company is to be made more than 12 months after the date on which the notice and fee under
55336 Subsection (iii) is received by the director, another notice and payment of the applicable fee
55337 shall be required;
55338 (v) for the purpose of this subsection, an investment adviser is affiliated with another
55339 investment adviser if it controls, is controlled by, or is under common control with the other
55340 investment adviser; and
55341 (l) any security as to which the director, by rule or order, finds that registration is not
55342 necessary or appropriate for the protection of investors.
55343 (2) The following transactions are exempted from Sections 61-1-7 and 61-1-15:
55344 (a) any isolated transaction, whether effected through a broker-dealer or not;
55345 (b) any nonissuer transaction in an outstanding security, if as provided by rule of the
55346 division:
55347 (i) information about the issuer of the security as required by the division is currently
55348 listed in a securities manual recognized by the division, and the listing is based upon such
55349 information as required by rule of the division; or
55350 (ii) the security has a fixed maturity or a fixed interest or dividend provision and there
55351 has been no default during the current fiscal year or within the three preceding fiscal years, or
55352 during the existence of the issuer and any predecessors if less than three years, in the payment
55353 of principal, interest, or dividends on the security;
55354 (c) any nonissuer transaction effected by or through a registered broker-dealer pursuant
55355 to an unsolicited order or offer to buy;
55356 (d) any transaction between the issuer or other person on whose behalf the offering is
55357 made and an underwriter, or among underwriters;
55358 (e) any transaction in a bond or other evidence of indebtedness secured by a real or
55359 chattel mortgage or deed of trust, or by an agreement for the sale of real estate or chattels, if the
55360 entire mortgage, deed of trust, or agreement, together with all the bonds or other evidences of
55361 indebtedness secured thereby, is offered and sold as a unit;
55362 (f) any transaction by an executor, administrator, sheriff, marshal, receiver, trustee in

55363 bankruptcy, guardian, or conservator;
55364 (g) any transaction executed by a bona fide pledgee without any purpose of evading
55365 this chapter;
55366 (h) any offer or sale to a bank, savings institution, trust company, insurance company,
55367 investment company as defined in the Investment Company Act of 1940, pension or
55368 profit-sharing trust, or other financial institution or institutional investor, or to a broker-dealer,
55369 whether the purchaser is acting for itself or in some fiduciary capacity;
55370 (i) any offer or sale of a preorganization certificate or subscription if:
55371 (i) no commission or other remuneration is paid or given directly or indirectly for
55372 soliciting any prospective subscriber;
55373 (ii) the number of subscribers acquiring any legal or beneficial interest therein does not
55374 exceed ten; and
55375 (iii) there is no general advertising or solicitation in connection with the offer or sale;
55376 (j) any transaction pursuant to an offer by an issuer of its securities to its existing
55377 securities holders, if:
55378 (i) no commission or other remuneration, other than a standby commission is paid or
55379 given directly or indirectly for soliciting any security holders in this state and the transaction
55380 constitutes either:
55381 (A) the conversion of convertible securities;
55382 (B) the exercise of nontransferable rights or warrants;
55383 (C) the exercise of transferable rights or warrants if the rights or warrants are
55384 exercisable not more than 90 days after their issuance; or
55385 (D) the purchase of securities under a preemptive right; and
55386 (ii) the exemption created by Subsection (2)(j) is not available for an offer or sale of
55387 securities to existing securities holders who have acquired their securities from the issuer in a
55388 transaction in violation of Section 61-1-7;
55389 (k) any offer, but not a sale, of a security for which registration statements have been
55390 filed under both this chapter and the Securities Act of 1933 if no stop order or refusal order is
55391 in effect and no public proceeding or examination looking toward such an order is pending;
55392 (l) a distribution of securities as a dividend if the person distributing the dividend is the
55393 issuer of the securities distributed;

55394 (m) any nonissuer transaction effected by or through a registered broker-dealer where
55395 the broker-dealer or issuer files with the division, and the broker-dealer maintains in [~~his~~] the
55396 broker-dealer's records, and makes reasonably available upon request to any person expressing
55397 an interest in a proposed transaction in the security with the broker-dealer information
55398 prescribed by the division under its rules;
55399 (n) any transactions not involving a public offering;
55400 (o) any offer or sale of "condominium units" or "time period units" as those terms are
55401 defined in the Condominium Ownership Act, whether or not to be sold by installment contract,
55402 if the provisions of the Condominium Ownership Act, or if the units are located in another
55403 state, the condominium act of that state, the Utah Uniform Land Sales Practices Act, the Utah
55404 Timeshare and Camp Resort Act, and the Utah Uniform Consumer Credit Code are complied
55405 with;
55406 (p) any transaction or series of transactions involving a merger, consolidation,
55407 reorganization, recapitalization, reclassification, or sale of assets, if the consideration for
55408 which, in whole or in part, is the issuance of securities of a person or persons, and if:
55409 (i) the transaction or series of transactions is incident to a vote of the securities holders
55410 of each person involved or by written consent or resolution of some or all of the securities
55411 holders of each person involved;
55412 (ii) the vote, consent, or resolution is given under a provision in:
55413 (A) the applicable corporate statute or other controlling statute;
55414 (B) the controlling articles of incorporation, trust indenture, deed of trust, or
55415 partnership agreement; or
55416 (C) the controlling agreement among securities holders;
55417 (iii) (A) one person involved in the transaction is required to file proxy or
55418 informational materials under Section 14 (a) or (c) of the Securities Exchange Act of 1934 or
55419 Section 20 of the Investment Company Act of 1940 and has so filed;
55420 (B) one person involved in the transaction is an insurance company which is exempt
55421 from filing under Section 12(g)(2)(G) of the Securities Exchange Act of 1934, and has filed
55422 proxy or informational materials with the appropriate regulatory agency or official of its
55423 domiciliary state; or
55424 (C) all persons involved in the transaction are exempt from filing under Section

55425 12(g)(1) of the Securities Exchange Act of 1934, and file with the division such proxy or
55426 informational material as the division requires by rule;
55427 (iv) the proxy or informational material is filed with the division and distributed to all
55428 securities holders entitled to vote in the transaction or series of transactions at least ten working
55429 days prior to any necessary vote by the securities holders or action on any necessary consent or
55430 resolution; and
55431 (v) the division does not, by order, deny or revoke the exemption within ten working
55432 days after filing of the proxy or informational materials;
55433 (q) any transaction pursuant to an offer to sell securities of an issuer if:
55434 (i) the transaction is part of an issue in which there are not more than 15 purchasers in
55435 this state, other than those designated in Subsection (2)(h), during any 12 consecutive months;
55436 (ii) no general solicitation or general advertising is used in connection with the offer to
55437 sell or sale of the securities;
55438 (iii) no commission or other similar compensation is given, directly or indirectly, to a
55439 person other than a broker-dealer or agent licensed under this chapter, for soliciting a
55440 prospective purchaser in this state;
55441 (iv) the seller reasonably believes that all the purchasers in this state are purchasing for
55442 investment;
55443 (v) the transaction is part of an aggregate offering that does not exceed $500,000, or a
55444 greater amount as prescribed by a division rule, during any 12 consecutive months; and
55445 (vi) the director, as to a security or transaction, or a type of security or transaction, may
55446 withdraw or further condition this exemption or waive one or more of the conditions in
55447 Subsection (q);
55448 (r) any transaction involving a commodity contract or commodity option; and
55449 (s) any transaction as to which the division finds that registration is not necessary or
55450 appropriate for the protection of investors.
55451 (3) Every person filing an exemption notice or application shall pay a filing fee as
55452 determined under Section 61-1-18.4.
55453 (4) Upon approval by a majority of the Securities Advisory Board, the director, by
55454 means of an adjudicative proceeding conducted in accordance with [~~Title 63, Chapter 46b~~]
55455 Title 63G, Chapter 4, Administrative Procedures Act, may deny or revoke any exemption

55456 specified in Subsection (1)(g), (h), or (j) or in Subsection (2) with respect to:
55457 (a) a specific security, transaction, or series of transactions; or
55458 (b) any person or issuer, any affiliate or successor to a person or issuer, or any entity
55459 subsequently organized by or on behalf of a person or issuer generally and may impose a fine if
55460 [~~he~~] the person finds that the order is in the public interest and that:
55461 (i) the application for or notice of exemption filed with the division is incomplete in
55462 any material respect or contains any statement which was, in the light of the circumstances
55463 under which it was made, false or misleading with respect to any material fact;
55464 (ii) any provision of this chapter, or any rule, order, or condition lawfully imposed
55465 under this chapter has been willfully violated in connection with the offering or exemption by:
55466 (A) the person filing any application for or notice of exemption;
55467 (B) the issuer, any partner, officer, or director of the issuer, any person occupying a
55468 similar status or performing similar functions, or any person directly or indirectly controlling or
55469 controlled by the issuer, but only if the person filing the application for or notice of exemption
55470 is directly or indirectly controlled by or acting for the issuer; or
55471 (C) any underwriter;
55472 (iii) the security for which the exemption is sought is the subject of an administrative
55473 stop order or similar order, or a permanent or temporary injunction or any court of competent
55474 jurisdiction entered under any other federal or state act applicable to the offering or exemption;
55475 the division may not institute a proceeding against an effective exemption under this subsection
55476 more than one year from the date of the order or injunction relied on, and it may not enter an
55477 order under this subsection on the basis of an order or injunction entered under any other state
55478 act unless that order or injunction was based on facts that would currently constitute a ground
55479 for a stop order under this section;
55480 (iv) the issuer's enterprise or method of business includes or would include activities
55481 that are illegal where performed;
55482 (v) the offering has worked, has tended to work, or would operate to work a fraud upon
55483 purchasers;
55484 (vi) the offering has been or was made with unreasonable amounts of underwriters' and
55485 sellers' discounts, commissions, or other compensation, or promoters' profits or participation,
55486 or unreasonable amounts or kinds of options;

55487 (vii) an exemption is sought for a security or transaction which is not eligible for the
55488 exemption; or
55489 (viii) the proper filing fee, if required, has not been paid.
55490 (5) (a) No order under Subsection (4) may operate retroactively.
55491 (b) No person may be considered to have violated Section 61-1-7 or 61-1-15 by reason
55492 of any offer or sale effected after the entry of an order under this subsection if [~~he~~] the person
55493 sustains the burden of proof that [~~he~~] the person did not know, and in the exercise of
55494 reasonable care could not have known, of the order.
55495 Section 1071. Section **61-1-15.5** is amended to read:
55496 **61-1-15.5. Federal covered securities.**
55497 (1) The division by rule or order may require the filing of any of the following
55498 documents with respect to a covered security under Section 18(b)(2) of the Securities Act of
55499 1933:
55500 (a) prior to the initial offer of federal covered security in this state, a notice form as
55501 prescribed by the division or all documents that are part of a federal registration statement filed
55502 with the U.S. Securities and Exchange Commission under the Securities Act of 1933, together
55503 with a consent to service of process signed by the issuer and a filing fee as determined under
55504 Section 61-1-18.4;
55505 (b) after the initial offer of such federal covered security in this state, all documents
55506 that are part of an amendment to a federal registration statement filed with the U.S. Securities
55507 and Exchange Commission under the Securities Act of 1933, which shall be filed concurrently
55508 with the division;
55509 (c) a report of the value of federal covered securities offered or sold in this state,
55510 together with a filing fee as determined under Section 61-1-18.4; and
55511 (d) a notice filing under this section shall be effective for one year and shall be
55512 renewed annually in order to continue to offer or sell the federal covered securities for which
55513 the notice was filed.
55514 (2) With respect to any security that is a covered security under Section 18(b)(4)(D) of
55515 the Securities Act of 1933, the division by rule or order may require the issuer to file a notice
55516 on SEC Form D and a consent to service of process signed by the issuer no later than 15 days
55517 after the first sale of such covered security in this state, together with a filing fee as determined

55518 under Section 61-1-18.4.
55519 (3) The division by rule or order may require the filing of any document filed with the
55520 U.S. Securities and Exchange Commission under the Securities Act of 1933, with respect to a
55521 covered security under Section 18(b)(3) or (4) of the Securities Act of 1933, together with a
55522 filing fee as determined under Section 61-1-18.4.
55523 (4) Upon approval by a majority of the Securities Advisory Board, the director, by
55524 means of adjudicative proceedings conducted in accordance with [~~Title 63, Chapter 46b~~] Title
55525 63G, Chapter 4, Administrative Procedures Act, may issue a stop order suspending the offer
55526 and sale of any federal covered security, except a covered security under Section 18(b)(1) of
55527 the Securities Act of 1933, if the director finds that the order is in the public interest and there
55528 is a failure to comply with any condition established under this section.
55529 (5) The division by rule or order may waive any or all of the provisions of this section.
55530 Section 1072. Section **61-1-18.4** is amended to read:
55531 **61-1-18.4. Fees collected by division.**
55532 The Division of Securities shall establish, charge, and collect fees pursuant to Section
55533 [~~63-38-3.2~~] 63J-1-303, except when it can be demonstrated that the fee amount should be
55534 based on factors other than cost, for the following:
55535 (1) the fair and reasonable cost of any examination, audit, or investigation authorized
55536 or required by this chapter or other state law;
55537 (2) certificate of serving and mailing process served upon the division in any action or
55538 proceeding commenced or prosecuted in this state against any person who has appointed the
55539 division its agent as provided in Subsection 61-1-26 (7); and
55540 (3) copies and authentication of all papers, publications, data, and other records
55541 available to the public or issued under the division's authority.
55542 Section 1073. Section **61-1-18.6** is amended to read:
55543 **61-1-18.6. Procedures -- Adjudicative proceedings.**
55544 The Division of Securities shall comply with the procedures and requirements of [~~Title~~
55545 ~~63, Chapter 46b,~~] Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative
55546 proceedings.
55547 Section 1074. Section **61-1-18.7** is amended to read:
55548 **61-1-18.7. Funding of securities investor education and training.**

55549 (1) There is created a restricted special revenue fund known as the "Securities Investor
55550 Education and Training Fund" to provide revenue for educating the public and the securities
55551 industry as provided in this section.
55552 (2) All money received by the state by reason of civil penalties ordered and
55553 administrative fines collected pursuant to this chapter shall be deposited in the Securities
55554 Investor Education and Training Fund, and subject to the requirements of Title 51, Chapter 5,
55555 Funds Consolidation Act.
55556 (3) The special revenue fund may include any fines collected by the division after July
55557 1, 1989, pursuant to voluntary settlements or administrative orders.
55558 (4) (a) The fund shall earn interest.
55559 (b) All interest earned on fund monies shall be deposited into the fund.
55560 (5) Notwithstanding [~~Title 63, Chapter 38~~] Title 63J, Chapter 1, Budgetary Procedures
55561 Act, the director may use special revenue fund monies, upon concurrence of the Securities
55562 Advisory Board and the executive director of the Department of Commerce, in a manner
55563 consistent with the duties of the division under this chapter and only for any or all of the
55564 following and the expense of providing them:
55565 (a) education and training of Utah residents in matters concerning securities laws and
55566 investment decisions, by publications or presentations;
55567 (b) education of registrants and licensees under this chapter, by:
55568 (i) publication of this chapter and rules and policy statements and opinion letters of the
55569 division; and
55570 (ii) sponsorship of seminars or meetings to educate registrants and licensees as to the
55571 requirements of this chapter; and
55572 (c) investigation and litigation.
55573 (6) If the balance in the fund exceeds $100,000 at the close of any fiscal year, the
55574 excess shall be transferred to the General Fund.
55575 Section 1075. Section **61-1-23** is amended to read:
55576 **61-1-23. Review of orders.**
55577 Any person aggrieved by a final order of the director determining all of the issues of an
55578 adjudicative proceeding may obtain review of the order by the executive director in accordance
55579 with [~~Title 63, Chapter 46b, the~~] Title 63G, Chapter 4, Administrative Procedures Act.

55580 Section 1076. Section **61-2-5.1** is amended to read:
55581 **61-2-5.1. Procedures -- Adjudicative proceedings.**
55582 The Division of Real Estate shall comply with the procedures and requirements of
55583 [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, in its
55584 adjudicative proceedings.
55585 Section 1077. Section **61-2-6** is amended to read:
55586 **61-2-6. Licensing procedures and requirements.**
55587 (1) (a) Except as provided in Subsection (5), the commission shall determine the
55588 qualifications and requirements of applicants for:
55589 (i) a principal broker license;
55590 (ii) an associate broker license; or
55591 (iii) a sales agent license.
55592 (b) The division, with the concurrence of the commission, shall require and pass upon
55593 proof necessary to determine the honesty, integrity, truthfulness, reputation, and competency of
55594 each applicant for an initial license or for renewal of an existing license.
55595 (c) (i) The division, with the concurrence of the commission, shall require an applicant
55596 for:
55597 (A) a sales agent license to complete an approved educational program not to exceed
55598 90 hours; and
55599 (B) an associate broker or principal broker license to complete an approved educational
55600 program not to exceed 120 hours.
55601 (ii) The hours required by this section mean 50 minutes of instruction in each 60
55602 minutes.
55603 (iii) The maximum number of program hours available to an individual is ten hours per
55604 day.
55605 (d) The division, with the concurrence of the commission, shall require the applicant to
55606 pass an examination approved by the commission covering:
55607 (i) the fundamentals of:
55608 (A) the English language;
55609 (B) arithmetic;
55610 (C) bookkeeping; and

55611 (D) real estate principles and practices;
55612 (ii) the provisions of this chapter;
55613 (iii) the rules established by the commission; and
55614 (iv) any other aspect of Utah real estate license law considered appropriate.
55615 (e) (i) Three years' full-time experience as a real estate sales agent or its equivalent is
55616 required before any applicant may apply for, and secure a principal broker or associate broker
55617 license in this state.
55618 (ii) The commission shall establish by rule, made in accordance with [~~Title 63, Chapter~~
55619 ~~46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the criteria by which the
55620 commission will accept experience or special education in similar fields of business in lieu of
55621 the three years' experience.
55622 (2) (a) The division, with the concurrence of the commission, may require an applicant
55623 to furnish a sworn statement setting forth evidence satisfactory to the division of the applicant's
55624 reputation and competency as set forth by rule.
55625 (b) The division shall require an applicant to provide the applicant's Social Security
55626 number, which is a private record under Subsection [~~63-2-302~~] 63G-2-302(1)(h).
55627 (3) (a) A nonresident principal broker may be licensed in this state by conforming to all
55628 the provisions of this chapter except that of residency.
55629 (b) A nonresident associate broker or sales agent may become licensed in this state by:
55630 (i) conforming to all the provisions of this chapter except that of residency; and
55631 (ii) being employed or engaged as an independent contractor by or on behalf of a
55632 nonresident or resident principal broker who is licensed in this state.
55633 (4) (a) Except as provided in Subsection 61-2-9(1)(e)(iv), the application to be
55634 relicensed of an applicant who has had a real estate license revoked shall be treated as an
55635 original application.
55636 (b) In the case of an applicant for a new license as a principal broker or associate
55637 broker, the applicant is not entitled to credit for experience gained prior to the revocation of a
55638 real estate license.
55639 (5) (a) Notwithstanding Subsection (1), the commission may delegate to the division
55640 the authority to:
55641 (i) review a class or category of applications for initial or renewed licenses;

55642 (ii) determine whether an applicant meets the licensing criteria in Subsection (1); and
55643 (iii) approve or deny a license application without concurrence by the commission.
55644 (b) (i) If the commission delegates to the division the authority to approve or deny an
55645 application without concurrence by the commission and the division denies an application for
55646 licensure, the applicant who is denied licensure may petition the commission for review of the
55647 denial of licensure.
55648 (ii) An applicant who is denied licensure pursuant to this Subsection (5) may seek
55649 agency review by the executive director only after the commission has reviewed the division's
55650 denial of the applicant's application.
55651 Section 1078. Section **61-2-7.1** is amended to read:
55652 **61-2-7.1. Change of information -- Failure to notify -- Notification to an**
55653 **applicant, licensee, or certificate holder.**
55654 (1) An applicant, licensee, or certificate holder shall send the division a signed
55655 statement in the form required by the division notifying the division within ten business days of
55656 any change of:
55657 (a) principal broker;
55658 (b) principal business location;
55659 (c) mailing address;
55660 (d) home street address;
55661 (e) an individual's name; or
55662 (f) business name.
55663 (2) The division may charge a fee established in accordance with Section [~~63-38-3.2~~]
55664 63J-1-303 for processing any notification of change submitted by an applicant, licensee, or
55665 certificate holder.
55666 (3) (a) When providing the division a business location or home street address, a
55667 physical location or street address must be provided.
55668 (b) When providing a mailing address, an applicant, licensee, or certificate holder may
55669 provide a post office box or other mail drop location.
55670 (4) Failure to notify the division of a change described in Subsection (1) is separate
55671 grounds for disciplinary action against the applicant, licensee, or certificate holder.
55672 (5) An applicant, licensee, or certificate holder is considered to have received any

55673 notification that has been sent to the last address furnished to the division by the applicant,
55674 licensee, or certificate holder.
55675 Section 1079. Section **61-2-9** is amended to read:
55676 **61-2-9. Examination and license fees -- Criminal background check -- Renewal of**
55677 **licenses -- Education requirements -- Activation of inactive licenses -- Recertification --**
55678 **Licenses of firm, partnership, or association -- Miscellaneous fees.**
55679 (1) (a) Upon filing an application for a principal broker, associate broker, or sales agent
55680 license examination, the applicant shall pay a nonrefundable fee as determined by the
55681 commission with the concurrence of the division under Section [~~63-38-3.2~~] 63J-1-303 for
55682 admission to the examination.
55683 (b) A principal broker, associate broker, or sales agent applicant shall pay a
55684 nonrefundable fee as determined by the commission with the concurrence of the division under
55685 Section [~~63-38-3.2~~] 63J-1-303 for issuance of an initial license or license renewal.
55686 (c) Each license issued under this Subsection (1) shall be issued for a period of not less
55687 than two years as determined by the division with the concurrence of the commission.
55688 (d) (i) Any of the following applicants shall comply with this Subsection (1)(d):
55689 (A) a new sales agent applicant; or
55690 (B) an out-of-state broker applicant.
55691 (ii) An applicant described in this Subsection (1)(d) shall:
55692 (A) submit fingerprint cards in a form acceptable to the division at the time the license
55693 application is filed; and
55694 (B) consent to a criminal background check by the Utah Bureau of Criminal
55695 Identification and the Federal Bureau of Investigation regarding the application.
55696 (iii) The division shall request the Department of Public Safety to complete a Federal
55697 Bureau of Investigation criminal background check for each applicant described in this
55698 Subsection (1)(d) through the national criminal history system or any successor system.
55699 (iv) The cost of the criminal background check and the fingerprinting shall be borne by
55700 the applicant.
55701 (v) Funds paid to the division by an applicant for the cost of the criminal background
55702 check shall be nonlapsing.
55703 (e) (i) Any license issued under Subsection (1)(d) shall be conditional, pending

55704 completion of the criminal background check. If the criminal background check discloses the
55705 applicant has failed to accurately disclose a criminal history, the license shall be immediately
55706 and automatically revoked.
55707 (ii) Any person whose conditional license has been revoked under Subsection (1)(e)(i)
55708 shall be entitled to a post-revocation hearing to challenge the revocation. The hearing shall be
55709 conducted in accordance with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
55710 Procedures Act.
55711 (iii) The division director shall designate one of the following to act as the presiding
55712 officer in a postrevocation hearing described in this Subsection (1)(e):
55713 (A) the division; or
55714 (B) the division with the concurrence of the commission.
55715 (iv) The decision on whether relief from the revocation of a license under this
55716 Subsection (1)(e) will be granted shall be made by the presiding officer.
55717 (v) Relief from a revocation under this Subsection (1)(e) may be granted only if:
55718 (A) the criminal history upon which the division based the revocation:
55719 (I) did not occur; or
55720 (II) is the criminal history of another person;
55721 (B) (I) the revocation is based on a failure to accurately disclose a criminal history; and
55722 (II) the applicant had a reasonable good faith belief at the time of application that there
55723 was no criminal history to be disclosed; or
55724 (C) the division failed to follow the prescribed procedure for the revocation.
55725 (vi) If a license is revoked or a revocation under this Subsection (1)(e) is upheld after a
55726 post-revocation hearing, the person may not apply for a new license until at least 12 months
55727 after the day on which the license is revoked.
55728 (2) (a) (i) A license expires if it is not renewed on or before its expiration date.
55729 (ii) As a condition of renewal, each active licensee shall demonstrate competence:
55730 (A) by viewing an approved real estate education video program and completing a
55731 supplementary workbook; or
55732 (B) by completing 12 hours of professional education approved by the division and
55733 commission within each two-year renewal period.
55734 (iii) The division with the concurrence of the commission shall certify education which

55735 may include:
55736 (A) state conventions;
55737 (B) home study courses;
55738 (C) video courses; and
55739 (D) closed circuit television courses.
55740 (iv) The commission with concurrence of the division may exempt a licensee from the
55741 education requirement of this Subsection (2)(a) for a period not to exceed four years:
55742 (A) upon a finding of reasonable cause, including military service; and
55743 (B) under conditions established by rule made in accordance with [~~Title 63, Chapter~~
55744 ~~46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
55745 (b) For a period of 30 days after the expiration date of a license, the license may be
55746 reinstated upon:
55747 (i) payment of a renewal fee and a late fee determined by the commission with the
55748 concurrence of the division under Section [~~63-38-3.2~~] 63J-1-303; and
55749 (ii) providing proof acceptable to the division and the commission of the licensee
55750 having completed the hours of education or demonstrated competence as required under
55751 Subsection (2)(a).
55752 (c) After the 30-day period described in Subsection (2)(b), and until six months after
55753 the expiration date, the license may be reinstated by:
55754 (i) paying a renewal fee and a late fee determined by the commission with the
55755 concurrence of the division under Section [~~63-38-3.2~~] 63J-1-303;
55756 (ii) providing to the division proof of satisfactory completion of 12 hours of continuing
55757 education:
55758 (A) in addition to the requirements for a timely renewal; and
55759 (B) on a subject determined by the commission by rule made in accordance with [~~Title~~
55760 ~~63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
55761 (iii) providing proof acceptable to the division and the commission of the licensee
55762 having:
55763 (A) completed the hours of education; or
55764 (B) demonstrated competence as required under Subsection (2)(a).
55765 (d) A person who does not renew that person's license within six months after the

55766 expiration date shall be relicensed as prescribed for an original application.
55767 (3) (a) As a condition for the activation of an inactive license that was in an inactive
55768 status at the time of the licensee's most recent renewal, the licensee shall supply the division
55769 with proof of:
55770 (i) successful completion of the respective sales agent or broker licensing examination
55771 within six months prior to applying to activate the license; or
55772 (ii) the successful completion of 12 hours of continuing education that the licensee
55773 would have been required to complete under Subsection (2)(a) if the license had been on active
55774 status at the time of the licensee's most recent renewal.
55775 (b) The commission may, in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
55776 Chapter 3, Utah Administrative Rulemaking Act, establish by rule:
55777 (i) the nature or type of continuing education required for reactivation of a license; and
55778 (ii) how long prior to reactivation the continuing education must have been completed.
55779 (4) (a) A principal broker license may be granted to a corporation, partnership, or
55780 association if the corporation, partnership, or association has affiliated with it an individual
55781 who:
55782 (i) has qualified as a principal broker under the terms of this chapter; and
55783 (ii) serves in the capacity of a principal broker.
55784 (b) Application for the license described in Subsection (4)(a) shall be made in
55785 accordance with the rules adopted by the division with the concurrence of the commission.
55786 (5) The division may charge and collect reasonable fees determined by the commission
55787 with the concurrence of the division under Section [~~63-38-3.2~~] 63J-1-303 to cover the costs for:
55788 (a) issuance of a new or duplicate license;
55789 (b) license histories or certifications;
55790 (c) certified copies of official documents, orders, and other papers and transcripts;
55791 (d) certifying real estate schools, courses, and instructors, the fees for which shall,
55792 notwithstanding Section 13-1-2, be deposited in the Real Estate Education, Research, and
55793 Recovery Fund; and
55794 (e) other duties required by this chapter.
55795 (6) If a licensee submits or causes to be submitted a check, draft, or other negotiable
55796 instrument to the division for payment of fees, and the check, draft, or other negotiable

55797 instrument is dishonored, the transaction for which the payment was submitted is void and will
55798 be reversed by the division if payment of the applicable fee is not received in full.
55799 (7) (a) The fees under this chapter and the additional license fee for the Real Estate
55800 Education, Research, and Recovery Fund under Section 61-2a-4 are in lieu of all other license
55801 fees or assessments that might otherwise be imposed or charged by the state or any of its
55802 political subdivisions, upon, or as a condition of, the privilege of conducting the business
55803 regulated by this chapter, except that a political subdivision within the state may charge a
55804 business license fee on a principal broker if the principal broker maintains a place of business
55805 within the jurisdiction of the political subdivision.
55806 (b) Unless otherwise exempt, each licensee under this chapter is subject to all taxes
55807 imposed under Title 59, Revenue and Taxation.
55808 Section 1080. Section **61-2-10** is amended to read:
55809 **61-2-10. Restriction on commissions -- Affiliation with more than one broker --**
55810 **Specialized licenses -- Designation of agents or brokers.**
55811 (1) It is unlawful for any associate broker or sales agent to accept valuable
55812 consideration for the performance of any of the acts specified in this chapter from any person
55813 except the principal broker with whom [~~he~~] the associate broker or sales agent is affiliated and
55814 licensed.
55815 (2) An inactive associate broker or sales agent is not authorized to conduct real estate
55816 transactions until the inactive associate broker or sales agent becomes affiliated with a licensed
55817 principal broker and submits the required documentation to the division. An inactive principal
55818 broker is not authorized to conduct real estate transactions until the principal broker's license is
55819 activated with the division.
55820 (3) No sales agent or associate broker may affiliate with more than one principal broker
55821 at the same time.
55822 (4) (a) Except as provided by rule, a principal broker may not be responsible for more
55823 than one real estate brokerage at the same time.
55824 (b) In addition to issuing principal broker, associate broker, and sales agent licenses
55825 authorizing the performance of all of the acts set forth in Subsection 61-2-2(12), the division
55826 may issue specialized sales licenses and specialized property management licenses with the
55827 scope of practice limited to the specialty. An individual may hold a specialized license in

55828 addition to a license to act as a principal broker, an associate broker, or a sales agent. The
55829 commission may adopt rules pursuant to [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
55830 Administrative Procedures Act, for the administration of this provision, including prelicensing
55831 and postlicensing education requirements, examination requirements, affiliation with real estate
55832 brokerages or property management companies, and other licensing procedures.
55833 (c) An individual may not be a principal broker of a brokerage and a sales agent or
55834 associate broker for a different brokerage at the same time.
55835 (5) Any owner, purchaser, lessor, or lessee who engages the services of a principal
55836 broker may designate which sales agents or associate brokers affiliated with that principal
55837 broker will also represent that owner, purchaser, lessor, or lessee in the purchase, sale, lease, or
55838 exchange of real estate, or in exercising an option relating to real estate.
55839 Section 1081. Section **61-2-12** is amended to read:
55840 **61-2-12. Disciplinary action -- Judicial review.**
55841 (1) (a) On the basis of a violation of this chapter, the commission with the concurrence
55842 of the director, may issue an order:
55843 (i) imposing an educational requirement;
55844 (ii) imposing a civil penalty not to exceed the greater of:
55845 (A) $2,500 for each violation; or
55846 (B) the amount of any gain or economic benefit derived from each violation;
55847 (iii) taking any of the following actions related to a license or certificate:
55848 (A) revoking;
55849 (B) suspending;
55850 (C) placing on probation;
55851 (D) denying the renewal, reinstatement, or application for an original license or
55852 certificate; or
55853 (E) in the case of denial or revocation of a license or certificate, setting a waiting
55854 period for an applicant to apply for a license or certificate under this title;
55855 (iv) issuing a cease and desist order; or
55856 (v) doing any combination of Subsections (1)(a)(i) through (iv).
55857 (b) If the licensee is an active sales agent or active associate broker, the division shall
55858 inform the principal broker with whom the licensee is affiliated of the charge and of the time

55859 and place of any hearing.
55860 (2) (a) Any applicant, certificate holder, licensee, or person aggrieved, including the
55861 complainant, may obtain agency review by the executive director and judicial review of any
55862 adverse ruling, order, or decision of the division.
55863 (b) If the applicant, certificate holder, or licensee prevails in the appeal and the court
55864 finds that the state action was undertaken without substantial justification, the court may award
55865 reasonable litigation expenses to the applicant, certificate holder, or licensee as provided under
55866 Title 78, Chapter 27a, Small Business Equal Access to Justice Act.
55867 (c) (i) An order, ruling, or decision of the division shall take effect and become
55868 operative 30 days after the service of the order, ruling, or decision unless otherwise provided in
55869 the order.
55870 (ii) If an appeal is taken by a licensee, the division may stay enforcement of an order,
55871 ruling, or decision in accordance with Section [~~63-46b-18~~] 63G-4-405.
55872 (iii) The appeal shall be governed by the Utah Rules of Appellate Procedure.
55873 (3) The commission and the director shall comply with the procedures and
55874 requirements of [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act,
55875 in all adjudicative proceedings.
55876 Section 1082. Section **61-2-21** is amended to read:
55877 **61-2-21. Remedies and action for violations.**
55878 (1) (a) The director shall issue and serve upon a person an order directing that person to
55879 cease and desist from an act if:
55880 (i) the director has reason to believe that the person has been engaging, is about to
55881 engage, or is engaging in the act constituting a violation of this chapter; and
55882 (ii) it appears to the director that it would be in the public interest to stop the act.
55883 (b) Within ten days after receiving the order, the person upon whom the order is served
55884 may request an adjudicative proceeding.
55885 (c) Pending the hearing, any cease and desist order shall remain in effect.
55886 (d) If a request for a hearing is made, the division shall follow the procedures and
55887 requirements of [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
55888 (2) (a) After the hearing, if the commission and the director agree that the act of the
55889 person violates this chapter, the director:

55890 (i) shall issue an order making the order issued under Subsection (1) permanent; and
55891 (ii) may impose a civil penalty not to exceed the greater of:
55892 (A) $2,500 for each violation; or
55893 (B) the amount of any gain or economic benefit derived from each violation.
55894 (b) The director shall file suit in the name of the Department of Commerce and the
55895 Division of Real Estate, in the district court in the county in which an act described in
55896 Subsection (1) occurred or where the person resides or carries on business, to enjoin and
55897 restrain the person from violating this chapter if:
55898 (i) (A) no hearing is requested; and
55899 (B) the person fails to cease the act described in Subsection (1); or
55900 (ii) after discontinuing the act described in Subsection (1), the person again
55901 commences the act.
55902 (c) The district courts of this state shall have jurisdiction of an action brought under
55903 this section.
55904 (d) Upon a proper showing in an action brought under this section related to an
55905 undivided fractionalized long-term estate, the court may:
55906 (i) issue a permanent or temporary, prohibitory or mandatory injunction;
55907 (ii) issue a restraining order or writ of mandamus;
55908 (iii) enter a declaratory judgment;
55909 (iv) appoint a receiver or conservator for the defendant or the defendant's assets;
55910 (v) order disgorgement;
55911 (vi) order rescission;
55912 (vii) impose a civil penalty not to exceed the greater of:
55913 (A) $2,500 for each violation; or
55914 (B) the amount of any gain or economic benefit derived from each violation; and
55915 (viii) enter any other relief the court considers just.
55916 (e) The court may not require the division to post a bond in an action brought under
55917 this Subsection (2).
55918 (3) The remedies and action provided in this section may not interfere with, or prevent
55919 the prosecution of, any other remedies or actions including criminal proceedings.
55920 Section 1083. Section **61-2-26** is amended to read:

55921 **61-2-26. Rulemaking required for offer or sale of an undivided fractionalized**
55922 **long-term estate -- Disclosures -- Management agreement.**
55923 (1) (a) A licensee or certificate holder under this chapter who sells or offers to sell an
55924 undivided fractionalized long-term estate shall comply with the disclosure requirements
55925 imposed by rules made by the commission under this section.
55926 (b) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
55927 Administrative Rulemaking Act, the commission shall make rules as to the timing, form, and
55928 substance of disclosures required to be made by a licensee or certificate holder under this
55929 section.
55930 (2) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
55931 Administrative Rulemaking Act, the commission shall make rules imposing requirements for a
55932 management agreement related to an undivided fractionalized long-term estate that makes the
55933 offer or sale of the undivided fractionalized long-term estate treated as a real estate transaction
55934 and not treated as an offer or sale of a security under Chapter 1, Utah Uniform Securities Act.
55935 (3) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
55936 Administrative Rulemaking Act, the commission shall make rules establishing:
55937 (a) the disclosures required in the sale or offer of an undivided fractionalized long-term
55938 estate that is subject to a master lease;
55939 (b) requirements for the management of a master lease on an undivided fractionalized
55940 long-term estate; and
55941 (c) the requirements on the structure of a master lease on an undivided fractionalized
55942 long-term estate.
55943 Section 1084. Section **61-2-28** is amended to read:
55944 **61-2-28. Utah Housing Opportunity Restricted Account.**
55945 (1) There is created in the General Fund a restricted account known as the "Utah
55946 Housing Opportunity Restricted Account."
55947 (2) The account shall be funded by:
55948 (a) contributions deposited into the Utah Housing Opportunity Restricted Account in
55949 accordance with Section 41-1a-422;
55950 (b) private contributions;
55951 (c) donations or grants from public or private entities; and

55952 (d) interest and earnings on fund monies.
55953 (3) Funds in the account are nonlapsing.
55954 (4) The Legislature shall appropriate money in the account to the division.
55955 (5) The division shall distribute the funds to one or more charitable organizations that:
55956 (a) qualify as being tax exempt under Section 501(c)(3), Internal Revenue Code; and
55957 (b) have as a primary part of their mission to provide support to organizations that
55958 create affordable housing for those in severe need.
55959 (6) The division may only consider proposals that are:
55960 (a) proposed by an organization under Subsection (5); and
55961 (b) designed to provide support to organizations that create affordable housing for
55962 those in severe need.
55963 (7) (a) An organization described in Subsection (5) may apply to the division to receive
55964 a distribution in accordance with Subsection (5).
55965 (b) An organization that receives a distribution from the division in accordance with
55966 Subsection (5) shall expend the distribution only to provide support to organizations that create
55967 affordable housing for those in severe need.
55968 (8) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
55969 Administrative Rulemaking Act, the division shall make rules providing procedures for an
55970 organization to apply to receive funds under this section.
55971 Section 1085. Section **61-2b-2** is amended to read:
55972 **61-2b-2. Definitions.**
55973 (1) As used in this chapter:
55974 (a) (i) "Appraisal" means an unbiased analysis, opinion, or conclusion relating to the
55975 nature, quality, value, or utility of specified interests in, or aspects of, identified real estate or
55976 identified real property.
55977 (ii) An appraisal shall be classified by the nature of the assignment as a valuation
55978 appraisal, an analysis assignment, or a review assignment in accordance with the following
55979 definitions:
55980 (A) "Valuation appraisal" means an unbiased analysis, opinion, or conclusion that
55981 estimates the value of an identified parcel of real estate or identified real property at a particular
55982 point in time.

55983 (B) "Analysis assignment" means an unbiased analysis, opinion, or conclusion that
55984 relates to the nature, quality, or utility of identified real estate or identified real property.
55985 (C) "Review assignment" means an unbiased analysis, opinion, or conclusion that
55986 forms an opinion as to the adequacy and appropriateness of a valuation appraisal or an analysis
55987 assignment.
55988 (b) "Appraisal Foundation" means the Appraisal Foundation that was incorporated as
55989 an Illinois not-for-profit corporation on November 30, 1987.
55990 (c) (i) "Appraisal report" means any communication, written or oral, of an appraisal.
55991 (ii) An appraisal report shall be classified by the nature of the assignment as a
55992 valuation report, analysis report, or review report in accordance with the definitions provided in
55993 Subsection (1)(a)(ii).
55994 (iii) The testimony of a person relating to the person's analyses, conclusions, or
55995 opinions concerning identified real estate or identified real property is considered to be an oral
55996 appraisal report.
55997 (d) "Board" means the Real Estate Appraiser Licensing and Certification Board that is
55998 established in Section 61-2b-7.
55999 (e) "Certified appraisal report" means a written or oral appraisal report that is certified
56000 by a state-certified general appraiser or state-certified residential appraiser.
56001 (f) (i) (A) "Consultation service" means an engagement to provide a real estate
56002 valuation service analysis, opinion, conclusion, or other service that does not fall within the
56003 definition of appraisal.
56004 (B) "Consultation service" does not mean a valuation appraisal, analysis assignment, or
56005 review assignment.
56006 (ii) Regardless of the intention of the client or employer, if a person prepares an
56007 unbiased analysis, opinion, or conclusion, the analysis, opinion, or conclusion is considered to
56008 be an appraisal and not a consultation service.
56009 (g) "Contingent fee" means a fee or other form of compensation, payment of which is
56010 dependent on or conditioned by:
56011 (i) the reporting of a predetermined analysis, opinion, or conclusion by the person
56012 performing the analysis, opinion, or conclusion; or
56013 (ii) achieving a result specified by the person requesting the analysis, opinion, or

56014 conclusion.
56015 (h) "Division" means the Division of Real Estate of the Department of Commerce.
56016 (i) "Federally related transaction" means any real estate related transaction that is
56017 required by federal law or by federal regulation to be supported by an appraisal prepared by:
56018 (i) a state-licensed appraiser; or
56019 (ii) a state-certified appraiser.
56020 (j) "Real estate" means an identified parcel or tract of land including improvements if
56021 any.
56022 (k) "Real estate appraisal activity" means the act or process of making an appraisal of
56023 real estate or real property and preparing an appraisal report.
56024 (l) "Real estate related transaction" means:
56025 (i) the sale, lease, purchase, investment in, or exchange of real property or an interest in
56026 real property, or the financing of such a transaction;
56027 (ii) the refinancing of real property or an interest in real property; or
56028 (iii) the use of real property or an interest in real property as security for a loan or
56029 investment, including mortgage-backed securities.
56030 (m) "Real property" means one or more defined interests, benefits, or rights inherent in
56031 the ownership of real estate.
56032 (n) "State-certified general appraiser" means a person who holds a current, valid
56033 certification as a state-certified general appraiser issued under this chapter.
56034 (o) "State-certified residential appraiser" means a person who holds a current, valid
56035 certification as a state-certified residential real estate appraiser issued under this chapter.
56036 (p) "State-licensed appraiser" means a person who holds a current, valid license as a
56037 state-licensed appraiser issued under this chapter.
56038 (q) "State-registered appraiser" means a person who before May 3, 1999, was
56039 registered as an appraiser under this chapter.
56040 (r) "Trainee" means an individual who:
56041 (i) does not hold an appraiser license or appraiser certification issued under this
56042 chapter; and
56043 (ii) works under the direct supervision of a state-licensed appraiser or state-certified
56044 appraiser to earn experience for licensure.

56045 (s) "Unbiased analysis, opinion, or conclusion" means an analysis, opinion, or
56046 conclusion relating to the nature, quality, value, or utility of identified real estate or identified
56047 real property that is prepared by a person who is employed or retained to act, or would be
56048 perceived by third parties or the public as acting, as a disinterested third party in rendering the
56049 analysis, opinion, or conclusion.
56050 (2) (a) If a term not defined in this section is defined by rule, the term shall have the
56051 meaning established by the division by rule made in accordance with [~~Title 63, Chapter 46a~~]
56052 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
56053 (b) If a term not defined in this section is not defined by rule, the term shall have the
56054 meaning commonly accepted in the business community.
56055 Section 1086. Section **61-2b-6** is amended to read:
56056 **61-2b-6. Duties and powers of division.**
56057 (1) The division shall have the powers and duties listed in this Subsection (1).
56058 (a) The division shall:
56059 (i) receive applications for licensing and certification;
56060 (ii) establish appropriate administrative procedures for the processing of applications
56061 for licensure or certification;
56062 (iii) issue licenses and certifications to qualified applicants pursuant to this chapter;
56063 and
56064 (iv) maintain a registry of the names and addresses of individuals who are currently
56065 licensed or certified as appraisers under this chapter.
56066 (b) (i) The division shall require a trainee to notify the division that the trainee is acting
56067 in the capacity of a trainee earning experience for licensure.
56068 (ii) The board shall adopt rules in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
56069 Chapter 3, Utah Administrative Rulemaking Act, for the trainee notification required by this
56070 Subsection (1)(b).
56071 (c) The division shall hold public hearings under the direction of the board.
56072 (d) The division may:
56073 (i) solicit bids and enter into contracts with one or more educational testing services or
56074 organizations for the preparation of a bank of questions and answers approved by the board for
56075 licensing and certification examinations; and

56076 (ii) administer or contract for the administration of licensing and certification
56077 examinations as may be required to carry out the division's responsibilities under this chapter.
56078 (e) The division shall provide administrative assistance to the board by providing to the
56079 board the facilities, equipment, supplies, and personnel that are required to enable the board to
56080 carry out the board's responsibilities under this chapter.
56081 (f) The division shall assist the board in upgrading and improving the quality of the
56082 education and examinations required under this chapter.
56083 (g) The division shall assist the board in improving the quality of the continuing
56084 education available to persons licensed and certified under this chapter.
56085 (h) The division shall assist the board with respect to the proper interpretation or
56086 explanation of the Uniform Standards of Professional Appraisal Practice as required by Section
56087 61-2b-27 when an interpretation or explanation becomes necessary in the enforcement of this
56088 chapter.
56089 (i) The division shall establish fees in accordance with Section [~~63-38-3.2~~] 63J-1-303:
56090 (i) for processing:
56091 (A) trainee notifications;
56092 (B) applications for licensing and certification; and
56093 (C) registration of expert witnesses; and
56094 (ii) for all other functions required or permitted by this chapter.
56095 (j) The division may:
56096 (i) investigate complaints against:
56097 (A) trainees; or
56098 (B) persons licensed or certified under this chapter;
56099 (ii) subpoena witnesses and the production of books, documents, records, and other
56100 papers;
56101 (iii) administer oaths; and
56102 (iv) take testimony and receive evidence concerning all matters within the division's
56103 jurisdiction.
56104 (k) The division may promote research and conduct studies relating to the profession of
56105 real estate appraising and sponsor real estate appraisal educational activities.
56106 (l) The division shall adopt, with the concurrence of the board, rules for the

56107 administration of this chapter pursuant to [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
56108 Administrative Rulemaking Act, that are not inconsistent with this chapter or the constitution
56109 and laws of this state or of the United States.
56110 (m) The division shall employ an appropriate staff to investigate allegations that
56111 persons licensed or certified under this chapter failed to comply with this chapter.
56112 (n) The division may employ such other professional, clerical, and technical staff as
56113 may be necessary to properly administer the work of the division under this chapter.
56114 (o) The division may make available, at a reasonable cost determined by the division, a
56115 list of the names and addresses of all persons licensed or certified by the division under this
56116 chapter to the extent the information is a public record under [~~Title 63, Chapter 2~~] Title 63G,
56117 Chapter 2, Government Records Access and Management Act.
56118 (2) (a) The division shall register expert witnesses who are not otherwise licensed or
56119 certified under this chapter to appear in all administrative and judicial tax proceedings to
56120 provide evidence related to the valuation of real property that is assessed by the tax
56121 commission, provided that the:
56122 (i) registration is limited to a specific proceeding;
56123 (ii) registration is valid until the proceeding becomes final;
56124 (iii) applicant pays a registration fee to the division;
56125 (iv) applicant provides the applicant's name, address, occupation, and professional
56126 credentials; and
56127 (v) applicant provides a notarized statement that:
56128 (A) the applicant is competent to render an appraisal and to testify as an expert witness
56129 in the proceeding; and
56130 (B) the appraisal and testimony to be offered shall be in accordance with the Uniform
56131 Standards of Professional Appraisal Practice adopted by the board.
56132 (b) Subsection (2)(a) shall be effective for all administrative and judicial property tax
56133 proceedings related to the valuation of real property that is assessed by the tax commission,
56134 including those filed but which are not final as of May 3, 1994.
56135 (3) The division shall be immune from any civil action or criminal prosecution for
56136 initiating or assisting in any lawful investigation of the actions of or participating in any
56137 disciplinary proceeding concerning a trainee or a person licensed, certified, or registered as an

56138 expert witness pursuant to this chapter if the action is taken without malicious intent and in the
56139 reasonable belief that the action was taken pursuant to the powers and duties vested in the
56140 members of the division under this chapter.
56141 Section 1087. Section **61-2b-8** is amended to read:
56142 **61-2b-8. Duties of board.**
56143 The board shall provide technical assistance to the division relating to real estate
56144 appraisal standards and real estate appraiser qualifications and shall have the responsibilities,
56145 powers, and duties listed in this section.
56146 (1) The board shall:
56147 (a) determine the experience, education, and examination requirements appropriate for
56148 persons licensed under this chapter;
56149 (b) determine the experience, education, and examination requirements appropriate for
56150 persons certified under this chapter in compliance with the minimum requirements of Financial
56151 Institutions Reform, Recovery, and Enforcement Act of 1989, and consistent with the intent of
56152 this chapter;
56153 (c) determine the appraisal related acts that may be performed by:
56154 (i) a trainee on the basis of the trainee's education and experience;
56155 (ii) clerical staff; and
56156 (iii) a person who:
56157 (A) does not hold a license or certification; and
56158 (B) assists appraisers licensed or certified under this chapter in providing appraisal
56159 services or consultation services;
56160 (d) determine the procedures for a trainee notifying the division that the trainee will
56161 assist persons licensed or certified under this chapter in providing appraisal services or
56162 consultation services; and
56163 (e) develop programs to upgrade and improve the experience, education, and
56164 examinations as required under this chapter.
56165 (2) (a) The experience, education, and examination requirements established by the
56166 board for persons licensed or certified under this chapter shall be the minimum criteria
56167 established by the Appraiser Qualification Board of the Appraisal Foundation, unless, after
56168 notice and a public hearing held in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter

56169 3, Utah Administrative Rulemaking Act, the board finds that the minimum criteria are not
56170 appropriate for state-licensed appraisers or state-certified appraisers in this state.
56171 (b) If under Subsection (2)(a) the board makes a finding that the minimum criteria are
56172 not appropriate, the board shall recommend appropriate criteria to the Legislature.
56173 (3) The board shall:
56174 (a) determine the continuing education requirements appropriate for the renewal of
56175 licenses and certifications issued under this chapter;
56176 (b) develop programs to upgrade and improve continuing education; and
56177 (c) recommend to the division available continuing education courses that meet the
56178 requirements of this chapter.
56179 (4) (a) The board shall consider the proper interpretation or explanation of the Uniform
56180 Standards of Professional Appraisal Practice as required by Section 61-2b-27 when:
56181 (i) an interpretation or explanation becomes necessary in the enforcement of this
56182 chapter; and
56183 (ii) the Appraisal Standards Board of the Appraisal Foundation has not as yet issued an
56184 interpretation or explanation.
56185 (b) If the conditions of Subsection (4)(a) are met, the board shall recommend to the
56186 division the appropriate interpretation or explanation that the division should adopt as a rule
56187 under this chapter.
56188 (5) The board shall develop and establish or approve the examination specifications
56189 and the minimum score required to pass the examinations for licensure and certification.
56190 (6) The board shall review the:
56191 (a) bank of questions and answers that comprise the examination for persons licensed
56192 and certified under this chapter;
56193 (b) procedure that is established for selecting individual questions from the bank of
56194 questions for use in each scheduled examination; and
56195 (c) questions in the bank of questions and the related answers to determine whether
56196 they meet the examination specifications established by the board.
56197 (7) (a) The board shall conduct administrative hearings, not delegated by the board to
56198 an administrative law judge, in connection with all disciplinary proceedings under Sections
56199 61-2b-30 and 61-2b-31 concerning:

56200 (i) a person licensed or certified under this chapter; and
56201 (ii) the person's failure to comply with this chapter and the Uniform Standards of
56202 Professional Appraisal Practice as adopted under Section 61-2b-27.
56203 (b) The board shall issue in each administrative hearing a decision that contains
56204 findings of fact and conclusions of law.
56205 (c) When a determination is made that a person licensed or certified under this chapter
56206 has violated any provision of this chapter, the division shall implement disciplinary action
56207 determined by the board.
56208 (8) The members of the board shall be immune from any civil action or criminal
56209 prosecution for any disciplinary proceeding concerning a person registered, licensed, or
56210 certified under this chapter if the action is taken without malicious intent and in the reasonable
56211 belief that the action taken was taken pursuant to the powers and duties vested in the members
56212 of the board under this chapter.
56213 (9) The board shall require and pass upon proof necessary to determine the honesty,
56214 competency, integrity, and truthfulness of each applicant for original or renewal licensure or
56215 certification.
56216 Section 1088. Section **61-2b-18** is amended to read:
56217 **61-2b-18. Application for certification or licensure -- Registration as an expert**
56218 **witness.**
56219 (1) An application for the following shall be sent to the division on forms approved by
56220 the division:
56221 (a) original certification or licensure;
56222 (b) registration as an expert witness; and
56223 (c) renewal of certification or licensure.
56224 (2) The payment of the appropriate fee, as fixed by the division with the concurrence of
56225 the board in accordance with Section [~~63-38-3.2~~] 63J-1-303, must accompany an application
56226 for:
56227 (a) registration as an expert witness;
56228 (b) original certification or licensure; and
56229 (c) renewal of certification or licensure.
56230 (3) At the time of filing an application described in Subsection (1), each applicant

56231 shall:
56232 (a) sign a pledge to comply with the Uniform Standards of Professional Appraisal
56233 Practice and the ethical rules to be observed by an appraiser that are established under Section
56234 61-2b-27 for certified or licensed appraisers or registered expert witnesses under this chapter;
56235 and
56236 (b) certify that the applicant understands the types of misconduct, as set forth in this
56237 chapter, for which disciplinary proceedings may be initiated against persons certified or
56238 licensed under this chapter.
56239 Section 1089. Section **61-2b-21** is amended to read:
56240 **61-2b-21. Denial of licensure or certification.**
56241 The division may, upon compliance with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
56242 Administrative Procedures Act, deny the issuance of a license or certification to an applicant on
56243 any of the grounds enumerated in this chapter.
56244 Section 1090. Section **61-2b-22** is amended to read:
56245 **61-2b-22. Licensing, certification, or expert witness requirements for**
56246 **nonresidents -- Temporary license or certificate -- Revocation.**
56247 (1) Each applicant for registration as an expert witness, licensure, or certification under
56248 this chapter who is not a resident of this state shall submit with the applicant's application an
56249 irrevocable consent that service of process upon the applicant may be made by delivery of the
56250 process to the director of the division if, in an action against the applicant in a court of this state
56251 arising out of the applicant's activities as a real estate appraiser in this state, the plaintiff cannot,
56252 in the exercise of due diligence, obtain personal service upon the applicant.
56253 (2) A nonresident of this state who has complied with the provisions of Subsection (1)
56254 may obtain a registration as an expert witness, a license, or a certification in this state by
56255 complying with all of the provisions of this chapter relating to registration of expert witnesses,
56256 licensure, or certification.
56257 (3) A nonresident of this state who has complied with the provisions of Subsection (1)
56258 may obtain a temporary license or certification to perform a contract relating to the appraisal of
56259 real estate or real property in this state. To qualify for the issuance of a temporary license or
56260 certification, an applicant must:
56261 (a) submit an application on a form approved by the division;

56262 (b) submit evidence that the applicant is licensed or certified in the state in which the
56263 applicant primarily conducts business;
56264 (c) certify that no formal charges alleging violation of state appraisal licensing or
56265 certification laws have been filed against the applicant by the applicant's state of domicile; and
56266 (d) pay an application fee in an amount established by the division with the
56267 concurrence of the board.
56268 (4) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
56269 Administrative Rulemaking Act, the division, with the concurrence of the board, shall make
56270 rules establishing the duration of a temporary permit and procedures for renewal of a temporary
56271 permit.
56272 (5) A temporary permit issued under this section shall be immediately and
56273 automatically revoked if the appraiser's license or certification is suspended or revoked in the
56274 appraiser's state of domicile.
56275 (6) Any person whose license or certification has been revoked under Subsection (5) is
56276 entitled to a postrevocation hearing to challenge the revocation. The hearing shall be
56277 conducted in accordance with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
56278 Procedures Act.
56279 Section 1091. Section **61-2b-27** is amended to read:
56280 **61-2b-27. Professional conduct -- Uniform standards.**
56281 (1) (a) Each person licensed, certified, or registered as an expert witness under this
56282 chapter must comply with generally accepted standards of professional appraisal practice and
56283 generally accepted ethical rules to be observed by a real estate appraiser.
56284 (b) Generally accepted standards of professional appraisal practice are evidenced by the
56285 Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal
56286 Foundation.
56287 (c) After a public hearing held in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
56288 Chapter 3, Utah Administrative Rulemaking Act, the board shall adopt and may make
56289 modifications of or additions to the Uniform Standards of Professional Appraisal Practice as
56290 the board considers appropriate to comply with the Financial Institutions Reform, Recovery,
56291 and Enforcement Act of 1989.
56292 (2) If the Appraisal Standards Board of the Appraisal Foundation modifies the Uniform

56293 Standards of Professional Appraisal Practice, issues supplemental appraisal standards which it
56294 considers appropriate for residential real estate appraisers or for general real estate appraisers,
56295 or issues ethical rules to be observed by a real estate appraiser and requests the board to
56296 consider the adoption of the modified or supplemental standards or ethical rules, the board
56297 shall schedule a public hearing pursuant to [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
56298 Administrative Rulemaking Act, for the purpose of deciding whether or not the board should
56299 require the modified or supplemental standards or the ethical rules to be observed by persons
56300 licensed, certified, or registered as an expert witness under this chapter.
56301 (3) If, after the notice and public hearing, the board finds that the modified or
56302 supplemental standards or the ethical rules issued by the Appraisal Standards Board of the
56303 Appraisal Foundation are appropriate for persons licensed, certified, or registered as an expert
56304 witness under this chapter, the board shall recommend rules requiring all persons licensed,
56305 certified, or registered as an expert witness under this chapter to observe the modified or
56306 supplemental standards or the ethical rules.
56307 Section 1092. Section **61-2b-28** is amended to read:
56308 **61-2b-28. Enforcement -- Investigation -- Orders -- Hearings.**
56309 (1) (a) The division may investigate the actions of:
56310 (i) any person licensed or certified under this chapter;
56311 (ii) an applicant for licensure or certification;
56312 (iii) an applicant for renewal of licensure or certification; or
56313 (iv) a person required to be licensed or certified under this chapter.
56314 (b) The division may initiate an agency action against a person described in Subsection
56315 (1)(a) in accordance with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
56316 Procedures Act, to:
56317 (i) impose disciplinary action;
56318 (ii) deny issuance to an applicant of an original or renewal license or certification; or
56319 (iii) issue a cease and desist order as provided in Subsection (3).
56320 (2) (a) The division may:
56321 (i) administer an oath or affirmation;
56322 (ii) subpoena witnesses;
56323 (iii) take evidence; and

56324 (iv) require the production of books, papers, contracts, records, other documents, or
56325 information relevant to the investigation described in Subsection (1).
56326 (b) The division may serve subpoenas by certified mail.
56327 (c) Each failure to respond to a request by the division in an investigation authorized
56328 under this chapter is considered to be a separate violation of this chapter, including:
56329 (i) failing to respond to a subpoena;
56330 (ii) withholding evidence; or
56331 (iii) failing to produce documents or records.
56332 (3) (a) The director shall issue and serve upon a person an order directing that person to
56333 cease and desist from an act if:
56334 (i) the director has reason to believe that the person has been engaging, is about to
56335 engage, or is engaging in the act constituting a violation of this chapter; and
56336 (ii) it appears to the director that it would be in the public interest to stop the act.
56337 (b) Within ten days after receiving the order, the person upon whom the order is served
56338 may request an adjudicative proceeding.
56339 (c) Pending the hearing, the cease and desist order shall remain in effect.
56340 (d) If a request for hearing is made, the division shall follow the procedures and
56341 requirements of [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
56342 (4) (a) After the hearing, if the board agrees that the acts of the person violate this
56343 chapter, the board:
56344 (i) shall issue an order making the cease and desist order permanent; and
56345 (ii) may impose a civil penalty not to exceed the greater of:
56346 (A) $2,500 for each violation; or
56347 (B) the amount of any gain or economic benefit derived from each violation.
56348 (b) The director shall commence an action in the name of the Department of
56349 Commerce and Division of Real Estate, in the district court in the county in which an act
56350 described in Subsection (3) occurs or where the person resides or carries on business, to enjoin
56351 and restrain the person from violating this chapter if:
56352 (i) (A) no hearing is requested; and
56353 (B) the person fails to cease the act described in Subsection (3); or
56354 (ii) after discontinuing the act described in Subsection (3), the person again

56355 commences the act.
56356 (5) The remedies and action provided in this section do not limit, interfere with, or
56357 prevent the prosecution of any other remedies or actions including criminal proceedings.
56358 Section 1093. Section **61-2b-30** is amended to read:
56359 **61-2b-30. Compliance with Administrative Procedures Act.**
56360 The division and board shall comply with [~~Title 63, Chapter 46b, the~~] Title 63G,
56361 Chapter 4, Administrative Procedures Act, in conducting any disciplinary proceedings under
56362 this chapter.
56363 Section 1094. Section **61-2b-37** is amended to read:
56364 **61-2b-37. Division service fees -- Federal registry fees.**
56365 (1) The division, with the concurrence of the board, shall establish and collect fees in
56366 accordance with Section [~~63-38-3.2~~] 63J-1-303 for its services under this chapter.
56367 (2) The division shall collect the annual registry fee established by the Federal
56368 Financial Institutions Examinations Council from those certificate holders who seek to perform
56369 appraisals in federally related transactions. The division shall transmit the fees to the federal
56370 Appraisal Subcommittee at least annually.
56371 Section 1095. Section **61-2c-102** is amended to read:
56372 **61-2c-102. Definitions.**
56373 (1) As used in this chapter:
56374 (a) "Affiliate" means an individual or an entity that directly, or indirectly through one
56375 or more intermediaries, controls or is controlled by, or is under common control with, a
56376 specified individual or entity.
56377 (b) "Applicant" means an individual or entity applying for a license under this chapter.
56378 (c) "Associate lending manager" means a person who:
56379 (i) has qualified under this chapter as a principal lending manager; and
56380 (ii) works by or on behalf of another principal lending manager in transacting the
56381 business of residential mortgage loans.
56382 (d) "Branch office" means a licensed entity's office:
56383 (i) for the transaction of the business of residential mortgage loans regulated under this
56384 chapter; and
56385 (ii) other than the main office of the licensed entity.

56386 (e) (i) "Business of residential mortgage loans" means for compensation to:
56387 (A) make or originate a residential mortgage loan;
56388 (B) directly or indirectly solicit, place, or negotiate a residential mortgage loan for
56389 another; or
56390 (C) render services related to the origination of a residential mortgage loan including:
56391 (I) taking applications; and
56392 (II) communicating with the borrower and lender.
56393 (ii) "Business of residential mortgage loans" does not include:
56394 (A) the performance of clerical functions such as:
56395 (I) gathering information related to a residential mortgage loan on behalf of the
56396 prospective borrower or a person licensed under this chapter; or
56397 (II) requesting or gathering information, word processing, sending correspondence, or
56398 assembling files by an individual who works under the instruction of a person licensed under
56399 this chapter;
56400 (B) ownership of an entity that engages in the business of residential mortgage loans if
56401 the owner does not personally perform the acts listed in Subsection (1)(e)(i);
56402 (C) acting as a loan wholesaler;
56403 (D) acting as an account executive for a loan wholesaler;
56404 (E) acting as a loan underwriter;
56405 (F) acting as a loan closer; or
56406 (G) funding a loan.
56407 (f) "Closed-end" means a loan with a fixed amount borrowed and which does not
56408 permit additional borrowing secured by the same collateral.
56409 (g) "Commission" means the Residential Mortgage Regulatory Commission created in
56410 Section 61-2c-104.
56411 (h) "Compensation" means anything of economic value that is paid, loaned, granted,
56412 given, donated, or transferred to an individual or entity for or in consideration of:
56413 (i) services;
56414 (ii) personal or real property; or
56415 (iii) other thing of value.
56416 (i) "Control," as used in Subsection (1)(a), means the power to directly or indirectly:

56417 (i) direct or exercise a controlling interest over:
56418 (A) the management or policies of an entity; or
56419 (B) the election of a majority of the directors, officers, managers, or managing partners
56420 of an entity;
56421 (ii) vote 20% or more of any class of voting securities of an entity by an individual; or
56422 (iii) vote more than 5% of any class of voting securities of any entity by another entity.
56423 (j) "Depository institution" is as defined in Section 7-1-103.
56424 (k) "Director" means the director of the division.
56425 (l) "Division" means the Division of Real Estate.
56426 (m) "Dwelling" means a residential structure attached to real property that contains one
56427 to four units including any of the following if used as a residence:
56428 (i) a condominium unit;
56429 (ii) a cooperative unit;
56430 (iii) a manufactured home; or
56431 (iv) a house.
56432 (n) "Entity" means any corporation, limited liability company, partnership, company,
56433 association, joint venture, business trust, trust, or other organization.
56434 (o) "Executive director" means the executive director of the Department of Commerce.
56435 (p) "Inactive status" means a dormant status into which an unexpired license is placed
56436 when the holder of the license is not currently engaging in the business of residential mortgage
56437 loans.
56438 (q) "Lending manager" or "principal lending manager" means a person licensed as a
56439 principal lending manager under Section 61-2c-206.
56440 (r) "Licensee" means an individual or entity licensed with the division under this
56441 chapter.
56442 (s) (i) Except as provided in Subsection (1)(s)(ii), "mortgage officer" means an
56443 individual who is licensed with the division to transact the business of residential mortgage
56444 loans through a principal lending manager.
56445 (ii) "Mortgage officer" does not include a principal lending manager.
56446 (t) "Record" means information that is:
56447 (i) prepared, owned, received, or retained by an individual or entity; and

56448 (ii) (A) inscribed on a tangible medium; or
56449 (B) (I) stored in an electronic or other medium; and
56450 (II) retrievable in perceivable form.
56451 (u) "Residential mortgage loan" means a closed-end, first mortgage loan or extension
56452 of credit, if:
56453 (i) the loan or extension of credit is secured by a:
56454 (A) mortgage;
56455 (B) deed of trust; or
56456 (C) lien interest; and
56457 (ii) the mortgage, deed of trust, or lien interest described in Subsection (1)(u)(i):
56458 (A) is on a dwelling located in the state; and
56459 (B) created with the consent of the owner of the residential real property.
56460 (v) "State" means:
56461 (i) a state, territory, or possession of the United States;
56462 (ii) the District of Columbia; or
56463 (iii) the Commonwealth of Puerto Rico.
56464 (2) (a) If a term not defined in this section is defined by rule, the term shall have the
56465 meaning established by the division by rule made in accordance with [~~Title 63, Chapter 46a~~]
56466 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
56467 (b) If a term not defined in this section is not defined by rule, the term shall have the
56468 meaning commonly accepted in the business community.
56469 Section 1096. Section **61-2c-103** is amended to read:
56470 **61-2c-103. Powers and duties of the division.**
56471 (1) The division shall administer this chapter.
56472 (2) In addition to any power or duty expressly provided in this chapter, the division
56473 may:
56474 (a) receive and act on complaints including:
56475 (i) taking action designed to obtain voluntary compliance with this chapter; or
56476 (ii) commencing administrative or judicial proceedings on the division's own initiative;
56477 (b) establish programs for the education of consumers with respect to residential
56478 mortgage loans;

56479 (c) (i) make studies appropriate to effectuate the purposes and policies of this chapter;
56480 and
56481 (ii) make the results of the studies described in Subsection (2)(c)(i) available to the
56482 public;
56483 (d) visit and investigate an entity licensed under this chapter, regardless of whether the
56484 entity is located in Utah; and
56485 (e) employ any necessary hearing examiners, investigators, clerks, and other employees
56486 and agents.
56487 (3) The division shall make rules for the administration of this chapter in accordance
56488 with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
56489 including:
56490 (a) licensure procedures for:
56491 (i) individuals and entities required by this chapter to obtain a license with the division;
56492 and
56493 (ii) the establishment of a branch office by an entity;
56494 (b) proper handling of funds received by licensees;
56495 (c) record-keeping requirements by licensees; and
56496 (d) standards of conduct for licensees.
56497 (4) The division may make available to the public a list of the names and mailing
56498 addresses of all licensees:
56499 (a) either directly or through a third party; and
56500 (b) at a reasonable cost.
56501 (5) The division shall:
56502 (a) certify education providers who offer:
56503 (i) prelicensing education to candidates for licensure under this chapter; or
56504 (ii) continuing education to individuals licensed under this chapter; and
56505 (b) make available to the public, licensees, and candidates for licensure a list of the
56506 names and addresses of all education providers certified under this Subsection (5).
56507 (6) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
56508 Administrative Rulemaking Act, the division shall make rules establishing:
56509 (a) certification criteria and procedures for providers of prelicensing education and

56510 continuing education; and
56511 (b) standards of conduct for certified education providers.
56512 (7) The division may charge a fee established in accordance with Section [~~63-38-3.2~~]
56513 63J-1-303 for processing any of the changes that a licensee is required by Section 61-2c-205 to
56514 report to the division.
56515 Section 1097. Section **61-2c-104** is amended to read:
56516 **61-2c-104. Residential Mortgage Regulatory Commission.**
56517 (1) (a) There is created within the division the Residential Mortgage Regulatory
56518 Commission consisting of the following members appointed by the executive director with the
56519 approval of the governor:
56520 (i) four members having at least three years of experience in transacting the business of
56521 residential mortgage loans and who are currently licensed under this chapter; and
56522 (ii) one member from the general public.
56523 (b) (i) The executive director with the approval of the governor may appoint an
56524 alternate member to the board.
56525 (ii) The alternate member shall:
56526 (A) at the time of the appointment, have at least three years of experience in transacting
56527 the business of residential mortgage loans; and
56528 (B) be licensed under this chapter at the time of and during appointment.
56529 (2) (a) Except as required by Subsection (2)(b), the executive director shall appoint
56530 each new member or reappointed member subject to appointment by the executive director to a
56531 four-year term ending June 30.
56532 (b) Notwithstanding the requirements of Subsection (2)(a), the executive director shall,
56533 at the time of appointment or reappointment, adjust the length of terms to ensure that the terms
56534 of commission members are staggered so that approximately half of the commission is
56535 appointed every two years.
56536 (c) If a vacancy occurs in the membership of the commission for any reason, the
56537 replacement shall be appointed for the unexpired term.
56538 (3) Members of the commission shall annually select one member to serve as chair.
56539 (4) (a) The commission shall meet at least quarterly.
56540 (b) The director may call a meeting in addition to the meetings required by Subsection

56541 (4)(a):
56542 (i) at the discretion of the director;
56543 (ii) at the request of the chair of the commission; or
56544 (iii) at the written request of three or more commission members.
56545 (5) (a) Three members of the commission constitute a quorum for the transaction of
56546 business.
56547 (b) If a quorum of members is unavailable for any meeting and an alternate member
56548 has been appointed to the commission by the executive director with the approval of the
56549 governor, the alternate member shall serve as a regular member of the commission for that
56550 meeting if with the presence of the alternate member there is a quorum present at the meeting.
56551 (c) The action of a majority of a quorum present is an action of the commission.
56552 (6) (a) (i) A member who is not a government employee shall receive no compensation
56553 or benefits for the member's services, but may receive per diem and expenses incurred in the
56554 performance of the member's official duties at the rates established by the Division of Finance
56555 under Sections 63A-3-106 and 63A-3-107.
56556 (ii) A member who is not a government employee may decline to receive per diem and
56557 expenses for the member's service.
56558 (b) (i) A state government officer and employee member who does not receive salary,
56559 per diem, or expenses from the member's agency for the member's service may receive per
56560 diem and expenses incurred in the performance of the member's official duties from the
56561 commission at the rates established by the Division of Finance under Sections 63A-3-106 and
56562 63A-3-107.
56563 (ii) A state government officer and employee member may decline to receive per diem
56564 and expenses for the member's service.
56565 (7) The commission shall:
56566 (a) except as provided in Subsection 61-2c-202(2), concur in the licensure or denial of
56567 licensure of individuals and entities under this chapter in accordance with Part 2, Licensure;
56568 (b) take disciplinary action with the concurrence of the director in accordance with Part
56569 4, Enforcement;
56570 (c) advise the division concerning matters related to the administration and
56571 enforcement of this chapter; and

56572 (d) with the concurrence of the division, determine the requirements for:
56573 (i) the examination required under Section 61-2c-202, covering at least:
56574 (A) the fundamentals of the English language;
56575 (B) arithmetic;
56576 (C) the provisions of this chapter;
56577 (D) rules adopted by the division;
56578 (E) basic residential mortgage principles and practices; and
56579 (F) any other aspect of Utah law the commission determines is appropriate;
56580 (ii) with the concurrence of the division, the continuing education requirements under
56581 Section 61-2c-205, including:
56582 (A) except as provided in Subsection 61-2c-202(4)(a)(iii) and Subsection
56583 61-2c-206(1)(c), the appropriate number of hours of prelicensing education and required
56584 continuing education; and
56585 (B) the subject matter of courses the division may accept for continuing education
56586 purposes;
56587 (iii) with the concurrence of the division, the prelicensing education required under
56588 Sections 61-2c-202 and 61-2c-206, including online education or distance learning options; and
56589 (iv) the examination required under Section 61-2c-206 covering:
56590 (A) advanced residential mortgage principles and practices; and
56591 (B) other aspects of Utah law the commission, with the concurrence of the division,
56592 determines appropriate.
56593 (8) The commission may appoint a committee to make recommendations to the
56594 commission concerning approval of prelicensing education and continuing education courses.
56595 (9) The commission and the division shall make the examination and prelicensing
56596 education and continuing education requirements described in this section available through
56597 the Internet or other distance education methods approved by the commission and division
56598 when reasonably practicable.
56599 (10) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
56600 Administrative Rulemaking Act, the commission, with the concurrence of the division, shall
56601 make rules establishing procedures under which a licensee may be exempted from continuing
56602 education requirements:

56603 (a) for a period not to exceed four years; and
56604 (b) upon a finding of reasonable cause.
56605 Section 1098. Section **61-2c-105** is amended to read:
56606 **61-2c-105. Scope of chapter.**
56607 (1) (a) This chapter applies to a closed-end residential mortgage loan secured by a first
56608 lien or equivalent security interest on a one to four unit dwelling.
56609 (b) This chapter does not apply to a transaction covered by Title 70C, Utah Consumer
56610 Credit Code.
56611 (2) The following are exempt from this chapter:
56612 (a) the federal government;
56613 (b) a state;
56614 (c) a political subdivision of a state;
56615 (d) an agency of or entity created by a governmental entity described in Subsections
56616 (2)(a) through (c) including:
56617 (i) the Utah Housing Corporation created in Title 9, Chapter 4, Part 9, Utah Housing
56618 Corporation Act;
56619 (ii) the Federal National Mortgage Corporation;
56620 (iii) the Federal Home Loan Mortgage Corporation;
56621 (iv) the Federal Deposit Insurance Corporation;
56622 (v) the Resolution Trust Corporation;
56623 (vi) the Government National Mortgage Association;
56624 (vii) the Federal Housing Administration;
56625 (viii) the National Credit Union Administration;
56626 (ix) the Farmers Home Administration; and
56627 (x) the United States Department of Veterans Affairs;
56628 (e) a depository institution;
56629 (f) an affiliate of a depository institution;
56630 (g) an employee or agent of an entity described in Subsections (2)(a) through (f) when
56631 that person acts on behalf of the entity described in Subsections (2)(a) through (f);
56632 (h) an individual or entity:
56633 (i) that makes a loan:

56634 (A) secured by an interest in real property;
56635 (B) with the individual's or the entity's own money; and
56636 (C) for the individual's or entity's own investment; and
56637 (ii) that does not engage in the business of making loans secured by an interest in real
56638 property;
56639 (i) an individual or entity who receives a mortgage, deed of trust, or lien interest on real
56640 property if the individual or entity:
56641 (i) is the seller of real property; and
56642 (ii) receives the mortgage, deed of trust, or lien interest on real property as security for
56643 a separate money obligation;
56644 (j) an individual or entity who receives a mortgage, deed of trust, or lien interest on real
56645 property if:
56646 (i) the individual or entity receives the mortgage, deed of trust, or lien interest as
56647 security for an obligation payable on an installment or deferred payment basis;
56648 (ii) the obligation described in Subsection (2)(j)(i) arises from an individual or entity
56649 providing materials or services used in the improvement of the real property that is the subject
56650 of the mortgage, deed of trust, or lien interest; and
56651 (iii) the mortgage, deed of trust, or lien interest was created without the consent of the
56652 owner of the real property that is the subject of the mortgage, deed of trust, or lien interest;
56653 (k) a nonprofit corporation that:
56654 (i) is exempt from paying federal income taxes;
56655 (ii) is certified by the United States Small Business Administration as a small business
56656 investment company;
56657 (iii) is organized to promote economic development in this state; and
56658 (iv) has as its primary activity providing financing for business expansion;
56659 (l) a court appointed fiduciary; or
56660 (m) an attorney admitted to practice law in this state:
56661 (i) if the attorney is not principally engaged in the business of negotiating residential
56662 mortgage loans; and
56663 (ii) when the attorney renders services in the course of the attorney's practice as an
56664 attorney.

56665 (3) (a) Notwithstanding Subsection (2)(m), an attorney exempt from this chapter may
56666 not engage in conduct described in Section 61-2c-301 when transacting business of residential
56667 mortgage loans.
56668 (b) If an attorney exempt from this chapter violates Subsection (3)(a), the attorney:
56669 (i) is not subject to enforcement by the division under Part 4, Enforcement; and
56670 (ii) is subject to disciplinary action generally applicable to an attorney admitted to
56671 practice law in this state.
56672 (c) If the division receives a complaint alleging an attorney exempt from this chapter is
56673 in violation of Subsection (3)(a), the division shall forward the complaint to the Utah State Bar
56674 for disciplinary action.
56675 (4) (a) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
56676 Administrative Rulemaking Act, the division shall, by rule, determine a date, on or after
56677 December 31, 2004, after which an individual who is exempt under Subsection (2) may
56678 voluntarily obtain a license pursuant to Subsection (4)(b).
56679 (b) (i) After the date described in Subsection (4)(a), an individual who is exempt under
56680 Subsection (2) may voluntarily obtain a license under this chapter by complying with Part 2,
56681 Licensure.
56682 (ii) An individual who voluntarily obtains a license pursuant to this Subsection (4)(b)
56683 shall comply with all the provisions of this chapter.
56684 Section 1099. Section **61-2c-201** is amended to read:
56685 **61-2c-201. Licensure required of individuals and entities engaged in the business**
56686 **of residential mortgage loans -- Mortgage officer -- Principal lending manager.**
56687 (1) Unless exempt from this chapter under Section 61-2c-105, an individual or entity
56688 may not transact the business of residential mortgage loans, as defined in Section 61-2c-102,
56689 without obtaining a license under this chapter.
56690 (2) For purposes of this chapter, an individual or entity transacts business in this state
56691 if:
56692 (a) (i) the individual or entity engages in an act that constitutes the business of
56693 residential mortgage loans; and
56694 (ii) (A) the act described in Subsection (2)(a)(i) is directed to or received in this state;
56695 and

56696 (B) the real property that is the subject of the act described in Subsection (2)(a)(i) is
56697 located in this state; or
56698 (b) a representation is made by the individual or entity that the individual or entity
56699 transacts the business of residential mortgage loans in this state.
56700 (3) An individual who has an ownership interest in an entity required to be licensed
56701 under this chapter is not required to obtain an individual license under this chapter unless the
56702 individual transacts the business of residential mortgage loans.
56703 (4) Unless otherwise exempted under this chapter, licensure under this chapter is
56704 required of both:
56705 (a) the individual who directly transacts the business of residential mortgage loans; and
56706 (b) if the individual transacts business as an employee or agent of an entity or
56707 individual, the entity or individual for whom the employee or agent transacts the business of
56708 residential mortgage loans.
56709 (5) (a) An individual licensed under this chapter may not engage in the business of
56710 residential mortgage loans on behalf of more than one entity at the same time.
56711 (b) This Subsection (5) does not restrict the number of:
56712 (i) different lenders an individual or entity may use as a funding source for residential
56713 mortgage loans; or
56714 (ii) entities in which an individual may have an ownership interest, regardless of
56715 whether the entities are:
56716 (A) licensed under this chapter; or
56717 (B) exempt under Section 61-2c-105.
56718 (6) An individual licensed under this chapter may not transact the business of
56719 residential mortgage loans for the following at the same time:
56720 (a) an entity licensed under this chapter; and
56721 (b) an entity that is exempt from licensure under Section 61-2c-105.
56722 (7) A mortgage officer may not receive consideration for transacting the business of
56723 residential mortgage loans from any person or entity except the principal lending manager with
56724 whom the mortgage officer is licensed.
56725 (8) A mortgage officer shall conduct all business of residential mortgage loans:
56726 (a) through the principal lending manager with which the individual is licensed; and

56727 (b) in the business name under which the principal lending manager is authorized by
56728 the division to do business.
56729 (9) (a) (i) This Subsection (9)(a) does not apply to an individual who transacts the
56730 business of residential mortgage loans as an employee or agent of another individual or entity.
56731 (ii) If an entity that is authorized by this chapter to transact the business of residential
56732 mortgage loans transacts the business of residential mortgage loans under an assumed business
56733 name, the entity shall:
56734 (A) register the assumed name with the division; and
56735 (B) furnish the division proof that the assumed business name has been filed with the
56736 Division of Corporations and Commercial Code pursuant to Title 42, Chapter 2, Conducting
56737 Business Under Assumed Name.
56738 (b) The division may charge a fee established in accordance with Section [~~63-38-3.2~~]
56739 63J-1-303 for registering an assumed name pursuant to this Subsection (9).
56740 (10) A licensee whose license is in inactive status may not transact the business of
56741 residential mortgage loans.
56742 Section 1100. Section **61-2c-202** is amended to read:
56743 **61-2c-202. Licensure procedures.**
56744 (1) To apply for licensure under this chapter an applicant shall:
56745 (a) submit to the division a licensure statement that:
56746 (i) lists any name under which the individual or entity will transact business in this
56747 state;
56748 (ii) lists the address of the principal business location of the applicant;
56749 (iii) if the applicant is an entity:
56750 (A) lists the principal lending manager of the entity; and
56751 (B) contains the signature of the principal lending manager;
56752 (iv) demonstrates that the applicant meets the qualifications listed in Section
56753 61-2c-203;
56754 (v) if the applicant is an entity, lists:
56755 (A) all jurisdictions in which the entity is registered, licensed, or otherwise regulated in
56756 the business of residential mortgage loans; and
56757 (B) the history of any disciplinary action or adverse administrative action taken against

56758 the entity by any regulatory agency within the ten years preceding the application; and
56759 (vi) includes any information required by the division by rule;
56760 (b) pay to the division:
56761 (i) an application fee established by the division in accordance with Section
56762 [~~63-38-3.2~~] 63J-1-303; and
56763 (ii) the reasonable expenses incurred in processing the application for licensure
56764 including the costs incurred by the division under Subsection (4); and
56765 (c) comply with Subsection (4).
56766 (2) (a) The division shall issue a license to an applicant if the division, with the
56767 concurrence of the commission, finds that the applicant:
56768 (i) meets the qualifications of Section 61-2c-203; and
56769 (ii) complies with this section.
56770 (b) The commission may delegate to the division the authority to:
56771 (i) review any class or category of application for initial or renewed licenses;
56772 (ii) determine whether an applicant meets the licensing criteria in Section 61-2c-203;
56773 (iii) conduct any necessary hearing on an application; and
56774 (iv) approve or deny a license application without concurrence by the commission.
56775 (c) If the commission delegates to the division the authority to approve or deny an
56776 application without concurrence by the commission and the division denies an application for
56777 licensure, the applicant who is denied licensure may petition the commission for review of the
56778 denial.
56779 (d) An applicant who is denied licensure under this Subsection (2)(b) may seek agency
56780 review by the executive director only after the commission has reviewed the division's denial of
56781 the applicant's application.
56782 (3) Subject to Subsection (2)(d) and in accordance with [~~Title 63, Chapter 46b~~] Title
56783 63G, Chapter 4, Administrative Procedures Act, an applicant who is denied licensure under this
56784 chapter may submit a request for agency review to the executive director within 30 days
56785 following the issuance of the commission order denying the licensure.
56786 (4) (a) An individual applying for a license under this chapter shall:
56787 (i) submit a fingerprint card in a form acceptable to the division at the time the
56788 licensure statement is filed;

56789 (ii) consent to a criminal background check by:
56790 (A) the Utah Bureau of Criminal Identification; and
56791 (B) the Federal Bureau of Investigation;
56792 (iii) provide proof using methods approved by the division of having successfully
56793 completed 20 hours of approved prelicensing education required by the commission under
56794 Section 61-2c-104 before taking the examination required by Subsection (4)(a)(iv); and
56795 (iv) provide proof using methods approved by the division of having successfully
56796 passed an examination approved by the commission under Section 61-2c-104.
56797 (b) The division shall request the Department of Public Safety to complete a Federal
56798 Bureau of Investigation criminal background check for each applicant and each control person
56799 of an applicant through a national criminal history system.
56800 (c) The applicant shall pay the cost of:
56801 (i) the fingerprinting required by this section; and
56802 (ii) the criminal background check required by this section.
56803 (d) (i) A license under this chapter is conditional pending completion of the criminal
56804 background check required by this Subsection (4).
56805 (ii) If a criminal background check discloses that an applicant failed to accurately
56806 disclose a criminal history, the license shall be immediately and automatically revoked.
56807 (iii) An individual or entity whose conditional license is revoked under Subsection
56808 (4)(d)(ii) may appeal the revocation in a hearing conducted by the commission:
56809 (A) after the revocation; and
56810 (B) in accordance with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
56811 Procedures Act.
56812 (iv) The commission may delegate to the division or an administrative law judge the
56813 authority to conduct a hearing described in Subsection (4)(d)(iii).
56814 (v) Relief from a revocation may be granted only if:
56815 (A) the criminal history upon which the division based the revocation:
56816 (I) did not occur; or
56817 (II) is the criminal history of another person;
56818 (B) (I) the revocation is based on a failure to accurately disclose a criminal history; and
56819 (II) the applicant had a reasonable good faith belief at the time of application that there

56820 was no criminal history to be disclosed; or
56821 (C) the division failed to follow the prescribed procedure for the revocation.
56822 (e) If a license is revoked or a revocation is upheld after a hearing described in
56823 Subsection (4)(d)(iii), the person may not apply for a new license for a period of 12 months
56824 after the day on which the license is revoked.
56825 (f) The funds paid by an applicant for the cost of the criminal background check shall
56826 be nonlapsing.
56827 (g) The commission may delegate to the division the authority to make a decision on
56828 whether relief from a revocation should be granted.
56829 Section 1101. Section **61-2c-205** is amended to read:
56830 **61-2c-205. Term of licensure -- Renewal -- Reporting of changes.**
56831 (1) (a) A license under this chapter is valid for a two-year period.
56832 (b) Notwithstanding Subsection (1)(a), the time period of a license may be extended or
56833 shortened by as much as one year to maintain or change a renewal cycle established by rule by
56834 the division.
56835 (2) To renew a license, no later than the date the license expires, a licensee shall:
56836 (a) (i) file the renewal form required by the division; and
56837 (ii) furnish the information required by Subsection 61-2c-202(1);
56838 (b) pay a fee to the division established by the division in accordance with Section
56839 [~~63-38-3.2~~] 63J-1-303; and
56840 (c) if the licensee is an individual and the individual's license is in active status at the
56841 time of application for renewal, submit proof using forms approved by the division of having
56842 completed during the two years prior to application the continuing education required by the
56843 commission under Section 61-2c-104.
56844 (3) (a) A licensee under this chapter shall notify the division using the form required by
56845 the division within ten days of the date on which there is a change in:
56846 (i) a name under which the licensee transacts the business of residential mortgage loans
56847 in this state;
56848 (ii) (A) if the licensee is an entity, the business location of the licensee; or
56849 (B) if the licensee is an individual, the home and business addresses of the individual;
56850 (iii) the principal lending manager of the entity;

56851 (iv) the entity with which an individual licensee is licensed to conduct the business of
56852 residential mortgage loans; or
56853 (v) any other information that is defined as material by rule made by the division.
56854 (b) Failure to notify the division of a change described in Subsection (3)(a) is separate
56855 grounds for disciplinary action against a licensee.
56856 (4) A licensee shall notify the division by sending the division a signed statement
56857 within ten business days of:
56858 (a) (i) a conviction of any criminal offense;
56859 (ii) the entry of a plea in abeyance to any criminal offense; or
56860 (iii) the potential resolution of any criminal case by:
56861 (A) a diversion agreement; or
56862 (B) any other agreement under which criminal charges are held in suspense for a period
56863 of time;
56864 (b) filing a personal bankruptcy or bankruptcy of a business that transacts the business
56865 of residential mortgage loans;
56866 (c) the suspension, revocation, surrender, cancellation, or denial of a professional
56867 license or professional registration of the licensee, whether the license or registration is issued
56868 by this state or another jurisdiction; or
56869 (d) the entry of a cease and desist order or a temporary or permanent injunction:
56870 (i) against the licensee by a court or licensing agency; and
56871 (ii) based on:
56872 (A) conduct or a practice involving the business of residential mortgage loans; or
56873 (B) conduct involving fraud, misrepresentation, or deceit.
56874 (5) (a) A license under this chapter expires if the licensee does not apply to renew the
56875 license on or before the expiration date of the license.
56876 (b) Within 30 calendar days after the expiration date, a licensee whose license has
56877 expired may apply to reinstate the expired license upon:
56878 (i) payment of a renewal fee and a late fee determined by the division under Section
56879 [~~63-38-3.2~~] 63J-1-303; and
56880 (ii) if the licensee is an individual and is applying to reinstate a license to active status,
56881 providing proof using forms approved by the division of having completed, during the two

56882 years prior to application, the continuing education required by the commission under Section
56883 61-2c-104.
56884 (c) After the 30 calendar days described in Subsection (5)(b) and within six months
56885 after the expiration date, a licensee whose license has expired may apply to reinstate an expired
56886 license upon:
56887 (i) payment of a renewal fee and a late fee determined by the division under Section
56888 [~~63-38-3.2~~] 63J-1-303;
56889 (ii) if the licensee is an individual and is applying to reinstate a license to active status,
56890 providing proof using forms approved by the division of having completed, during the two
56891 years prior to application, the continuing education required by the commission under Section
56892 61-2c-104; and
56893 (iii) in addition to the continuing education required for a timely renewal, completing
56894 an additional 12 hours of continuing education approved by the commission under Section
56895 61-2c-104.
56896 (d) A licensee whose license has been expired for more than six months shall be
56897 relicensed as prescribed for an original application under Section 61-2c-202.
56898 Section 1102. Section **61-2c-206** is amended to read:
56899 **61-2c-206. Principal lending manager licenses.**
56900 (1) Except as provided in Subsection (2), to qualify as a principal lending manager
56901 under this chapter, an individual shall, in addition to meeting the standards in Section
56902 61-2c-203:
56903 (a) submit an application on a form approved by the division;
56904 (b) pay fees determined by the division under Section [~~63-38-3.2~~] 63J-1-303;
56905 (c) submit proof of having successfully completed 40 hours of prelicensing education
56906 approved by the commission under Section 61-2c-104;
56907 (d) submit proof of having successfully completed the principal lending manager
56908 examination approved by the commission under Section 61-2c-104;
56909 (e) submit proof on forms approved by the division of three years of full-time active
56910 experience as a mortgage officer in the five years preceding the day on which the application is
56911 submitted, or its equivalent as approved by the commission; and
56912 (f) if the individual is not licensed under this chapter at the time of application, submit

56913 to the criminal background check required by Subsection 61-2c-202(4).
56914 (2) (a) Notwithstanding Subsection (1), an individual described in Subsection (2)(b)
56915 may qualify as a principal lending manager without:
56916 (i) meeting the requirements of Subsection (1)(c); and
56917 (ii) completing the portions of the principal lending manager examination described in
56918 Subsection (1)(d) that:
56919 (A) relate to federal law; and
56920 (B) do not relate to Utah law.
56921 (b) An individual may qualify as a principal lending manager pursuant to Subsection
56922 (2)(a) if the individual:
56923 (i) submits to the division an affidavit that the individual has five years of experience
56924 in the business of residential mortgage loans;
56925 (ii) establishes that the individual's experience described in this Subsection (2)(b) was
56926 acquired:
56927 (A) under requirements substantially equivalent to the requirements of this chapter; and
56928 (B) in compliance with the requirements of this chapter; and
56929 (iii) provides any other information required by the division by rule under Subsection
56930 (2)(c).
56931 (c) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
56932 Administrative Rulemaking Act, the division shall define the information an individual shall
56933 provide to the division pursuant to Subsection (2)(b).
56934 (3) A principal lending manager may not engage in the business of residential
56935 mortgage loans on behalf of more than one entity at the same time.
56936 Section 1103. Section **61-2c-207** is amended to read:
56937 **61-2c-207. Reciprocal licensure.**
56938 (1) The division may enter into a reciprocity agreement with another state and issue a
56939 reciprocal license to a licensee of that state if the division determines that the:
56940 (a) state has substantially equivalent licensing laws;
56941 (b) state requires a licensing examination that is substantially equivalent to the
56942 examination required by this chapter; and
56943 (c) licensee has not had:

56944 (i) formal charges alleging a violation of state mortgage laws filed against the licensee;
56945 or
56946 (ii) disciplinary action or license restriction taken by the licensee's state of domicile.
56947 (2) The division may issue a reciprocal license to a licensee of a state with which the
56948 division does not have a reciprocity agreement if the individual:
56949 (a) submits to the division an affidavit that the individual has five years of experience
56950 in the business of residential mortgage loans;
56951 (b) establishes that the individual's experience described in Subsection (2)(a) was under
56952 requirements substantially equivalent to the licensing requirements of this chapter; and
56953 (c) provides any other information required by the division by rule under Subsection
56954 (3).
56955 (3) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
56956 Administrative Rulemaking Act, the division shall define the information an individual shall
56957 provide to the division pursuant to Subsection (2).
56958 Section 1104. Section **61-2c-208** is amended to read:
56959 **61-2c-208. Activation and inactivation of license.**
56960 (1) (a) A licensee may request that the division place the license on inactive status by
56961 submitting an inactivation form approved by the division.
56962 (b) The license of a mortgage officer or mortgage entity not affiliated with an active
56963 license of a principal lending manager automatically converts to inactive status on the day on
56964 which the mortgage officer or mortgage entity is not affiliated with the active license of the
56965 principal lending manager.
56966 (c) A licensee whose license is in inactive status may not transact the business of
56967 residential mortgage loans.
56968 (2) To activate a license that has been placed on inactive status, a licensee shall:
56969 (a) submit an activation form:
56970 (i) approved by the division; and
56971 (ii) signed by the principal lending manager with whom the licensee is affiliating;
56972 (b) pay an activation fee established by the division under Section [~~63-38-3.2~~]
56973 63J-1-303; and
56974 (c) if the licensee is an individual whose license was in inactive status at the time of the

56975 previous renewal, the licensee shall supply the division with proof of the successful completion
56976 of the number of hours of continuing education that the licensee would have been required to
56977 complete under Subsection 61-2c-205(2)(c) if the licensee's license had been on active status,
56978 up to a maximum of the number of hours required for two licensing periods.
56979 Section 1105. Section **61-2c-402.1** is amended to read:
56980 **61-2c-402.1. Adjudicative proceedings -- Review.**
56981 (1) (a) Before the actions described in Section 61-2c-402 may be taken, the division
56982 shall:
56983 (i) give notice to the individual or entity; and
56984 (ii) commence an adjudicative proceeding.
56985 (b) If after the adjudicative proceeding is commenced under Subsection (1)(a) the
56986 presiding officer determines that an individual or entity required to be licensed under this
56987 chapter has violated this chapter, the division may take an action described in Section
56988 61-2c-402 by written order.
56989 (2) In accordance with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
56990 Procedures Act, an individual or entity against whom action is taken under this section may
56991 seek review by the executive director of the action.
56992 (3) If an individual or entity prevails in a judicial appeal and the court finds that the
56993 state action was undertaken without substantial justification, the court may award reasonable
56994 litigation expenses to that individual or entity as provided under Title 78, Chapter 27a, Small
56995 Business Equal Access to Justice Act.
56996 (4) (a) An order issued under this section takes effect 30 days after the service of the
56997 order unless otherwise provided in the order.
56998 (b) If an appeal of an order issued under this section is taken by an individual or entity,
56999 the division may stay enforcement of the order in accordance with Section [~~63-46b-18~~]
57000 63G-4-405.
57001 (5) If ordered by the court of competent jurisdiction, the division shall promptly take an
57002 action described in Section 61-2c-402 against a license granted under this chapter.
57003 Section 1106. Section **61-2c-403** is amended to read:
57004 **61-2c-403. Cease and desist orders.**
57005 (1) (a) The director may issue and serve by certified mail, or by personal service, on an

57006 individual or entity an order to cease and desist if:
57007 (i) the director has reason to believe that the individual or entity has been engaged, is
57008 engaging in, or is about to engage in acts constituting a violation of this chapter; and
57009 (ii) it appears to the director that it would be in the public interest to stop the acts.
57010 (b) Within ten days after service of the order, the party named in the order may request
57011 an adjudicative proceeding to be held in accordance with [~~Title 63, Chapter 46b~~] Title 63G,
57012 Chapter 4, Administrative Procedures Act.
57013 (c) Pending the hearing, the cease and desist order shall remain in effect.
57014 (2) (a) After the hearing described in Subsection (1), if the director finds that the acts
57015 of the individual or entity violate this chapter, the director:
57016 (i) shall issue an order making the cease and desist order permanent; and
57017 (ii) may impose a civil penalty not to exceed the greater of:
57018 (A) $2,500 for each violation; or
57019 (B) the amount of any gain or economic benefit derived from each violation.
57020 (b) (i) The director may file suit in the name of the division to enjoin and restrain an
57021 individual or entity on whom an order is served under this section from violating this chapter
57022 if:
57023 (A) (I) the individual or entity did not request a hearing under Subsection (1); or
57024 (II) a permanent cease and desist order is issued against the individual or entity
57025 following a hearing or stipulation; and
57026 (B) (I) the individual or entity fails to cease the acts; or
57027 (II) after discontinuing the acts, the individual or entity again commences the acts.
57028 (ii) The suit described in Subsection (2)(b)(i) shall be filed in the district court in the
57029 county:
57030 (A) in which the acts occurred;
57031 (B) where the individual resides; or
57032 (C) where the individual or entity carries on business.
57033 (3) The cease and desist order issued under this section may not interfere with or
57034 prevent the prosecution of a remedy or action enforcement under this chapter.
57035 (4) An individual who violates a cease and desist order issued under this section is
57036 guilty of a class A misdemeanor.

57037 Section 1107. Section **62A-1-106** is amended to read:
57038 **62A-1-106. Adjudicative proceedings.**
57039 The department and its boards, divisions, and offices described in Section 62A-1-105
57040 shall comply with the procedures and requirements of [~~Title 63, Chapter 46b,~~] Title 63G,
57041 Chapter 4, Administrative Procedures Act, in their adjudicative proceedings.
57042 Section 1108. Section **62A-1-108.5** is amended to read:
57043 **62A-1-108.5. Mental illness and mental retardation examinations --**
57044 **Responsibilities of the department.**
57045 (1) In accomplishing its duties to conduct mental illness and mental retardation
57046 examinations under Title 77, Utah Code of Criminal Procedure, the department shall proceed
57047 as outlined in this section and within appropriations authorized by the Legislature. The
57048 executive director may delegate [~~his~~] the executive director's responsibilities under this section
57049 to one or more divisions within the department.
57050 (2) When the department is ordered by the court to conduct a mental illness or mental
57051 retardation examination, the executive director shall:
57052 (a) direct that the examination be performed at the Utah State Hospital; or
57053 (b) designate at least one examiner, selected under Subsection (3), to examine the
57054 defendant in [~~his~~] the defendant's current custody or status.
57055 (3) The department shall establish criteria, in consultation with the Commission on
57056 Criminal and Juvenile Justice, and shall contract with persons or organizations to conduct
57057 mental illness and mental retardation examinations under Subsection (2)(b). In making this
57058 selection, the department shall follow the provisions of [~~Title 63, Chapter 56~~] Title 63G,
57059 Chapter 6, Utah Procurement Code.
57060 (4) Nothing in this section prohibits the executive director, at the request of defense
57061 counsel or a prosecuting attorney in a criminal proceeding under Title 77, Utah Code of
57062 Criminal Procedure, and for good cause shown, from proposing a person who has not been
57063 previously selected under Subsection (3) to contract with the department to conduct the
57064 examination. In selecting that person, the criteria of the department established under
57065 Subsection (3) and the provisions of [~~Title 63, Chapter 56~~] Title 63G, Chapter 6, Utah
57066 Procurement Code, shall be met.
57067 Section 1109. Section **62A-1-111** is amended to read:

57068 **62A-1-111. Department authority.**
57069 The department may, in addition to all other authority and responsibility granted to it by
57070 law:
57071 (1) adopt rules, not inconsistent with law, as the department may consider necessary or
57072 desirable for providing social services to the people of this state;
57073 (2) establish and manage client trust accounts in the department's institutions and
57074 community programs, at the request of the client or [~~his~~] the client's legal guardian or
57075 representative, or in accordance with federal law;
57076 (3) purchase, as authorized or required by law, services that the department is
57077 responsible to provide for legally eligible persons;
57078 (4) conduct adjudicative proceedings for clients and providers in accordance with the
57079 procedures of [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act;
57080 (5) establish eligibility standards for its programs, not inconsistent with state or federal
57081 law or regulations;
57082 (6) take necessary steps, including legal action, to recover money or the monetary value
57083 of services provided to a recipient who was not eligible;
57084 (7) set and collect fees for its services;
57085 (8) license agencies, facilities, and programs, except as otherwise allowed, prohibited,
57086 or limited by law;
57087 (9) acquire, manage, and dispose of any real or personal property needed or owned by
57088 the department, not inconsistent with state law;
57089 (10) receive gifts, grants, devises, and donations; gifts, grants, devises, donations, or
57090 the proceeds thereof, may be credited to the program designated by the donor, and may be used
57091 for the purposes requested by the donor, as long as the request conforms to state and federal
57092 policy; all donated funds shall be considered private, nonlapsing funds and may be invested
57093 under guidelines established by the state treasurer;
57094 (11) accept and employ volunteer labor or services; the department is authorized to
57095 reimburse volunteers for necessary expenses, when the department considers that
57096 reimbursement to be appropriate;
57097 (12) carry out the responsibility assigned in the Workforce Services Plan by the State
57098 Council on Workforce Services;

57099 (13) carry out the responsibility assigned by Section 9-4-802 with respect to
57100 coordination of services for the homeless;
57101 (14) carry out the responsibility assigned by Section 62A-5a-105 with respect to
57102 coordination of services for students with a disability;
57103 (15) provide training and educational opportunities for its staff;
57104 (16) collect child support payments and any other monies due to the department;
57105 (17) apply the provisions of Title 78, Chapter 45, Uniform Civil Liability for Support
57106 Act, to parents whose child lives out of the home in a department licensed or certified setting;
57107 (18) establish policy and procedures in cases where the department is given custody
57108 of a minor by the juvenile court pursuant to Section 78-3a-118; any policy and procedures
57109 shall include:
57110 (a) designation of interagency teams for each juvenile court district in the state;
57111 (b) delineation of assessment criteria and procedures;
57112 (c) minimum requirements, and timeframes, for the development and implementation
57113 of a collaborative service plan for each minor placed in department custody; and
57114 (d) provisions for submittal of the plan and periodic progress reports to the court;
57115 (19) carry out the responsibilities assigned to it by statute;
57116 (20) examine and audit the expenditures of any public funds provided to local
57117 substance abuse authorities, local mental health authorities, local area agencies on aging, and
57118 any person, agency, or organization that contracts with or receives funds from those authorities
57119 or agencies. Those local authorities, area agencies, and any person or entity that contracts with
57120 or receives funds from those authorities or area agencies, shall provide the department with any
57121 information the department considers necessary. The department is further authorized to issue
57122 directives resulting from any examination or audit to local authorities, area agencies, and
57123 persons or entities that contract with or receive funds from those authorities with regard to any
57124 public funds. If the department determines that it is necessary to withhold funds from a local
57125 mental health authority or local substance abuse authority based on failure to comply with state
57126 or federal law, policy, or contract provisions, it may take steps necessary to ensure continuity of
57127 services. For purposes of this Subsection (20) "public funds" means the same as that term is
57128 defined in Section 62A-15-102; and
57129 (21) pursuant to Subsection 62A-2-106(1)(d), accredit one or more agencies and

57130 persons to provide intercountry adoption services.
57131 Section 1110. Section **62A-1-112** is amended to read:
57132 **62A-1-112. Participation in federal programs -- Federal grants -- Authority of**
57133 **executive director.**
57134 (1) The executive director may, by following the procedures and requirements of [~~Title~~
57135 ~~63, Chapter 38e~~] Title 63J, Chapter 5, Federal Funds Procedures, seek federal grants, loans, or
57136 participation in federal programs.
57137 (2) Wherever state law authorizes a board, director, division, or office of the
57138 department to accept any grant, fund, or service which is to be advanced or contributed in
57139 whole or in part by the federal government, that acceptance shall be subject to the approval or
57140 disapproval of the executive director. All applications for federal grants or other federal
57141 financial assistance for the support of any department program is subject to the approval of the
57142 executive director.
57143 (3) If any executive or legislative provision of the federal government so requires, as a
57144 condition to participation by this state in any fund, property, or service, the executive director,
57145 with the governor's approval, shall expend whatever funds are necessary out of the moneys
57146 provided by the Legislature for use and disbursement by that department.
57147 Section 1111. Section **62A-1-118** is amended to read:
57148 **62A-1-118. Access to abuse and neglect information to screen employees and**
57149 **volunteers.**
57150 (1) With respect to department employees and volunteers, the department may only
57151 access information in the Division of Child and Family Service's Management Information
57152 System created by Section 62A-4a-1003 and the Division of Aging and Adult Services
57153 database created by Section 62A-3-311.1 for the purpose of determining at the time of hire and
57154 each year thereafter whether a department employee or volunteer has an adjudication of abuse
57155 or neglect or since January 1, 1994, a substantiated finding of abuse or neglect after notice and
57156 an opportunity for a hearing consistent with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
57157 Administrative Procedures Act, but only if identification as a possible perpetrator of abuse or
57158 neglect is directly relevant to the employment or volunteer activities of that person.
57159 (2) A department employee or volunteer to whom Subsection (1) applies shall submit
57160 to the department [~~his~~] the employee or volunteer's name and other identifying information

57161 upon request.
57162 (3) The department shall process the information to determine whether the employee or
57163 volunteer has a substantiated finding of child abuse or neglect.
57164 (4) The department shall adopt rules defining permissible and impermissible
57165 work-related activities for a department employee or volunteer with one or more substantiated
57166 findings of abuse or neglect.
57167 Section 1112. Section **62A-2-105** is amended to read:
57168 **62A-2-105. Licensing board responsibilities.**
57169 (1) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
57170 Administrative Rulemaking Act, the licensing board shall review and approve rules regarding:
57171 (a) approving, denying, suspending, and revoking licenses;
57172 (b) conditional licenses, variances from department rule, and exclusions;
57173 (c) the protection of the basic health and safety of clients;
57174 (d) licensing of all persons and human services programs that are required to be
57175 licensed under this chapter; and
57176 (e) notification to providers and subproviders of rights and responsibilities including
57177 who to contact within the department when filing a complaint against a licensee or human
57178 services program, and the responsibility of the department to follow up once contacted.
57179 (2) The licensing board shall:
57180 (a) define information that shall be submitted to the department with an application for
57181 a license;
57182 (b) review and approve fees, in accordance with Section [~~63-38-3.2~~] 63J-1-303, for
57183 licenses issued under this chapter;
57184 (c) represent the community and licensees; and
57185 (d) advise the department as requested, concerning enforcement of rules established
57186 under this chapter.
57187 Section 1113. Section **62A-2-106** is amended to read:
57188 **62A-2-106. Office responsibilities.**
57189 (1) Subject to the requirements of federal and state law, the office shall:
57190 (a) make rules in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
57191 Administrative Rulemaking Act, to establish:

57192 (i) except as provided in Subsection (1)(a)(ii), basic health and safety standards for
57193 licensees, that shall be limited to:
57194 (A) fire safety;
57195 (B) food safety;
57196 (C) sanitation;
57197 (D) infectious disease control;
57198 (E) safety of the:
57199 (I) physical facility and grounds; and
57200 (II) area and community surrounding the physical facility;
57201 (F) transportation safety;
57202 (G) emergency preparedness and response;
57203 (H) the administration of medical standards and procedures, consistent with the related
57204 provisions of this title;
57205 (I) staff and client safety and protection;
57206 (J) the administration and maintenance of client and service records;
57207 (K) staff qualifications and training, including standards for permitting experience to
57208 be substituted for education, unless prohibited by law;
57209 (L) staff to client ratios; and
57210 (M) access to firearms;
57211 (ii) basic health and safety standards for therapeutic schools, that shall be limited to:
57212 (A) fire safety, except that the standards are limited to those required by law or rule
57213 under Title 53, Chapter 7, Part 2, Fire Prevention and Fireworks Act;
57214 (B) food safety;
57215 (C) sanitation;
57216 (D) infectious disease control, except that the standards are limited to:
57217 (I) those required by law or rule under Title 26, Utah Health Code or Title 26A, Local
57218 Health Authorities; and
57219 (II) requiring a separate room for clients who are sick;
57220 (E) safety of the physical facility and grounds, except that the standards are limited to
57221 those required by law or rule under Title 53, Chapter 7, Part 2, Fire Prevention and Fireworks
57222 Act;

57223 (F) transportation safety;
57224 (G) emergency preparedness and response;
57225 (H) access to appropriate medical care, including:
57226 (I) subject to the requirements of law, designation of a person who is authorized to
57227 dispense medication; and
57228 (II) storing, tracking, and securing medication;
57229 (I) staff and client safety and protection that permits the school to provide for the direct
57230 supervision of clients at all times;
57231 (J) the administration and maintenance of client and service records;
57232 (K) staff qualifications and training, including standards for permitting experience to
57233 be substituted for education, unless prohibited by law;
57234 (L) staff to client ratios; and
57235 (M) access to firearms;
57236 (iii) procedures and standards for permitting a licensee to:
57237 (A) provide in the same facility and under the same conditions as children, residential
57238 treatment services to a person 18 years old or older who:
57239 (I) begins to reside at the licensee's residential treatment facility before the person's
57240 18th birthday;
57241 (II) has resided at the licensee's residential treatment facility continuously since the
57242 time described in Subsection (1)(a)(iii)(A)(I);
57243 (III) has not completed the course of treatment for which the person began residing at
57244 the licensee's residential treatment facility; and
57245 (IV) voluntarily consents to complete the course of treatment described in Subsection
57246 (1)(a)(iii)(A)(III); or
57247 (B) (I) provide residential treatment services to a child who is:
57248 (Aa) 12 years old or older; and
57249 (Bb) under the custody of the Division of Juvenile Justice Services; and
57250 (II) provide, in the same facility as a child described in Subsection (1)(a)(iii)(B)(I),
57251 residential treatment services to a person who is:
57252 (Aa) at least 18 years old, but younger than 21 years old; and
57253 (Bb) under the custody of the Division of Juvenile Justice Services;

57254 (iv) minimum administration and financial requirements for licensees; and
57255 (v) guidelines for variances from rules established under this Subsection (1);
57256 (b) enforce rules approved by the licensing board;
57257 (c) issue licenses in accordance with this chapter;
57258 (d) if the United States Department of State executes an agreement with the office that
57259 designates the office to act as an accrediting entity in accordance with the Intercountry
57260 Adoption Act of 2000, Pub. L. No. 106-279, accredit one or more agencies and persons to
57261 provide intercountry adoption services pursuant to:
57262 (i) the Intercountry Adoption Act of 2000, Pub. L. No. 106-279; and
57263 (ii) the implementing regulations for the Intercountry Adoption Act of 2000, Pub. L.
57264 No. 106-279;
57265 (e) make rules to implement the provisions of Subsection (1)(d);
57266 (f) conduct surveys and inspections of licensees and facilities in accordance with
57267 Section 62A-2-118;
57268 (g) collect licensure fees;
57269 (h) provide necessary administrative support to the licensing board;
57270 (i) notify licensees of the name of a person within the department to contact when
57271 filing a complaint;
57272 (j) investigate complaints regarding any licensee or human services program;
57273 (k) have access to all records, correspondence, and financial data required to be
57274 maintained by a licensee;
57275 (l) have authority to interview any client, family member of a client, employee, or
57276 officer of a licensee; and
57277 (m) have authority to deny, condition, revoke, suspend, or extend any license issued by
57278 the department under this chapter by following the procedures and requirements of [~~Title 63,~~
57279 ~~Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
57280 (2) In establishing rules under Subsection (1)(a)(ii)(G), the office shall require a
57281 licensee to establish and comply with an emergency response plan that requires clients and staff
57282 to:
57283 (a) immediately report to law enforcement any significant criminal activity, as defined
57284 by rule, committed:

57285 (i) on the premises where the licensee operates its human services program;
57286 (ii) by or against its clients; or
57287 (iii) by or against a staff member while the staff member is on duty;
57288 (b) immediately report to emergency medical services any medical emergency, as
57289 defined by rule:
57290 (i) on the premises where the licensee operates its human services program;
57291 (ii) involving its clients; or
57292 (iii) involving a staff member while the staff member is on duty; and
57293 (c) immediately report other emergencies that occur on the premises where the licensee
57294 operates its human services program to the appropriate emergency services agency.
57295 Section 1114. Section **62A-2-108.2** is amended to read:
57296 **62A-2-108.2. Licensing residential treatment programs -- Notification of local**
57297 **government.**
57298 (1) (a) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
57299 Administrative Rulemaking Act, the office shall make rules that establish categories of
57300 residential treatment licenses based on differences in the types of residential treatment
57301 programs.
57302 (b) The categories referred to in Subsection (1)(a) may be based on differences in:
57303 (i) services offered;
57304 (ii) types of clients served;
57305 (iii) risks posed to the community; or
57306 (iv) other factors that make regulatory differences advisable.
57307 (2) Subject to the requirements of federal and state law, and pursuant to the authority
57308 granted by Section 62A-2-106, the office shall establish and enforce rules that:
57309 (a) relate generally to all categories of residential treatment program licenses; and
57310 (b) relate to specific categories of residential treatment program licenses on the basis of
57311 the regulatory needs, as determined by the office, of residential treatment programs within
57312 those specific categories.
57313 (3) Before submitting an application for a license to operate a residential treatment
57314 program, the applicant shall serve notice of its intent to operate a residential treatment program
57315 on the governing body of:

57316 (a) the city in which the residential treatment program will be located; or
57317 (b) if the residential treatment program will be located in the unincorporated area of a
57318 county, the county in which the residential treatment program will be located.
57319 (4) The notice described in Subsection (3) shall include the following information
57320 relating to the residential treatment program:
57321 (a) an accurate description of the residential treatment program;
57322 (b) the location where the residential treatment program will be operated;
57323 (c) the services that will be provided by the residential treatment program;
57324 (d) the type of clients that the residential treatment program will serve;
57325 (e) the category of license for which the residential treatment program is applying to
57326 the office;
57327 (f) the name, telephone number, and address of a person that may be contacted to make
57328 inquiries about the residential treatment program; and
57329 (g) any other information that the office may require by rule.
57330 (5) When submitting an application for a license to operate a residential treatment
57331 program, the applicant shall include with the application:
57332 (a) a copy of the notice described in Subsection (3); and
57333 (b) proof that the applicant served the notice described in Subsection (3) on the
57334 governing body described in Subsection (3).
57335 Section 1115. Section **62A-2-108.3** is amended to read:
57336 **62A-2-108.3. Local government -- Certified local inspector -- Local inspection of**
57337 **a residential treatment facility -- Reporting violations.**
57338 (1) (a) Subject to this Subsection (1) and Subsection (3), the office shall designate, or
57339 renew the designation of, a local government employee as a certified local inspector if:
57340 (i) the governing body of a local government gives the office written notice:
57341 (A) of the name of an employee of the local government; and
57342 (B) requesting that the office designate the employee described in Subsection
57343 (1)(a)(i)(A) as a certified local inspector; and
57344 (ii) the employee described in Subsection (1)(a)(i) successfully completes the training
57345 described in Subsection (1)(b).
57346 (b) Before designating a local government employee as a certified local inspector, the

57347 office shall:
57348 (i) provide training to the local government employee on:
57349 (A) this chapter;
57350 (B) the rules established under:
57351 (I) Subsection (2); and
57352 (II) Subsection 62A-2-106(1)(a);
57353 (C) the Fourth Amendment to the Constitution of the United States; and
57354 (D) other issues relating to conducting the inspections described in Subsection (4); and
57355 (ii) conduct a criminal background check of the local government employee pursuant
57356 to the same procedures established for a criminal background check of an applicant for an
57357 initial license under Section 62A-2-120.
57358 (c) Subject to Subsection (6), the office may not designate a person as a certified local
57359 inspector:
57360 (i) unless the office approves the person to have direct access to children or vulnerable
57361 adults pursuant to Section 62A-2-120; or
57362 (ii) if the office determines that, based on the conduct of the person, it is not in the
57363 public's best interest to designate the person as a certified local inspector.
57364 (d) The office shall provide to a certified local inspector identification that:
57365 (i) identifies the person as a certified local inspector;
57366 (ii) contains a photograph of the certified local inspector;
57367 (iii) states the date on which the certification of the certified local inspector expires;
57368 and
57369 (iv) identifies the geographic location where the certified local inspector is authorized
57370 to conduct an inspection.
57371 (e) Nothing in this section shall be construed to require a local government to employ a
57372 certified local inspector.
57373 (2) The office shall make rules in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
57374 Chapter 3, Utah Administrative Rulemaking Act, to establish procedures for:
57375 (a) complying with this section; and
57376 (b) the conduct of inspections by a certified local inspector.
57377 (3) For purposes of Subsection (1):

57378 (a) the designation of a person as a certified local inspector shall expire one calendar
57379 year from the day on which the designation is made;
57380 (b) the designation of a person as a certified local inspector may not be renewed unless
57381 Subsection (1) is complied with, including:
57382 (i) providing a refresher course on the training described in Subsection (1)(b)(i); and
57383 (ii) conducting a new criminal background check pursuant to Subsection (1)(b)(ii); and
57384 (c) the office:
57385 (i) shall revoke a person's designation as a certified local inspector if:
57386 (A) subject to Subsection (6), the person commits an act that is grounds for refusing to
57387 designate a person as a certified local inspector;
57388 (B) the person's local government employer requests that the designation described in
57389 this Subsection (3)(c)(i) be revoked; or
57390 (C) the person is no longer employed by a local government, unless:
57391 (I) the person is employed by another local government; and
57392 (II) the governing body of the local government described in Subsection (3)(c)(i)(C)(I),
57393 requests, in writing, that the person's designation as a certified local inspector continue; and
57394 (ii) subject to Subsection (6), may revoke a person's designation as a certified local
57395 inspector if the person violates:
57396 (A) this section; or
57397 (B) a rule made by the department that relates to this section.
57398 (4) (a) Subject to Subsection (4)(b), a certified local inspector may inspect a residential
57399 treatment facility of a licensee:
57400 (i) if the certified local inspector is an employee of a local government that is a:
57401 (A) (I) city; and
57402 (II) the residential treatment facility is located within the city; or
57403 (B) (I) county; and
57404 (II) the residential treatment facility is located within the unincorporated area of the
57405 county;
57406 (ii) only during regular business hours;
57407 (iii) pursuant to:
57408 (A) this section; and

57409 (B) the rules made by the office under this section; and
57410 (iv) to determine whether the residential treatment facility is in compliance with the
57411 requirements of:
57412 (A) this chapter; and
57413 (B) the rules made pursuant to this chapter.
57414 (b) Notwithstanding Subsection (4)(a), a certified local inspector, may not:
57415 (i) inspect a residential treatment facility of a licensee:
57416 (A) if the office instructs the certified local inspector to not conduct an inspection; or
57417 (B) except in an emergency, without giving the office prior notice of the inspection;
57418 and
57419 (ii) unless otherwise authorized by law, examine or obtain any record of a residential
57420 treatment facility, including a record relating to:
57421 (A) a client of the residential treatment facility;
57422 (B) an employee of the residential treatment facility; or
57423 (C) an incident that occurs at the residential treatment facility.
57424 (c) Within 24 hours, excluding weekends and holidays, of conducting an inspection
57425 under this Subsection (4), the inspector shall provide the office with a written report informing
57426 the office of the details of the inspection, including any violation by the licensee of:
57427 (i) this chapter; or
57428 (ii) the rules made pursuant to this chapter.
57429 (5) (a) A local government employee who is a certified local inspector:
57430 (i) may not take any action pursuant to this section without approval from the certified
57431 local inspector's local government employer;
57432 (ii) when taking any action pursuant to this section, shall at all times be considered an
57433 employee of the certified local inspector's local government employer; and
57434 (iii) is not an employee of the:
57435 (A) office; or
57436 (B) department.
57437 (b) If a certified local inspector acts or fails to act in a way that would otherwise incur
57438 any liability to the office or the department, the certified local inspector's local government
57439 employer shall indemnify, defend, and hold harmless the office and the department for that

57440 liability.
57441 (c) (i) A local government employer of a certified local inspector is primarily
57442 responsible for the training of the local government employer's certified local inspector.
57443 (ii) The training described in Subsection (1)(b)(i) that is provided by the office is
57444 supplemental to the primary training responsibility of the certified local inspector's local
57445 government employer.
57446 (d) The local government employer of a certified local inspector shall be responsible to
57447 pay the certified local inspector for all action taken by the certified local inspector under this
57448 section, including:
57449 (i) conducting an inspection;
57450 (ii) preparing an inspection report for the office; and
57451 (iii) participating in training.
57452 (6) (a) For purposes of Subsection (1), and Subsections (3)(c)(i)(A) and (3)(c)(ii), if the
57453 office determines to not designate or renew the designation of a person as a certified local
57454 inspector, the office shall notify the person and the governing body of the local government
57455 that employs the person:
57456 (i) of the determination described in this Subsection (6)(a);
57457 (ii) of the reasons for the determination described in this Subsection (6)(a); and
57458 (iii) that the person or the local government, or both, may request a hearing in the
57459 department's Office of Administrative Hearings, to challenge the office's decision.
57460 (b) A person for whom a hearing is requested under Subsection (6)(a)(iii) is not a
57461 certified local inspector until:
57462 (i) a final decision is made that the office should designate the person as a certified
57463 local inspector; and
57464 (ii) (A) all appeals of the determination described in Subsection (6)(a) are exhausted;
57465 or
57466 (B) the time for an appeal described in Subsection (6)(b)(ii)(A) has expired.
57467 (7) (a) If the office determines that a residential treatment facility has violated this
57468 chapter or the rules made pursuant to this chapter, the office shall provide written notice of the
57469 violation to the governing body of:
57470 (i) the city that the residential treatment facility is located in; or

57471 (ii) the county that the residential treatment facility is located in, if the residential
57472 treatment facility is located in the unincorporated area of the county.
57473 (b) The written notice described in Subsection (7)(a):
57474 (i) subject to Subsection (7)(b)(ii), shall include:
57475 (A) the name of the residential treatment facility;
57476 (B) the location of the residential treatment facility;
57477 (C) the date and time that the violation occurred; and
57478 (D) the provision of the statute or rule that is violated; and
57479 (ii) may not include:
57480 (A) the name of any person connected with the violation; or
57481 (B) any information prohibited from disclosure by [~~Title 63, Chapter 2~~] Title 63G,
57482 Chapter 2, Government Records Access and Management Act.
57483 (c) A local government may seek additional information relating to a violation
57484 described in this Subsection (7) to the extent permitted by [~~Title 63, Chapter 2~~] Title 63G,
57485 Chapter 2, Government Records Access and Management Act.
57486 Section 1116. Section **62A-2-109** is amended to read:
57487 **62A-2-109. License application -- Classification of information.**
57488 (1) An application for a license under this chapter shall be made to the office and shall
57489 contain information that the board determines is necessary in accordance with approved rules.
57490 (2) Information received by the office through reports and inspections shall be
57491 classified in accordance with [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records
57492 Access and Management Act.
57493 Section 1117. Section **62A-2-111** is amended to read:
57494 **62A-2-111. Adjudicative proceedings.**
57495 (1) Whenever the office has reason to believe that a licensee is in violation of this
57496 chapter or rules made under this chapter, the office may commence adjudicative proceedings to
57497 determine the legal rights of the licensee by serving notice of agency action in accordance with
57498 [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
57499 (2) A licensee, human services program, or individual may commence adjudicative
57500 proceedings, in accordance with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
57501 Procedures Act, regarding all office actions that determine the legal rights, duties, privileges,

57502 immunities, or other legal interests of the licensee, human services program, or persons
57503 associated with the licensee, including all office actions to grant, deny, place conditions on,
57504 revoke, suspend, withdraw, or amend an authority, right, or license under this chapter.
57505 Section 1118. Section **62A-2-120** is amended to read:
57506 **62A-2-120. Criminal background checks -- Direct access to children or**
57507 **vulnerable adults.**
57508 (1) (a) Except as provided in Subsection (7), an applicant for an initial license or a
57509 license renewal under this chapter shall submit to the office the names and other identifying
57510 information, which may include fingerprints, of all persons associated with the licensee, as
57511 defined in Section 62A-2-101, with direct access to children or vulnerable adults.
57512 (b) The Criminal Investigations and Technical Services Division of the Department of
57513 Public Safety, or the office as authorized under Section 53-10-108, shall process the
57514 information described in Subsection (1)(a) to determine whether the individual has been
57515 convicted of any crime.
57516 (c) Except as provided in Subsection (1)(d), if an individual has not continuously lived
57517 in Utah for the five years immediately preceding the day on which the information referred to
57518 in Subsection (1)(a) is submitted to the office, the individual shall submit fingerprints for a FBI
57519 national criminal history record check. The fingerprints shall be submitted to the FBI through
57520 the Criminal Investigations and Technical Services Division.
57521 (d) An individual is not required to comply with Subsection (1)(c) if:
57522 (i) the individual continuously lived in Utah for the five years immediately preceding
57523 the day on which the information described in Subsection (1)(a) is submitted to the office,
57524 except for time spent outside of the United States and its territories; and
57525 (ii) the background check of the individual is being conducted for a purpose other than
57526 a purpose described in Subsection (1)(f).
57527 (e) If an applicant described in Subsection (1)(a) spent time outside of the United
57528 States and its territories during the five years immediately preceding the day on which the
57529 information described in Subsection (1)(a) is submitted to the office, the office shall require the
57530 applicant to submit documentation establishing whether the applicant was convicted of a crime
57531 during the time that the applicant spent outside of the United States and its territories.
57532 (f) Notwithstanding any other provision of this Subsection (1), an applicant described

57533 in Subsection (1)(a) shall submit fingerprints for an FBI national criminal history records
57534 check, through the Criminal Investigations and Technical Services Division, if the background
57535 check of the applicant is being conducted for the purpose of:
57536 (i) licensing a prospective foster home; or
57537 (ii) approving a prospective adoptive placement of a child in state custody.
57538 (g) In addition to the other requirements of this section, if the background check of an
57539 applicant described in Subsection (1)(a) is being conducted for the purpose of licensing a
57540 prospective foster home or approving a prospective adoptive placement of a child in state
57541 custody, the office shall:
57542 (i) check the child abuse and neglect registry in each state where each prospective
57543 foster parent or prospective adoptive parent resided in the five years immediately preceding the
57544 day on which the prospective foster parent or prospective adoptive parent applied to be a foster
57545 parent or adoptive parent, to determine whether the prospective foster parent or prospective
57546 adoptive parent is listed in the registry as having a substantiated or supported finding of child
57547 abuse or neglect; and
57548 (ii) check the child abuse and neglect registry in each state where each adult living in
57549 the home of the prospective foster parent or prospective adoptive parent described in
57550 Subsection (1)(g)(i) resided in the five years immediately preceding the day on which the
57551 prospective foster parent or prospective adoptive parent applied to be a foster parent or
57552 adoptive parent, to determine whether the adult is listed in the registry as having a substantiated
57553 or supported finding of child abuse or neglect.
57554 (h) The office shall make rules, in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
57555 Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this
57556 Subsection (1).
57557 (2) The office shall approve a person for whom identifying information is submitted
57558 under Subsection (1) to have direct access to children or vulnerable adults in the licensee
57559 program if:
57560 (a) (i) the person is found to have no criminal history record; or
57561 (ii) (A) the only convictions in the person's criminal history record are misdemeanors
57562 or infractions not involving any of the offenses described in Subsection (3); and
57563 (B) the date of the last conviction under Subsection (2)(a)(ii)(A) is more than five years

57564 before the date of the search;
57565 (b) the person is not listed in the statewide database of the Division of Aging and Adult
57566 Services created by Section 62A-3-311.1;
57567 (c) juvenile court records do not show that a court made a substantiated finding, under
57568 Section 78-3a-320, that the person committed a severe type of child abuse or neglect;
57569 (d) the person is not listed in the Licensing Information System of the Division of
57570 Child and Family Services created by Section 62A-4a-1006;
57571 (e) the person has not pled guilty or no contest to a pending charge for any:
57572 (i) felony;
57573 (ii) misdemeanor listed in Subsection (3); or
57574 (iii) infraction listed in Subsection (3); and
57575 (f) for a person described in Subsection (1)(g), the registry check described in
57576 Subsection (1)(g) does not indicate that the person is listed in a child abuse and neglect registry
57577 of another state as having a substantiated or supported finding of child abuse or neglect.
57578 (3) Except as provided in Subsection (8), unless at least ten years have passed since the
57579 date of conviction, the office may not approve a person to have direct access to children or
57580 vulnerable adults in the licensee's human services program if that person has been convicted of
57581 an offense, whether a felony, misdemeanor, or infraction, that is:
57582 (a) identified as a sexual offense, domestic violence, lewdness, assault, or battery;
57583 (b) a violation of any pornography law, including sexual exploitation of a minor;
57584 (c) prostitution;
57585 (d) included in:
57586 (i) Title 76, Chapter 5, Offenses Against the Person;
57587 (ii) Title 76, Chapter 5a, Sexual Exploitation of Children; or
57588 (iii) Title 76, Chapter 7, Offenses Against the Family;
57589 (e) a violation of Section 76-6-103, aggravated arson;
57590 (f) a violation of Section 76-6-203, aggravated burglary;
57591 (g) a violation of Section 76-6-302, aggravated robbery; or
57592 (h) a conviction for an offense committed outside of the state that, if committed in the
57593 state, would constitute a violation of an offense described in Subsections (3)(d) through (g).
57594 (4) (a) Except as provided in Subsection (8), if a person for whom identifying

57595 information is submitted under Subsection (1) is not approved by the office under Subsection
57596 (2) or (3) to have direct access to children or vulnerable adults in the licensee program, the
57597 office shall conduct a comprehensive review of criminal and court records and related
57598 circumstances if the reason the approval is not granted is due solely to one or more of the
57599 following:
57600 (i) a conviction for:
57601 (A) any felony not listed in Subsection (3);
57602 (B) any misdemeanor or infraction, not listed in Subsection (3), within five years of the
57603 date of the search;
57604 (C) a protective order or ex parte protective order violation under Section 76-5-108 or
57605 a similar statute in another state; or
57606 (D) any felony, misdemeanor, or infraction listed in Subsection (3) if at least ten years
57607 have passed since the date of conviction;
57608 (ii) a plea of guilty or no contest to a pending:
57609 (A) felony;
57610 (B) misdemeanor listed in Subsection (3); or
57611 (C) infraction listed in Subsection (3);
57612 (iii) the person is listed in the statewide database of the Division of Aging and Adult
57613 Services created by Section 62A-3-311.1;
57614 (iv) juvenile court records show that a court made a substantiated finding, under
57615 Section 78-3a-320, that the person committed a severe type of child abuse or neglect;
57616 (v) the person is listed in the Licensing Information System of the Division of Child
57617 and Family Services created by Section 62A-4a-1006; or
57618 (vi) the person is listed in a child abuse or neglect registry of another state as having a
57619 substantiated or supported finding of child abuse or neglect.
57620 (b) The comprehensive review under Subsection (4)(a) shall include an examination of:
57621 (i) the date of the offense or incident;
57622 (ii) the nature and seriousness of the offense or incident;
57623 (iii) the circumstances under which the offense or incident occurred;
57624 (iv) the age of the perpetrator when the offense or incident occurred;
57625 (v) whether the offense or incident was an isolated or repeated incident;

57626 (vi) whether the offense or incident directly relates to abuse of a child or vulnerable
57627 adult, including:
57628 (A) actual or threatened, nonaccidental physical or mental harm;
57629 (B) sexual abuse;
57630 (C) sexual exploitation; and
57631 (D) negligent treatment;
57632 (vii) any evidence provided by the person of rehabilitation, counseling, or psychiatric
57633 treatment received, or additional academic or vocational schooling completed, by the person;
57634 and
57635 (viii) any other pertinent information.
57636 (c) At the conclusion of the comprehensive review under Subsection (4)(a), the office
57637 shall approve the person who is the subject of the review to have direct access to children or
57638 vulnerable adults, unless it finds that approval will likely create a risk of harm to a child or
57639 vulnerable adult.
57640 (d) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
57641 Administrative Rulemaking Act, the office may make rules, consistent with this chapter,
57642 defining procedures for the comprehensive review described in this Subsection (4).
57643 (5) (a) For purposes of this Subsection (5), "directly supervised" means that the person
57644 being supervised is under the uninterrupted visual and auditory surveillance of the person doing
57645 the supervising.
57646 (b) A licensee may not permit any person to have direct access to a child or a
57647 vulnerable adult unless, subject to Subsection (5)(c), that person is:
57648 (i) associated with the licensee and:
57649 (A) approved by the office to have direct access to children or vulnerable adults under
57650 this section; or
57651 (B) (I) the office has not determined whether to approve that person to have direct
57652 access to children or vulnerable adults;
57653 (II) the information described in Subsection (1)(a), relating to that person, is submitted
57654 to the department; and
57655 (III) that person is directly supervised by a person associated with the licensee who is
57656 approved by the office to have direct access to children or vulnerable adults under this section;

57657 (ii) (A) not associated with the licensee; and
57658 (B) directly supervised by a person associated with the licensee who is approved by the
57659 office to have direct access to children or vulnerable adults under this section;
57660 (iii) the parent or guardian of the child or vulnerable adult; or
57661 (iv) a person approved by the parent or guardian of the child or vulnerable adult to
57662 have direct access to the child or vulnerable adult.
57663 (c) Notwithstanding Subsection (5)(b), a person may not have direct access to a child
57664 or a vulnerable adult if that person is prohibited by court order from having that access.
57665 (6) (a) Within 30 days after receiving the identifying information for a person under
57666 Subsection (1), the office shall give written notice to the person and to the licensee or applicant
57667 with whom the person is associated of:
57668 (i) the office's decision regarding its background screening clearance and findings; and
57669 (ii) a list of any convictions found in the search.
57670 (b) With the notice described in Subsection (6)(a), the office shall also give to the
57671 person the details of any comprehensive review conducted under Subsection (4).
57672 (c) If the notice under Subsection (6)(a) states that the person is not approved to have
57673 direct access to children or vulnerable adults, the notice shall further advise the persons to
57674 whom the notice is given that either the person or the licensee or applicant with whom the
57675 person is associated, or both, may, under Subsection 62A-2-111(2), request a hearing in the
57676 department's Office of Administrative Hearings, to challenge the office's decision.
57677 (d) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
57678 Administrative Rulemaking Act, the office shall make rules, consistent with this chapter:
57679 (i) defining procedures for the challenge of its background screening decision
57680 described in this Subsection (6); and
57681 (ii) expediting the process for renewal of a license under the requirements of this
57682 section and other applicable sections.
57683 (7) Notwithstanding Subsection (1)(a), this section does not apply to an applicant for
57684 an initial license, or license renewal, to operate a substance abuse program that provides
57685 services to adults only.
57686 (8) (a) Notwithstanding Subsections (2) through (4), the office may not approve or
57687 license a person as a prospective foster parent or a prospective adoptive parent if the person has

57688 been convicted of:
57689 (i) a felony involving conduct that constitutes any of the following:
57690 (A) child abuse, as described in Section 76-5-109;
57691 (B) commission of domestic violence in the presence of a child, as described in Section
57692 76-5-109.1;
57693 (C) abuse or neglect of a disabled child, as described in Section 76-5-110;
57694 (D) endangerment of a child, as described in Section 76-5-112.5;
57695 (E) aggravated murder, as described in Section 76-5-202;
57696 (F) murder, as described in Section 76-5-203;
57697 (G) manslaughter, as described in Section 76-5-205;
57698 (H) child abuse homicide, as described in Section 76-5-208;
57699 (I) homicide by assault, as described in Section 76-5-209;
57700 (J) kidnapping, as described in Section 76-5-301;
57701 (K) child kidnapping, as described in Section 76-5-301.1;
57702 (L) aggravated kidnapping, as described in Section 76-5-302;
57703 (M) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;
57704 (N) an offense described in Title 76, Chapter 5a, Sexual Exploitation of Children;
57705 (O) aggravated arson, as described in Section 76-6-103;
57706 (P) aggravated burglary, as described in Section 76-6-203;
57707 (Q) aggravated robbery, as described in Section 76-6-302; or
57708 (R) domestic violence, as described in Section 77-36-1; or
57709 (ii) an offense committed outside the state that, if committed in the state, would
57710 constitute a violation of an offense described in Subsection (8)(a)(i).
57711 (b) Notwithstanding Subsections (2) through (4), the office may not approve or license
57712 a person as a prospective foster parent or a prospective adoptive parent if, within the five years
57713 immediately preceding the day on which the person would otherwise be approved or licensed,
57714 the person has been convicted of a felony involving conduct that constitutes any of the
57715 following:
57716 (i) aggravated assault, as described in Section 76-5-103;
57717 (ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;
57718 (iii) mayhem, as described in Section 76-5-105;

57719 (iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;
57720 (v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
57721 (vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances
57722 Act;
57723 (vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance
57724 Precursor Act; or
57725 (viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.
57726 Section 1119. Section **62A-2-121** is amended to read:
57727 **62A-2-121. Access to abuse and neglect information.**
57728 (1) For purposes of this section:
57729 (a) "Direct service worker" is as defined in Section 62A-5-101.
57730 (b) "Personal care attendant" is as defined in Section 62A-3-101.
57731 (2) With respect to a licensee, a certified local inspector applicant, a direct service
57732 worker, or a personal care attendant, the department may access only the Licensing Information
57733 System of the Division of Child and Family Services created by Section 62A-4a-1006 and
57734 juvenile court records under Subsection 78-3a-320(6), for the purpose of:
57735 (a) (i) determining whether a person associated with a licensee, with direct access to
57736 children:
57737 (A) is listed in the Licensing Information System; or
57738 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or
57739 neglect under Subsections 78-3a-320(1) and (2); and
57740 (ii) informing a licensee that a person associated with the licensee:
57741 (A) is listed in the Licensing Information System; or
57742 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or
57743 neglect under Subsections 78-3a-320(1) and (2);
57744 (b) (i) determining whether a certified local inspector applicant:
57745 (A) is listed in the Licensing Information System; or
57746 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or
57747 neglect under Subsections 78-3a-320(1) and (2); and
57748 (ii) informing a local government that a certified local inspector applicant:
57749 (A) is listed in the Licensing Information System; or

57750 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or
57751 neglect under Subsections 78-3a-320(1) and (2);
57752 (c) (i) determining whether a direct service worker:
57753 (A) is listed in the Licensing Information System; or
57754 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or
57755 neglect under Subsections 78-3a-320(1) and (2); and
57756 (ii) informing a direct service worker or the direct service worker's employer that the
57757 direct service worker:
57758 (A) is listed in the Licensing Information System; or
57759 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or
57760 neglect under Subsections 78-3a-320(1) and (2); or
57761 (d) (i) determining whether a personal care attendant:
57762 (A) is listed in the Licensing Information System; or
57763 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or
57764 neglect under Subsections 78-3a-320(1) and (2); and
57765 (ii) informing a person described in Subsections 62A-3-101(9)(a)(i) through (iv) that a
57766 personal care attendant:
57767 (A) is listed in the Licensing Information System; or
57768 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or
57769 neglect under Subsections 78-3a-320(1) and (2).
57770 (3) Notwithstanding Subsection (2), the department may access the Division of Child
57771 and Family Service's Management Information System under Section 62A-4a-1003:
57772 (a) for the purpose of licensing and monitoring foster parents; and
57773 (b) for the purposes described in Subsection 62A-4a-1003(1)(d).
57774 (4) After receiving identifying information for a person under Subsection
57775 62A-2-120(1), the department shall process the information for the purposes described in
57776 Subsection (2).
57777 (5) The department shall adopt rules under [~~Title 63, Chapter 46a~~] Title 63G, Chapter
57778 3, Utah Administrative Rulemaking Act, consistent with this chapter, defining the
57779 circumstances under which a person may have direct access or provide services to children
57780 when:

57781 (a) the person is listed in the Licensing Information System of the Division of Child
57782 and Family Services created by Section 62A-4a-1006; or
57783 (b) juvenile court records show that a court made a substantiated finding under Section
57784 78-3a-320, that the person committed a severe type of child abuse or neglect.
57785 Section 1120. Section **62A-2-122** is amended to read:
57786 **62A-2-122. Access to vulnerable adult abuse and neglect information.**
57787 (1) For purposes of this section:
57788 (a) "direct service worker" is as defined in Section 62A-5-101; and
57789 (b) "personal care attendant" is as defined in Section 62A-3-101.
57790 (2) With respect to a licensee, a certified local inspector applicant, a direct service
57791 worker, or a personal care attendant, the department may access the data base created by
57792 Section 62A-3-311.1 for the purpose of:
57793 (a) (i) determining whether a person associated with a licensee, with direct access to
57794 vulnerable adults, has a substantiated finding of:
57795 (A) abuse;
57796 (B) neglect; or
57797 (C) exploitation; and
57798 (ii) informing a licensee that a person associated with the licensee has a substantiated
57799 finding of:
57800 (A) abuse;
57801 (B) neglect; or
57802 (C) exploitation;
57803 (b) (i) determining whether a certified local inspector applicant has a substantiated
57804 finding of:
57805 (A) abuse;
57806 (B) neglect; or
57807 (C) exploitation; and
57808 (ii) informing a local government that a certified local inspector applicant has a
57809 substantiated finding of:
57810 (A) abuse;
57811 (B) neglect; or

57812 (C) exploitation; or
57813 (c) (i) determining whether a direct service worker has a substantiated finding of:
57814 (A) abuse;
57815 (B) neglect; or
57816 (C) exploitation; and
57817 (ii) informing a direct service worker or the direct service worker's employer that the
57818 direct service worker has a substantiated finding of:
57819 (A) abuse;
57820 (B) neglect; or
57821 (C) exploitation; or
57822 (d) (i) determining whether a personal care attendant has a substantiated finding of:
57823 (A) abuse;
57824 (B) neglect; or
57825 (C) exploitation; and
57826 (ii) informing a person described in Subsections 62A-3-101(9)(a)(i) through (iv) that a
57827 personal care attendant has a substantiated finding of:
57828 (A) abuse;
57829 (B) neglect; or
57830 (C) exploitation;
57831 (3) After receiving identifying information for a person under Subsection
57832 62A-2-120(1), the department shall process the information for the purposes described in
57833 Subsection (2).
57834 (4) The department shall adopt rules under [~~Title 63, Chapter 46a~~] Title 63G, Chapter
57835 3, Utah Administrative Rulemaking Act, consistent with this chapter and consistent with
57836 Section 62A-3-311.1, defining the circumstances under which a person may have direct access
57837 or provide services to vulnerable adults when the person is listed in the statewide database of
57838 the Division of Aging and Adult Services created by Section 62A-3-311.1 as having a
57839 substantiated finding of abuse, neglect, or exploitation.
57840 Section 1121. Section **62A-3-104** is amended to read:
57841 **62A-3-104. Authority of division.**
57842 (1) The division is the sole state agency, as defined by the Older Americans Act of

57843 1965, 42 U.S.C. 3001 et seq., to:
57844 (a) serve as an effective and visible advocate for the aging and adult population of this
57845 state;
57846 (b) develop and administer a state plan under the policy direction of the board; and
57847 (c) take primary responsibility for state activities relating to provisions of the Older
57848 Americans Act of 1965, as amended.
57849 (2) (a) The division has authority to designate:
57850 (i) planning and service areas for the state; and
57851 (ii) an area agency on aging within each planning and service area to design and
57852 implement a comprehensive and coordinated system of services and programs for the aged
57853 within appropriations from the Legislature.
57854 (b) Designation as an area agency on aging may be withdrawn:
57855 (i) upon request of the area agency on aging; or
57856 (ii) upon noncompliance with the provisions of the:
57857 (A) Older Americans Act of 1965, 42 U.S.C. 3001 et seq.;
57858 (B) federal regulations enacted under the Older Americans Act of 1965, 42 U.S.C.
57859 3001 et seq.;
57860 (C) provisions of this chapter; or
57861 (D) rules, policies, or procedures established by the division.
57862 (3) (a) The division has the authority to designate:
57863 (i) planning and service areas for the state; and
57864 (ii) subject to Subsection (3)(b), an area agency on high risk adults within each
57865 planning and service area to design and implement a comprehensive and coordinated system of
57866 case management and programs for high risk adults within appropriations from the Legislature.
57867 (b) For purposes of Subsection (3)(a)(ii), before October 1, 1998, the division shall
57868 designate as the area agency on high risk adults in a planning and service area:
57869 (i) the area agency on aging that operates within the same geographic area if that
57870 agency requests, before July 1, 1998, to expand that agency's current contract with the division
57871 to include the responsibility of:
57872 (A) being the area agency on high risk adults; or
57873 (B) operating the area agency on high risk adults:

57874 (I) through joint cooperation with one or more existing area agencies on aging; and
57875 (II) without reducing geographical coverage in any service area; or
57876 (ii) a public or private nonprofit agency or office if the area agency on aging that
57877 operates within the same geographic area has not made a request in accordance with Subsection
57878 (3)(b)(i).
57879 (c) (i) Area agencies on high risk adults shall be in operation before July 1, 1999.
57880 (ii) The division's efforts to establish area agencies on high risk adults shall start with
57881 counties with a population of more than 150,000 people.
57882 (d) Designation as an area agency on high risk adults may be withdrawn:
57883 (i) upon request by the area agency; or
57884 (ii) upon noncompliance with:
57885 (A) state law;
57886 (B) federal law; or
57887 (C) rules, policies, or procedures established by the division.
57888 (4) (a) The division may, by following the procedures and requirements of [~~Title 63,~~
57889 ~~Chapter 38e~~] Title 63J, Chapter 5, Federal Funds Procedures:
57890 (i) seek federal grants, loans, or participation in federal programs; and
57891 (ii) receive and distribute state and federal funds for the division's programs and
57892 services to the aging and adult populations of the state.
57893 (b) The division may not disburse public funds to a personal care attendant as payment
57894 for personal services rendered to an aged person or high risk adult, except as provided in
57895 Section 62A-3-104.3.
57896 (5) The division has authority to establish, either directly or by contract, programs of
57897 advocacy, monitoring, evaluation, technical assistance, and public education to enhance the
57898 quality of life for aging and adult citizens of the state.
57899 (6) In accordance with the rules of the division and [~~Title 63, Chapter 56~~] Title 63G,
57900 Chapter 6, Utah Procurement Code, the division may contract with:
57901 (a) the governing body of an area agency to provide a comprehensive program of
57902 services; or
57903 (b) public and private entities for special services.
57904 (7) The division has authority to provide for collection, compilation, and dissemination

57905 of information, statistics, and reports relating to issues facing aging and adult citizens.
57906 (8) The division has authority to prepare and submit reports regarding the operation
57907 and administration of the division to the department, the Legislature, and the governor, as
57908 requested.
57909 (9) The division shall:
57910 (a) implement and enforce policies established by the board governing all aspects of
57911 the division's programs for aging and adult persons in the state;
57912 (b) in order to ensure compliance with all applicable state and federal statutes, policies,
57913 and procedures, monitor and evaluate programs provided by or under contract with:
57914 (i) the division;
57915 (ii) area agencies; and
57916 (iii) an entity that receives funds from an area agency;
57917 (c) examine expenditures of public funds;
57918 (d) withhold funds from programs based on contract noncompliance;
57919 (e) review and approve plans of area agencies in order to ensure:
57920 (i) compliance with division policies; and
57921 (ii) a statewide comprehensive program;
57922 (f) in order to further programs for aging and adult persons and prevent duplication of
57923 services, promote and establish cooperative relationships with:
57924 (i) state and federal agencies;
57925 (ii) social and health agencies;
57926 (iii) education and research organizations; and
57927 (iv) other related groups;
57928 (g) advocate for the aging and adult populations;
57929 (h) promote and conduct research on the problems and needs of aging and adult
57930 persons;
57931 (i) submit recommendations for changes in policies, programs, and funding to the:
57932 (i) governor; and
57933 (ii) Legislature; and
57934 (j) (i) accept contributions to and administer the funds contained in the "Out and
57935 About" Homebound Transportation Assistance Fund created in Section 62A-3-110; and

57936 (ii) make rules in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
57937 Administrative Rulemaking Act, to facilitate the administration of the "Out and About"
57938 Homebound Transportation Assistance Fund in accordance with Section 62A-3-110.
57939 Section 1122. Section **62A-3-104.1** is amended to read:
57940 **62A-3-104.1. Powers and duties of area agencies.**
57941 (1) An area agency that provides services to an aged person, or a high risk adult shall
57942 within the area agency's respective jurisdiction:
57943 (a) advocate by monitoring, evaluating, and providing input on all policies, programs,
57944 hearings, and levies that affect a person described in this Subsection (1);
57945 (b) design and implement a comprehensive and coordinated system of services within a
57946 designated planning and service area;
57947 (c) conduct periodic reviews and evaluations of needs and services;
57948 (d) prepare and submit to the division plans for funding and service delivery for
57949 services within the designated planning and service area;
57950 (e) establish, either directly or by contract, programs licensed under Chapter 2,
57951 Licensure of Programs and Facilities;
57952 (f) (i) appoint an area director;
57953 (ii) prescribe the area director's duties; and
57954 (iii) provide adequate and qualified staff to carry out the area plan described in
57955 Subsection (1)(d);
57956 (g) establish rules not contrary to policies of the board and rules of the division,
57957 regulating local services and facilities;
57958 (h) operate other services and programs funded by sources other than those
57959 administered by the division;
57960 (i) establish mechanisms to provide direct citizen input, including an area agency
57961 advisory council with a majority of members who are eligible for services from the area
57962 agency;
57963 (j) establish fee schedules; and
57964 (k) comply with the requirements and procedures of:
57965 (i) Title 11, Chapter 13, Interlocal Cooperation Act; and
57966 (ii) Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal

57967 Organizations, and Other Local Entities Act.
57968 (2) Before disbursing any public funds, an area agency shall require that all entities
57969 receiving any public funds agree in writing that:
57970 (a) the division may examine the entity's program and financial records; and
57971 (b) the auditor of the local area agency may examine and audit the entity's program and
57972 financial records, if requested by the local area agency.
57973 (3) An area agency on aging may not disburse public funds to a personal care attendant
57974 as payment for personal services rendered to an aged person or high risk adult, except as
57975 provided in Section 62A-3-104.3.
57976 (4) (a) For the purpose of providing services pursuant to this part, a local area agency
57977 may receive:
57978 (i) property;
57979 (ii) grants;
57980 (iii) gifts;
57981 (iv) supplies;
57982 (v) materials;
57983 (vi) any benefit derived from the items described in Subsections (4)(a)(i) through (v);
57984 and
57985 (vii) contributions.
57986 (b) If a gift is conditioned upon the gift's use for a specified service or program, the gift
57987 shall be used for the specific service or program.
57988 (5) (a) Area agencies shall award all public funds in compliance with:
57989 (i) the requirements of [~~Title 63, Chapter 56~~] Title 63G, Chapter 6, Utah Procurement
57990 Code; or
57991 (ii) a county procurement ordinance that requires procurement procedures similar to
57992 those described in Subsection (5)(a)(i).
57993 (b) (i) If all initial bids on a project are rejected, the area agency shall publish a new
57994 invitation to bid.
57995 (ii) If no satisfactory bid is received by the area agency described in Subsection
57996 (5)(b)(i), when the bids received from the second invitation are opened the area agency may
57997 execute a contract without requiring competitive bidding.

57998 (c) (i) An area agency need not comply with the procurement provisions of this section
57999 when it disburses public funds to another governmental entity.
58000 (ii) For purposes of this Subsection (5)(c), "governmental entity" means any political
58001 subdivision or institution of higher education of the state.
58002 (d) (i) Contracts awarded by an area agency shall be for a:
58003 (A) fixed amount; and
58004 (B) limited period.
58005 (ii) The contracts described in Subsection (5)(d)(i) may be modified due to changes in
58006 available funding for the same contract purpose without competition.
58007 (6) Local area agencies shall comply with:
58008 (a) applicable state and federal:
58009 (i) statutes;
58010 (ii) policies; and
58011 (iii) audit requirements; and
58012 (b) directives resulting from an audit described in Subsection (6)(a)(iii).
58013 Section 1123. Section **62A-3-106.5** is amended to read:
58014 **62A-3-106.5. Agency responsible to investigate and provide services.**
58015 (1) For purposes of this section, "responsible agency" means the agency responsible to
58016 investigate or provide services in a particular case under the rules established under Subsection
58017 (2)(a).
58018 (2) In order to avoid duplication in responding to a report of alleged abuse, neglect, or
58019 exploitation of a vulnerable adult who resides in a long-term care facility, the division shall
58020 make rules, in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
58021 Administrative Rulemaking Act, that establish procedures to:
58022 (a) determine whether Adult Protective Services or the Long-Term Care Ombudsman
58023 Program will be responsible to investigate or provide services in a particular case; and
58024 (b) determine whether, and under what circumstances, the agency described in
58025 Subsection (2)(a) that is not the responsible agency will provide assistance to the responsible
58026 agency in a particular case.
58027 (3) Notwithstanding Subsection (2), or the rules made pursuant to Subsection (2),
58028 Adult Protective Services shall be the agency within the division that is responsible for

58029 receiving all reports of alleged abuse, neglect, or exploitation of a vulnerable adult as provided
58030 in Section 62A-3-305.
58031 Section 1124. Section **62A-3-109** is amended to read:
58032 **62A-3-109. Adjudicative proceedings.**
58033 The board shall comply with the procedures and requirements of [~~Title 63, Chapter~~
58034 ~~46b,~~] Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative proceedings.
58035 Section 1125. Section **62A-3-205** is amended to read:
58036 **62A-3-205. Procedures -- Adjudicative proceedings.**
58037 The long-term care ombudsman shall comply with the procedures and requirements of
58038 [~~Title 63, Chapter 46b,~~] Title 63G, Chapter 4, Administrative Procedures Act, in its
58039 adjudicative proceedings.
58040 Section 1126. Section **62A-3-311** is amended to read:
58041 **62A-3-311. Requests for information.**
58042 Requests for information contained in an adult protection case file shall be made in
58043 writing to Adult Protective Services. Requests should indicate the specific information
58044 requested and the reason for the request. Notwithstanding the provisions of [~~Title 63, Chapter~~
58045 ~~2~~] Title 63G, Chapter 2, Government Records Access and Management Act, nothing may be
58046 released in response to a request except as provided in Section 62A-3-312.
58047 Section 1127. Section **62A-3-311.1** is amended to read:
58048 **62A-3-311.1. Statewide data base -- Restricted use and access.**
58049 (1) The division shall maintain a data base for reports of vulnerable adult abuse,
58050 neglect, or exploitation made pursuant to this part.
58051 (2) The data base shall include:
58052 (a) the names and identifying data of the abused, neglected, or exploited adult and the
58053 reported abuser;
58054 (b) information regarding whether or not the abuse, neglect, or exploitation was
58055 substantiated or unsubstantiated; and
58056 (c) any other information that may be helpful in furthering the purposes of this part, as
58057 determined by the division, subject to the restrictions of Section 62A-3-306.
58058 (3) Information obtained from the data base may be used only for:
58059 (a) compiling statistical summaries that do not include names or other identifying data;

58060 (b) granting or denying licenses or other grants of privilege by the department where
58061 identification as a possible adult abuser may be relevant to the privilege in question, in
58062 accordance with Subsection (4); and
58063 (c) licensing purposes by the Bureau of Licensing within the Department of Health, as
58064 provided for in Section 26-21-9.5, in determining whether a person associated with a covered
58065 health care facility who provides direct care to vulnerable adults has a substantiated finding of
58066 vulnerable adult abuse, neglect, or exploitation if identification as a possible perpetrator is
58067 relevant to the employment activities of that person.
58068 (4) (a) A license or privilege may not be denied under Subsection (3) solely on the
58069 basis of information in the data base.
58070 (b) Before a license or privilege may be denied under Subsection (3), the department
58071 taking the action shall conduct a review and provide the person making application for the
58072 license or privilege with notice and an opportunity to be heard in accordance with [~~Title 63,~~
58073 ~~Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
58074 Section 1128. Section **62A-3-312** is amended to read:
58075 **62A-3-312. Access to information in data base.**
58076 The records and information contained in the data base and the adult protection case file
58077 are protected records under [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records
58078 Access and Management Act. However, notwithstanding the provisions of [~~Title 63, Chapter~~
58079 ~~2~~] Title 63G, Chapter 2, Government Records Access and Management Act, information and
58080 records contained in the data base and in the adult protection case file are not open to public
58081 inspection. Pertinent parts of the data base and the adult protection case file shall be made
58082 available to law enforcement agencies, the attorney general's office, and county or district
58083 attorney's offices and may be made available, at the discretion of the division, to:
58084 (1) subjects of a report as follows:
58085 (a) a vulnerable adult named in a report as a victim of abuse, neglect, or exploitation,
58086 or that adult's attorney or legal guardian; and
58087 (b) a person identified in a report as having abused, neglected, or exploited a
58088 vulnerable adult, or that person's attorney; and
58089 (2) persons involved in an evaluation or assessment of the vulnerable adult as follows:
58090 (a) an employee of the department who is responsible for the evaluation or assessment

58091 of an adult protection case file;
58092 (b) a multidisciplinary team approved by the division to assist Adult Protective
58093 Services in the evaluation, assessment, and disposition of a vulnerable adult case;
58094 (c) an authorized person or agency providing services to or responsible for the care,
58095 treatment, assessment, or supervision of a vulnerable adult named in the report as a victim,
58096 when in the opinion of the division that information will assist in the protection of or provide
58097 other benefits to the victim;
58098 (d) a licensing authority for a facility, program, or person providing care to a victim
58099 named in a report;
58100 (e) the person or entity that reported the abuse, neglect, or exploitation, as considered
58101 necessary on an individual case basis by the division; and
58102 (f) legally authorized protection and advocacy agencies when they represent a victim or
58103 have been requested by the division to assist on a case.
58104 Section 1129. Section **62A-4a-102** is amended to read:
58105 **62A-4a-102. Board of Child and Family Services.**
58106 (1) (a) The Board of Child and Family Services, created in accordance with this section
58107 and with Sections 62A-1-105 and 62A-1-107, is responsible for establishing by rule, under
58108 [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the policy
58109 of the division in accordance with the requirements of this chapter and Title 78, Chapter 3a,
58110 Juvenile Court Act of 1996, regarding abuse, neglect, and dependency proceedings, and
58111 domestic violence services. The board is responsible to see that the legislative purposes for the
58112 division are carried out.
58113 (b) (i) The governor shall appoint, with the consent of the Senate, 12 members to the
58114 Board of Child and Family Services.
58115 (ii) Except as required by Subsection (1)(b)(iii), as terms of current board members
58116 expire, the governor shall appoint each new member or reappointed member to a four-year
58117 term.
58118 (iii) Notwithstanding the requirements of Subsection (1)(b)(ii), the governor shall, at
58119 the time of appointment or reappointment, adjust the length of terms to ensure that the terms of
58120 board members are staggered so that approximately half of the board is appointed every two
58121 years.

58122 (c) The board shall include:
58123 (i) two members who are or have been consumers;
58124 (ii) two members who are actively involved in children's issues specifically related to
58125 abuse and neglect;
58126 (iii) a licensed foster parent;
58127 (iv) a recognized expert in the social, developmental, and mental health needs of
58128 children;
58129 (v) a physician licensed to practice medicine in this state who is:
58130 (A) a board certified pediatrician; and
58131 (B) an expert in child abuse and neglect;
58132 (vi) a representative of private residential treatment facilities; and
58133 (vii) an adult relative of a child who is or has been in the foster care system.
58134 (d) Seven members of the board are necessary to constitute a quorum at any meeting.
58135 (e) When a vacancy occurs in the membership for any reason, the replacement shall be
58136 appointed for the unexpired term.
58137 (2) (a) A member shall receive no compensation or benefits for the member's services,
58138 but may receive per diem and expenses incurred in the performance of the member's official
58139 duties at the rates established by the Division of Finance under Sections 63A-3-106 and
58140 63A-3-107.
58141 (b) A member may decline to receive per diem and expenses for the member's service.
58142 (3) The board shall:
58143 (a) approve fee schedules for programs within the division;
58144 (b) in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
58145 Administrative Rulemaking Act, establish, by rule, policies to ensure that private citizens,
58146 consumers, foster parents, private contract providers, allied state and local agencies, and others
58147 are provided with an opportunity to comment and provide input regarding any new policy or
58148 proposed revision of an existing policy; and
58149 (c) provide a mechanism for:
58150 (i) systematic and regular review of existing policy; and
58151 (ii) consideration of policy changes proposed by the persons and agencies described in
58152 Subsection (3)(b).

58153 (4) (a) The board shall establish policies for the determination of eligibility for services
58154 offered by the division in accordance with this chapter.
58155 (b) The division may, by rule, establish eligibility standards for consumers.
58156 (5) The board shall adopt and maintain rules and policies regarding placement for
58157 adoption or foster care that are consistent with, and no more restrictive than, applicable
58158 statutory provisions.
58159 Section 1130. Section **62A-4a-112** is amended to read:
58160 **62A-4a-112. Request to examine family services payment.**
58161 (1) An individual who is a taxpayer and resident of this state and who desires to
58162 examine a payment for services offered by the division in accordance with this chapter, shall
58163 sign a statement using a form prescribed by the division. That statement shall include the
58164 assertion that the individual is a taxpayer and a resident, and shall include a commitment that
58165 any information obtained will not be used for commercial or political purposes. No partial or
58166 complete list of names, addresses, or amounts of payment may be made by any individual
58167 under this subsection, and none of that information may be removed from the offices of the
58168 division.
58169 (2) The board shall, after due consideration of the public interest, define the nature of
58170 confidential information to be safeguarded by the division and shall establish policies and rules
58171 to govern the custody and disclosure of confidential information, as well as to provide access to
58172 information regarding payments for services offered by the division.
58173 (3) This section does not prohibit the division or its agents, or individuals,
58174 commissions, or agencies duly authorized for the purpose, from making special studies or from
58175 issuing or publishing statistical material and reports of a general character. This section does
58176 not prohibit the division or its representatives or employees from conveying or providing to
58177 local, state, or federal governmental agencies written information that would affect an
58178 individual's eligibility or ineligibility for financial service, or other beneficial programs offered
58179 by that governmental agency. Access to the division's program plans, policies, and records, as
58180 well as consumer records and data, is governed by [~~Title 63, Chapter 2~~] Title 63G, Chapter 2,
58181 Government Records Access and Management Act.
58182 (4) This section does not apply to a board member while acting in [~~his~~] the board
58183 member's official capacity as a board member.

58184 (5) Violation of this section is a class B misdemeanor.
58185 Section 1131. Section **62A-4a-115** is amended to read:
58186 **62A-4a-115. Administrative proceedings.**
58187 The department, board, and division shall comply with the procedures and requirements
58188 of [~~Title 63, Chapter 46b,~~] Title 63G, Chapter 4, Administrative Procedures Act, in their
58189 adjudicative proceedings.
58190 Section 1132. Section **62A-4a-119** is amended to read:
58191 **62A-4a-119. Division required to produce "family impact statement" with regard**
58192 **to policies and rules.**
58193 Beginning May 1, 2000, whenever the division establishes a rule, in accordance with
58194 [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, or the
58195 board establishes any policy in accordance with its statutory authority, those processes shall
58196 include an assessment of the impact of that rule or policy on families. Those assessments shall
58197 determine the impact of the rule or policy on the authority of parents to oversee the care,
58198 supervision, upbringing, and education of children in the parents' custody. The division shall
58199 publish a family impact statement describing those assessments and determinations, within 90
58200 days of the establishment of each rule or policy.
58201 Section 1133. Section **62A-4a-120** is amended to read:
58202 **62A-4a-120. Accommodation of moral and religious beliefs and culture.**
58203 (1) The division shall adopt rules in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
58204 Chapter 3, Utah Administrative Rulemaking Act, and establish procedures to accommodate the
58205 moral and religious beliefs, and culture, of the minors and families it serves, including:
58206 (a) the immediate family and other relatives of a minor in any type of custody or
58207 otherwise under the jurisdiction of the court;
58208 (b) foster and other out-of-home placement families; and
58209 (c) adoptive families.
58210 (2) The accommodation under Subsection (1) applies to placements, treatment plans,
58211 services, and other activities of the division.
58212 Section 1134. Section **62A-4a-206** is amended to read:
58213 **62A-4a-206. Process for removal of a child from foster family -- Procedural due**
58214 **process.**

58215 (1) (a) The Legislature finds that, except with regard to a child's natural parent or legal
58216 guardian, a foster family has a very limited but recognized interest in its familial relationship
58217 with a foster child who has been in the care and custody of that family. In making
58218 determinations regarding removal of a child from a foster home, the division may not dismiss
58219 the foster family as a mere collection of unrelated individuals.
58220 (b) The Legislature finds that children in the temporary custody and custody of the
58221 division are experiencing multiple changes in foster care placements with little or no
58222 documentation, and that numerous studies of child growth and development emphasize the
58223 importance of stability in foster care living arrangements.
58224 (c) For the reasons described in Subsections (1)(a) and (b), the division shall provide
58225 procedural due process for a foster family prior to removal of a foster child from their home,
58226 regardless of the length of time the child has been in that home, unless removal is for the
58227 purpose of:
58228 (i) returning the child to the child's natural parent or legal guardian;
58229 (ii) immediately placing the child in an approved adoptive home;
58230 (iii) placing the child with a relative, as defined in Subsection 78-3a-307(5)(d), who
58231 obtained custody or asserted an interest in the child within the preference period described in
58232 Subsection 78-3a-307(8); or
58233 (iv) placing an Indian child in accordance with preplacement preferences and other
58234 requirements described in the Indian Child Welfare Act, 25 U.S.C. Sec. 1915.
58235 (2) (a) The division shall maintain and utilize due process procedures for removal of a
58236 foster child from a foster home, in accordance with the procedures and requirements of [~~Title~~
58237 ~~63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
58238 (b) Those procedures shall include requirements for:
58239 (i) personal communication with and explanation to foster parents prior to removal of
58240 the child; and
58241 (ii) an opportunity for foster parents to present their information and concerns to the
58242 division and to request a review by a third party neutral fact finder prior to removal of the
58243 child.
58244 (c) If the division determines that there is a reasonable basis to believe that the child is
58245 in danger or that there is a substantial threat of danger to the health or welfare of the child, it

58246 shall place the child in emergency foster care during the pendency of the procedures described
58247 in this subsection, instead of making another foster care placement.
58248 (3) If the division removes a child from a foster home based upon the child's statement
58249 alone, the division shall initiate and expedite the processes described in Subsection (2). The
58250 division may take no formal action with regard to that foster parent's license until after those
58251 processes, in addition to any other procedure or hearing required by law, have been completed.
58252 (4) When a complaint is made to the division by a foster child against a foster parent,
58253 the division shall, within 30 business days, provide the foster parent with information regarding
58254 the specific nature of the complaint, the time and place of the alleged incident, and who was
58255 alleged to have been involved.
58256 (5) Whenever the division places a child in a foster home, it shall provide the foster
58257 parents with:
58258 (a) notification of the requirements of this section;
58259 (b) a written description of the procedures enacted by the division pursuant to
58260 Subsection (2) and how to access those processes; and
58261 (c) written notification of the foster parents' ability to petition the juvenile court
58262 directly for review of a decision to remove a foster child who has been in their custody for 12
58263 months or longer, in accordance with the limitations and requirements of Section 78-3a-315.
58264 (6) The requirements of this section do not apply to the removal of a child based on a
58265 foster parent's request for that removal.
58266 Section 1135. Section **62A-4a-207** is amended to read:
58267 **62A-4a-207. Legislative Oversight Panel -- Responsibilities.**
58268 (1) (a) There is created the Child Welfare Legislative Oversight Panel composed of the
58269 following members:
58270 (i) two members of the Senate, one from the majority party and one from the minority
58271 party, appointed by the president of the Senate; and
58272 (ii) three members of the House of Representatives, two from the majority party and
58273 one from the minority party, appointed by the speaker of the House of Representatives.
58274 (b) Members of the panel shall serve for two-year terms, or until their successors are
58275 appointed.
58276 (c) A vacancy exists whenever a member ceases to be a member of the Legislature, or

58277 when a member resigns from the panel. Vacancies shall be filled by the appointing authority,
58278 and the replacement shall fill the unexpired term.
58279 (2) The president of the Senate shall designate one of the senators appointed to the
58280 panel under Subsection (1) as the Senate chair of the panel. The speaker of the House of
58281 Representatives shall designate one of the representatives appointed to the panel under
58282 Subsection (1) as the House chair of the panel.
58283 (3) The panel shall follow the interim committee rules established by the Legislature.
58284 (4) The panel shall:
58285 (a) examine and observe the process and execution of laws governing the child welfare
58286 system by the executive branch and the judicial branch;
58287 (b) upon request, receive testimony from the public, the juvenile court, and from all
58288 state agencies involved with the child welfare system including, but not limited to, the division,
58289 other offices and agencies within the department, the attorney general's office, the Office of the
58290 Guardian Ad Litem Director, and school districts;
58291 (c) before October 1, 2002, and before October 1 of each year thereafter receive reports
58292 from the division, the attorney general, and the judicial branch identifying the cases not in
58293 compliance with the time limits established in Section 78-3a-308, regarding pretrial and
58294 adjudication hearings, Section 78-3a-311, regarding dispositional hearings and reunification
58295 services, and Section 78-3a-312, regarding permanency hearings and petitions for termination,
58296 and the reasons for the noncompliance;
58297 (d) receive recommendations from, and make recommendations to the governor, the
58298 Legislature, the attorney general, the division, the Office of the Guardian Ad Litem Director,
58299 the juvenile court, and the public;
58300 (e) (i) receive reports from the executive branch and the judicial branch on budgetary
58301 issues impacting the child welfare system; and
58302 (ii) recommend, as it considers advisable, budgetary proposals to the Health and
58303 Human Services Joint Appropriations Subcommittee, the Executive Offices and Criminal
58304 Justice Appropriations Subcommittee, and the Executive Appropriations Committee, which
58305 recommendation should be made before December 1 of each year;
58306 (f) study and recommend proposed changes to laws governing the child welfare
58307 system;

58308 (g) study actions the state can take to preserve, unify, and strengthen the child's family
58309 ties whenever possible in the child's best interest, including recognizing the constitutional
58310 rights and claims of parents whenever those family ties are severed or infringed;
58311 (h) perform such other duties related to the oversight of the child welfare system as the
58312 panel considers appropriate; and
58313 (i) annually report its findings and recommendations to the president of the Senate, the
58314 speaker of the House of Representatives, the Health and Human Services Interim Committee,
58315 and the Judiciary Interim Committee.
58316 (5) (a) The panel has authority to review and discuss individual cases.
58317 (b) When an individual case is discussed, the panel's meeting may be closed pursuant
58318 to Title 52, Chapter 4, Open and Public Meetings Act.
58319 (c) When discussing an individual case, the panel shall make reasonable efforts to
58320 identify and consider the concerns of all parties to the case.
58321 (6) (a) The panel has authority to make recommendations to the Legislature, the
58322 governor, the Board of Juvenile Court Judges, the division, and any other statutorily created
58323 entity related to the policies and procedures of the child welfare system. The panel does not
58324 have authority to make recommendations to the court, the division, or any other public or
58325 private entity regarding the disposition of any individual case.
58326 (b) The panel may hold public hearings, as it considers advisable, in various locations
58327 within the state in order to afford all interested persons an opportunity to appear and present
58328 their views regarding the child welfare system in this state.
58329 (7) (a) All records of the panel regarding individual cases shall be classified private,
58330 and may be disclosed only in accordance with federal law and the provisions of [~~Title 63,~~
58331 ~~Chapter 2~~] Title 63G, Chapter 2, Government Records Access and Management Act.
58332 (b) The panel shall have access to all of the division's records, including those
58333 regarding individual cases. In accordance with [~~Title 63, Chapter 2~~] Title 63G, Chapter 2,
58334 Government Records Access Management Act, all documents and information received by the
58335 panel shall maintain the same classification that was designated by the division.
58336 (8) In order to accomplish its oversight functions, the panel has:
58337 (a) all powers granted to legislative interim committees in Section 36-12-11; and
58338 (b) legislative subpoena powers under Title 36, Chapter 14, Legislative Subpoena

58339 Powers.
58340 (9) Members of the panel shall receive salary and expenses in accordance with Section
58341 36-2-2.
58342 (10) (a) The Office of Legislative Research and General Counsel shall provide staff
58343 support to the panel.
58344 (b) The panel is authorized to employ additional professional assistance and other staff
58345 members as it considers necessary and appropriate.
58346 Section 1136. Section **62A-4a-208** is amended to read:
58347 **62A-4a-208. Child protection ombudsman -- Responsibility -- Authority.**
58348 (1) As used in this section:
58349 (a) "Complainant" means a person who initiates a complaint with the ombudsman.
58350 (b) "Ombudsman" means the child protection ombudsman appointed pursuant to this
58351 section.
58352 (2) (a) There is created within the department the position of child protection
58353 ombudsman. The ombudsman shall be appointed by and serve at the pleasure of the executive
58354 director.
58355 (b) The ombudsman shall be:
58356 (i) an individual of recognized executive and administrative capacity;
58357 (ii) selected solely with regard to qualifications and fitness to discharge the duties of
58358 ombudsman; and
58359 (iii) have experience in child welfare, and in state laws and policies governing abused,
58360 neglected, and dependent children.
58361 (c) The ombudsman shall devote full time to the duties of office.
58362 (3) (a) Except as provided in Subsection (b), the ombudsman shall, upon receipt of a
58363 complaint from any person, investigate whether an act or omission of the division with respect
58364 to a particular child:
58365 (i) is contrary to statute, rule, or policy;
58366 (ii) places a child's health or safety at risk;
58367 (iii) is made without an adequate statement of reason; or
58368 (iv) is based on irrelevant, immaterial, or erroneous grounds.
58369 (b) The ombudsman may decline to investigate any complaint. If the ombudsman

58370 declines to investigate a complaint or continue an investigation, the ombudsman shall notify
58371 the complainant and the division of the decision and of the reasons for that decision.
58372 (c) The ombudsman may conduct an investigation on [~~his~~] the ombudsman's own
58373 initiative.
58374 (4) The ombudsman shall:
58375 (a) in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
58376 Administrative Rulemaking Act, make rules that govern the following:
58377 (i) receiving and processing complaints;
58378 (ii) notifying complainants and the division regarding a decision to investigate or to
58379 decline to investigate a complaint;
58380 (iii) prioritizing workload;
58381 (iv) maximum time within which investigations shall be completed;
58382 (v) conducting investigations;
58383 (vi) notifying complainants and the division regarding the results of investigations; and
58384 (vii) making recommendations based on the findings and results of recommendations;
58385 (b) report findings and recommendations in writing to the complainant and the
58386 division, in accordance with the provisions of this section;
58387 (c) within appropriations from the Legislature, employ staff as may be necessary to
58388 carry out the ombudsman's duties under this part;
58389 (d) provide information regarding the role, duties, and functions of the ombudsman to
58390 public agencies, private entities, and individuals;
58391 (e) annually report to the:
58392 (i) Child Welfare Legislative Oversight Panel;
58393 (ii) governor;
58394 (iii) Board of Child and Family Services;
58395 (iv) executive director of the department; and
58396 (v) director of the division; and
58397 (f) as appropriate, make recommendations to the division regarding individual cases,
58398 and the rules, policies, and operations of the division.
58399 (5) (a) Upon rendering a decision to investigate a complaint, the ombudsman shall
58400 notify the complainant and the division of that decision.

58401 (b) The ombudsman may advise a complainant to pursue all administrative remedies or
58402 channels of complaint before pursuing a complaint with the ombudsman. Subsequent to
58403 processing a complaint, the ombudsman may conduct further investigations upon the request of
58404 the complainant or upon the ombudsman's own initiative. Nothing in this subsection precludes
58405 a complainant from making a complaint directly to the ombudsman before pursuing an
58406 administrative remedy.
58407 (c) If the ombudsman finds that an individual's act or omission violates state or federal
58408 criminal law, the ombudsman shall immediately report that finding to the appropriate county or
58409 district attorney or to the attorney general.
58410 (d) The ombudsman shall immediately notify the division if the ombudsman finds that
58411 a child needs protective custody, as that term is defined in Section 78-3a-103.
58412 (e) The ombudsman shall immediately comply with Part 4, Child Abuse or Neglect
58413 Reporting Requirements.
58414 (6) (a) All records of the ombudsman regarding individual cases shall be classified in
58415 accordance with federal law and the provisions of [~~Title 63, Chapter 2~~] Title 63G, Chapter 2,
58416 Government Records Access and Management Act. The ombudsman may make public a
58417 report prepared pursuant to this section in accordance with the provisions of [~~Title 63, Chapter~~
58418 ~~2~~] Title 63G, Chapter 2, Government Records Access and Management Act.
58419 (b) The ombudsman shall have access to all of the department's written and electronic
58420 records and databases, including those regarding individual cases. In accordance with [~~Title~~
58421 ~~63, Chapter 2~~] Title 63G, Chapter 2, Government Records Access and Management Act, all
58422 documents and information received by the ombudsman shall maintain the same classification
58423 that was designated by the department.
58424 (7) (a) The ombudsman shall prepare a written report of the findings and
58425 recommendations, if any, of each investigation.
58426 (b) The ombudsman shall make recommendations to the division if the ombudsman
58427 finds that:
58428 (i) a matter should be further considered by the division;
58429 (ii) an administrative act should be addressed, modified, or canceled;
58430 (iii) action should be taken by the division with regard to one of its employees; or
58431 (iv) any other action should be taken by the division.

58432 Section 1137. Section **62A-4a-303** is amended to read:
58433 **62A-4a-303. Director's responsibility.**
58434 The director, under the direction of the board, shall:
58435 (1) contract with public or private nonprofit organizations, agencies, schools, or with
58436 qualified individuals to establish voluntary community-based educational and service programs
58437 designed to reduce the occurrence or recurrence of child abuse and neglect;
58438 (2) facilitate the exchange of information between and among groups concerned with
58439 families and children;
58440 (3) consult with appropriate state agencies, commissions, and boards to help determine
58441 the probable effectiveness, fiscal soundness, and need for proposed education and service
58442 programs for the prevention and treatment of child abuse and neglect;
58443 (4) develop policies to determine whether programs will be discontinued or will
58444 receive continuous funding;
58445 (5) establish flexible fees and fee schedules based on the recipient's ability to pay for
58446 part or all of the costs of service received; and
58447 (6) adopt rules under [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
58448 Rulemaking Act, as necessary to carry out the purposes of this part.
58449 Section 1138. Section **62A-4a-304** is amended to read:
58450 **62A-4a-304. Contracts for services.**
58451 (1) (a) Contracts for services to prevent child abuse and neglect shall be awarded on
58452 the basis of probability of success, based in part on sound research data.
58453 (b) Each contract entered into by the director under Section 62A-4a-303 shall contain a
58454 provision for the evaluation of services provided under the contract.
58455 (2) Contract funds awarded for the treatment of victims of physical or sexual abuse are
58456 not a collateral source as described in Section [~~63-25a-402~~] 63M-7-502.
58457 Section 1139. Section **62A-4a-410** is amended to read:
58458 **62A-4a-410. Immunity from liability.**
58459 (1) Any person, official, or institution participating in good faith in making a report,
58460 taking photographs or X-rays, assisting an investigator from the division, serving as a member
58461 of a child protection team, or taking a child into protective custody pursuant to this part, is
58462 immune from any liability, civil or criminal, that otherwise might result by reason of those

58463 actions.
58464 (2) This section does not provide immunity with respect to acts or omissions of a
58465 governmental employee except as provided in [~~Title 63, Chapter 30d~~] Title 63G, Chapter 7,
58466 Governmental Immunity Act of Utah.
58467 Section 1140. Section **62A-4a-412** is amended to read:
58468 **62A-4a-412. Reports and information confidential.**
58469 (1) Except as otherwise provided in this chapter, reports made pursuant to this part, as
58470 well as any other information in the possession of the division obtained as the result of a report
58471 are private, protected, or controlled records under [~~Title 63, Chapter 2~~] Title 63G, Chapter 2,
58472 Government Records Access and Management Act, and may only be made available to:
58473 (a) a police or law enforcement agency investigating a report of known or suspected
58474 child abuse or neglect;
58475 (b) a physician who reasonably believes that a child may be the subject of abuse or
58476 neglect;
58477 (c) an agency that has responsibility or authority to care for, treat, or supervise a minor
58478 who is the subject of a report;
58479 (d) a contract provider that has a written contract with the division to render services to
58480 a minor who is the subject of a report;
58481 (e) any subject of the report, the natural parents of the child, and the guardian ad litem;
58482 (f) a court, upon a finding that access to the records may be necessary for the
58483 determination of an issue before the court, provided that in a divorce, custody, or related
58484 proceeding between private parties, the record alone is:
58485 (i) limited to objective or undisputed facts that were verified at the time of the
58486 investigation; and
58487 (ii) devoid of conclusions drawn by the division or any of the division's workers on the
58488 ultimate issue of whether or not a person's acts or omissions constituted any level of abuse or
58489 neglect of another person;
58490 (g) an office of the public prosecutor or its deputies in performing an official duty;
58491 (h) a person authorized by a Children's Justice Center, for the purposes described in
58492 Section 67-5b-102;
58493 (i) a person engaged in bona fide research, when approved by the director of the

58494 division, if the information does not include names and addresses;
58495 (j) the State Office of Education, acting on behalf of itself or on behalf of a school
58496 district, for the purpose of evaluating whether an individual should be permitted to obtain or
58497 retain a license as an educator or serve as an employee or volunteer in a school, limited to
58498 information with substantiated findings involving an alleged sexual offense, an alleged felony
58499 or class A misdemeanor drug offense, or any alleged offense against the person under Title 76,
58500 Chapter 5, Offenses Against the Person, and with the understanding that the office must
58501 provide the subject of a report received under Subsection (1)(k) with an opportunity to respond
58502 to the report before making a decision concerning licensure or employment;
58503 (k) any person identified in the report as a perpetrator or possible perpetrator of child
58504 abuse or neglect, after being advised of the screening prohibition in Subsection (2);
58505 (l) a person filing a petition for a child protective order on behalf of a child who is the
58506 subject of the report; and
58507 (m) a licensed child-placing agency or person who is performing a preplacement
58508 adoptive evaluation in accordance with the requirements of Section 78-30-3.5.
58509 (2) (a) A person, unless listed in Subsection (1), may not request another person to
58510 obtain or release a report or any other information in the possession of the division obtained as
58511 a result of the report that is available under Subsection (1)(k) to screen for potential
58512 perpetrators of child abuse or neglect.
58513 (b) A person who requests information knowing that it is a violation of Subsection
58514 (2)(a) to do so is subject to the criminal penalty in Subsection (4).
58515 (3) (a) Except as provided in Section 62A-4a-1007 and Subsection (3)(b), the division
58516 and law enforcement officials shall ensure the anonymity of the person or persons making the
58517 initial report and any others involved in its subsequent investigation.
58518 (b) Notwithstanding any other provision of law, excluding Section 78-3a-314, but
58519 including this chapter and [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records
58520 Access and Management Act, when the division makes a report or other information in its
58521 possession available under Subsection (1)(e) to a subject of the report or a parent of a child, the
58522 division shall remove from the report or other information only the names, addresses, and
58523 telephone numbers of individuals or specific information that could:
58524 (i) identify the referent;

58525 (ii) impede a criminal investigation; or
58526 (iii) endanger a person's safety.
58527 (4) Any person who wilfully permits, or aides and abets the release of data or
58528 information obtained as a result of this part, in the possession of the division or contained on
58529 any part of the Management Information System, in violation of this part or Sections
58530 62A-4a-1003 through 62A-4a-1007, is guilty of a class C misdemeanor.
58531 (5) The physician-patient privilege is not a ground for excluding evidence regarding a
58532 child's injuries or the cause of those injuries, in any proceeding resulting from a report made in
58533 good faith pursuant to this part.
58534 (6) A child-placing agency or person who receives a report in connection with a
58535 preplacement adoptive evaluation pursuant to Section 78-30-3.5:
58536 (a) may provide this report to the person who is the subject of the report; and
58537 (b) may provide this report to a person who is performing a preplacement adoptive
58538 evaluation in accordance with the requirement of Section 78-30-3.5, or to a licensed
58539 child-placing agency or to an attorney seeking to facilitate an adoption.
58540 Section 1141. Section **62A-4a-906** is amended to read:
58541 **62A-4a-906. Termination or modification of adoption assistance.**
58542 (1) Adoption assistance may not be terminated or modified unless the division has
58543 given adoptive parents notice and opportunity for a hearing as required in [~~Title 63, Chapter~~
58544 ~~46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
58545 (2) Adoption assistance shall be terminated if any of the following occur:
58546 (a) the adoptive parents request termination;
58547 (b) the child reaches 18 years of age, unless approval has been given by the division to
58548 continue beyond the age of 18 due to mental or physical disability, but in no case shall
58549 assistance continue after a child reaches 21 years of age;
58550 (c) the child dies;
58551 (d) the adoptive parents die;
58552 (e) the adoptive parent's legal responsibility for the child ceases;
58553 (f) the state determines that the child is no longer receiving support from the adoptive
58554 parents;
58555 (g) the child marries; or

58556 (h) the child enters military service.
58557 Section 1142. Section **62A-4a-1003** is amended to read:
58558 **62A-4a-1003. Management Information System -- Requirements -- Contents --**
58559 **Purpose -- Access.**
58560 (1) (a) The division shall develop and implement a Management Information System
58561 that meets the requirements of this section and the requirements of federal law and regulation.
58562 (b) The information and records contained in the Management Information System:
58563 (i) are protected records under [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government
58564 Records Access and Management Act; and
58565 (ii) except as provided in Subsections (1)(c) and (d), are available only to a person with
58566 statutory authorization under [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records
58567 Access and Management Act, to review the information and records described in this
58568 Subsection (1)(b).
58569 (c) Notwithstanding Subsection (1)(b)(ii), the information and records described in
58570 Subsection (1)(b) are available to a person:
58571 (i) as provided under Subsection (6) or Section 62A-4a-1006; or
58572 (ii) who has specific statutory authorization to access the information or records for the
58573 purpose of assisting the state with state and federal requirements to maintain information solely
58574 for the purpose of protecting minors and providing services to families in need.
58575 (d) Notwithstanding Subsection (1)(b)(ii), the information and records described in
58576 Subsection (1)(b) may, to the extent required by Title IV-B or IV-E of the Social Security Act,
58577 be provided by the division:
58578 (i) to comply with child abuse and neglect registry checks requested by other states;
58579 and
58580 (ii) to the United States Department of Health and Human Services for purposes of
58581 maintaining an electronic national registry of substantiated cases of child abuse and neglect.
58582 (2) With regard to all child welfare cases, the Management Information System shall
58583 provide each caseworker and the department's office of licensing, exclusively for the purposes
58584 of foster parent licensure and monitoring, with a complete history of each child in that worker's
58585 caseload, including:
58586 (a) a record of all past action taken by the division with regard to that child and the

58587 child's siblings;
58588 (b) the complete case history and all reports and information in the control or keeping
58589 of the division regarding that child and the child's siblings;
58590 (c) the number of times the child has been in the custody of the division;
58591 (d) the cumulative period of time the child has been in the custody of the division;
58592 (e) a record of all reports of abuse or neglect received by the division with regard to
58593 that child's parent, parents, or guardian including:
58594 (i) for each report, documentation of the:
58595 (A) latest status; or
58596 (B) final outcome or determination; and
58597 (ii) information that indicates whether each report was found to be:
58598 (A) supported;
58599 (B) unsupported;
58600 (C) substantiated by a juvenile court;
58601 (D) unsubstantiated by a juvenile court; or
58602 (E) without merit;
58603 (f) the number of times the child's parent or parents failed any child and family plan;
58604 and
58605 (g) the number of different caseworkers who have been assigned to that child in the
58606 past.
58607 (3) The division's Management Information System shall:
58608 (a) contain all key elements of each family's current child and family plan, including:
58609 (i) the dates and number of times the plan has been administratively or judicially
58610 reviewed;
58611 (ii) the number of times the parent or parents have failed that child and family plan;
58612 and
58613 (iii) the exact length of time the child and family plan has been in effect; and
58614 (b) alert caseworkers regarding deadlines for completion of and compliance with
58615 policy, including child and family plans.
58616 (4) With regard to all child protective services cases, the Management Information
58617 System shall:

58618 (a) monitor the compliance of each case with:
58619 (i) division rule and policy;
58620 (ii) state law; and
58621 (iii) federal law and regulation; and
58622 (b) include the age and date of birth of the alleged perpetrator at the time the abuse or
58623 neglect is alleged to have occurred, in order to ensure accuracy regarding the identification of
58624 the alleged perpetrator.
58625 (5) Except as provided in Subsection (6) regarding contract providers and Section
58626 62A-4a-1006 regarding limited access to the Licensing Information System, all information
58627 contained in the division's Management Information System is available to the department,
58628 upon the approval of the executive director, on a need-to-know basis.
58629 (6) (a) Subject to this Subsection (6), the division may allow its contract providers,
58630 court clerks designated by the Administrative Office of the Courts, and the Office of the
58631 Guardian Ad Litem to have limited access to the Management Information System.
58632 (b) A division contract provider has access only to information about a person who is
58633 currently receiving services from that specific contract provider.
58634 (c) (i) Designated court clerks may only have access to information necessary to
58635 comply with Subsection 78-3h-102(2).
58636 (ii) The Office of the Guardian Ad Litem may access only the information that:
58637 (A) relates to children and families where the Office of the Guardian Ad Litem is
58638 appointed by a court to represent the interests of the children; and
58639 (B) except as provided in Subsection (6)(d), is entered into the Management
58640 Information System on or after July 1, 2004.
58641 (d) Notwithstanding Subsection (6)(c)(ii)(B), the Office of the Guardian Ad Litem
58642 shall have access to all child abuse and neglect referrals about children and families where the
58643 office has been appointed by a court to represent the interests of the children, regardless of the
58644 date that the information is entered into the Management Information System.
58645 (e) Each contract provider and designated representative of the Office of the Guardian
58646 Ad Litem who requests access to information contained in the Management Information
58647 System shall:
58648 (i) take all necessary precautions to safeguard the security of the information contained

58649 in the Management Information System;
58650 (ii) train its employees regarding:
58651 (A) requirements for protecting the information contained in the Management
58652 Information System as required by this chapter and under [~~Title 63, Chapter 2~~] Title 63G,
58653 Chapter 2, Government Records Access and Management Act; and
58654 (B) the criminal penalties under Sections 62A-4a-412 and [~~63-2-801~~] 63G-2-801 for
58655 improper release of information; and
58656 (iii) monitor its employees to ensure that they protect the information contained in the
58657 Management Information System as required by law.
58658 (f) The division shall take reasonable precautions to ensure that its contract providers
58659 comply with the requirements of this Subsection (6).
58660 (7) The division shall take all necessary precautions, including password protection and
58661 other appropriate and available technological techniques, to prevent unauthorized access to or
58662 release of information contained in the Management Information System.
58663 Section 1143. Section **62A-4a-1006** is amended to read:
58664 **62A-4a-1006. Licensing Information System -- Contents -- Juvenile court finding**
58665 **-- Protected record -- Access -- Criminal penalty.**
58666 (1) (a) The division shall maintain a sub-part of the Management Information System
58667 established pursuant to Section 62A-4a-1003, to be known as the Licensing Information
58668 System, to be used:
58669 (i) for licensing purposes; or
58670 (ii) as otherwise specifically provided for by law.
58671 (b) The Licensing Information System shall include only the following information:
58672 (i) the information described in Subsections 62A-4a-1005(1)(b) and (3)(b);
58673 (ii) consented-to supported findings by alleged perpetrators under Subsection
58674 62A-4a-1005(3)(a)(iii); and
58675 (iii) the information in the licensing part of the division's Management Information
58676 System as of May 6, 2002.
58677 (2) Notwithstanding Subsection (1), the department's access to information in the
58678 Management Information System for the licensure and monitoring of foster parents is governed
58679 by Sections 62A-4a-1003 and 62A-2-121.

58680 (3) Subject to Subsection 62A-4a-1005(3)(e), upon receipt of a finding from the
58681 juvenile court under Section 78-3a-320, the division shall:
58682 (a) promptly amend the Licensing Information System; and
58683 (b) enter the information in the Management Information System.
58684 (4) (a) Information contained in the Licensing Information System is classified as a
58685 protected record under [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records Access
58686 and Management Act.
58687 (b) Notwithstanding the disclosure provisions of [~~Title 63, Chapter 2~~] Title 63G,
58688 Chapter 2, Government Records Access and Management Act, the information contained in the
58689 Licensing Information System may only be used or disclosed as specifically provided in this
58690 chapter and Section 62A-2-121.
58691 (c) The information described in Subsection (4)(b) is accessible only to:
58692 (i) the Office of Licensing within the department:
58693 (A) for licensing purposes; or
58694 (B) as otherwise specifically provided for by law;
58695 (ii) the division to:
58696 (A) screen a person at the request of the Office of the Guardian Ad Litem Director:
58697 (I) at the time that person seeks a paid or voluntary position with the Office of the
58698 Guardian Ad Litem Director; and
58699 (II) on an annual basis, throughout the time that the person remains with the Office of
58700 Guardian Ad Litem Director; and
58701 (B) respond to a request for information from a person whose name is listed in the
58702 Licensing Information System;
58703 (iii) two persons designated by and within the Department of Health, only for the
58704 following purposes:
58705 (A) licensing a child care program or provider; or
58706 (B) determining whether a person associated with a covered health care facility, as
58707 defined by the Department of Health by rule, who provides direct care to a child, has a
58708 supported finding of a severe type of child abuse or neglect; and
58709 (iv) the department, as specifically provided in this chapter.
58710 (5) The two persons designated by the Department of Health under Subsection

58711 (4)(c)(iii) shall adopt measures to:
58712 (a) protect the security of the Licensing Information System; and
58713 (b) strictly limit access to the Licensing Information System to those persons
58714 designated by statute.
58715 (6) All persons designated by statute as having access to information contained in the
58716 Licensing Information System shall receive training from the department with respect to:
58717 (a) accessing the Licensing Information System;
58718 (b) maintaining strict security; and
58719 (c) the criminal provisions of Sections 62A-4a-412 and [~~63-2-801~~] 63G-2-801
58720 pertaining to the improper release of information.
58721 (7) (a) A person, except those authorized by this chapter, may not request another
58722 person to obtain or release any other information in the Licensing Information System to screen
58723 for potential perpetrators of child abuse or neglect.
58724 (b) A person who requests information knowing that it is a violation of this Subsection
58725 (7) to do so is subject to the criminal penalty described in Sections 62A-4a-412 and [~~63-2-801~~]
58726 63G-2-801.
58727 Section 1144. Section **62A-4a-1009** is amended to read:
58728 **62A-4a-1009. Notice and opportunity to challenge supported finding in**
58729 **Management Information System -- Right of judicial review.**
58730 (1) (a) Except as provided in Subsection (2), the division shall send a notice of agency
58731 action to a person with respect to whom the division makes a supported finding. In addition, if
58732 the alleged perpetrator is under the age of 18, the division shall:
58733 (i) make reasonable efforts to identify the alleged perpetrator's parent or guardian; and
58734 (ii) send a notice to each parent or guardian identified under Subsection (1)(a)(i) that
58735 lives at a different address, unless there is good cause, as defined by rule, for not sending a
58736 notice to a parent or guardian.
58737 (b) Nothing in this section may be construed as affecting:
58738 (i) the manner in which the division conducts an investigation; or
58739 (ii) the use or effect, in any other setting, of a supported finding by the division at the
58740 completion of an investigation for any purpose other than for notification under Subsection (1)
58741 (a).

58742 (2) Subsection (1) does not apply to a person who has been served with notice under
58743 Subsection 62A-4a-1005(1)(a).
58744 (3) The notice described in Subsection (1) shall state:
58745 (a) that the division has conducted an investigation regarding alleged child abuse,
58746 neglect, or dependency;
58747 (b) that the division has made a supported finding of abuse, neglect, or dependency;
58748 (c) that facts gathered by the division support the supported finding;
58749 (d) that the person has the right to request:
58750 (i) a copy of the report; and
58751 (ii) an opportunity to challenge the supported finding by the division; and
58752 (e) that failure to request an opportunity to challenge the supported finding within 30
58753 days of receiving the notice will result in an unappealable supported finding of child abuse,
58754 neglect, or dependency unless the person can show good cause for why compliance within the
58755 30-day requirement was virtually impossible or unreasonably burdensome.
58756 (4) (a) A person may make a request to challenge a supported finding within 30 days of
58757 a notice being received under this section.
58758 (b) Upon receipt of a request under Subsection (4)(a), the Office of Administrative
58759 Hearings shall hold an adjudicative proceeding pursuant to [~~Title 63, Chapter 46b~~] Title 63G,
58760 Chapter 4, Administrative Procedures Act.
58761 (5) (a) In an adjudicative proceeding held pursuant to this section, the division shall
58762 have the burden of proving, by a preponderance of the evidence, that child abuse, neglect, or
58763 dependency occurred and that the alleged perpetrator was substantially responsible for the
58764 abuse or neglect that occurred.
58765 (b) Any party shall have the right of judicial review of final agency action, in
58766 accordance with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
58767 (6) Except as otherwise provided in this chapter, an alleged perpetrator who, after
58768 receiving notice, fails to challenge a supported finding in accordance with this section:
58769 (a) may not further challenge the finding; and
58770 (b) shall have no right to:
58771 (i) agency review of the finding;
58772 (ii) an adjudicative hearing on the finding; or

58773 (iii) judicial review of the finding.
58774 (7) (a) Except as provided in Subsection (7)(b), an alleged perpetrator may not make a
58775 request under Subsection (4) to challenge a supported finding if a court of competent
58776 jurisdiction entered a finding, in a proceeding in which the alleged perpetrator was a party, that
58777 the alleged perpetrator is substantially responsible for the abuse, neglect, or dependency which
58778 was also the subject of the supported finding.
58779 (b) Subsection (7)(a) does not apply to pleas in abeyance or diversion agreements.
58780 (c) An adjudicative proceeding under Subsection (5) may be stayed during the time a
58781 judicial action on the same matter is pending.
58782 (8) Pursuant to Section 78-3a 320, an adjudicative proceeding on a supported finding of
58783 a type of abuse or neglect that does not constitute a severe type of child abuse or neglect may
58784 be joined in the juvenile court with an adjudicative proceeding on a supported finding of a
58785 severe type of child abuse or neglect.
58786 Section 1145. Section **62A-5-103** is amended to read:
58787 **62A-5-103. Responsibility and authority of division.**
58788 (1) For purposes of this section "administer" means to:
58789 (a) plan;
58790 (b) develop;
58791 (c) manage;
58792 (d) monitor; and
58793 (e) conduct certification reviews.
58794 (2) The division has the authority and responsibility to:
58795 (a) administer an array of services and supports for persons with disabilities and their
58796 families throughout the state;
58797 (b) make rules in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
58798 Administrative Rulemaking Act, that establish eligibility criteria for the services and supports
58799 described in Subsection (2)(a);
58800 (c) consistent with Section 62A-5-206, supervise the programs and facilities of the
58801 Developmental Center;
58802 (d) in order to enhance the quality of life for a person with a disability, establish either
58803 directly, or by contract with private, nonprofit organizations, programs of:

58804 (i) outreach;
58805 (ii) information and referral;
58806 (iii) prevention;
58807 (iv) technical assistance; and
58808 (v) public awareness;
58809 (e) supervise the programs and facilities operated by, or under contract with, the
58810 division;
58811 (f) cooperate with other state, governmental, and private agencies that provide services
58812 to a person with a disability;
58813 (g) subject to Subsection (3), ensure that a person with a disability is not deprived of
58814 that person's constitutionally protected rights without due process procedures designed to
58815 minimize the risk of error when a person with a disability is admitted to any structured
58816 residential mental retardation facility, including:
58817 (i) the developmental center; and
58818 (ii) facilities within the community;
58819 (h) determine whether to approve providers;
58820 (i) monitor and sanction approved providers, as specified in the providers' contract;
58821 (j) subject to Section 62A-5-103.5, receive and disburse public funds;
58822 (k) review financial actions of a provider who is a representative payee appointed by
58823 the Social Security Administration;
58824 (l) establish standards and rules for the administration and operation of programs
58825 conducted by, or under contract with, the division;
58826 (m) approve and monitor division programs to insure compliance with the board's rules
58827 and standards;
58828 (n) establish standards and rules necessary to fulfill the division's responsibilities under
58829 Parts 2 and 3 of this chapter with regard to mental retardation facilities;
58830 (o) assess and collect equitable fees for a person who receives services provided under
58831 this chapter;
58832 (p) maintain records of, and account for, the funds described in Subsection (2)(o);
58833 (q) establish and apply rules to determine whether to approve, deny, or defer the
58834 division's services to a person who is:

58835 (i) applying to receive the services; or
58836 (ii) currently receiving the services;
58837 (r) in accordance with state law, establish rules:
58838 (i) relating to a mental retardation facility that is an endorsed program; and
58839 (ii) governing the admission, transfer, and discharge of a person with a disability;
58840 (s) manage funds for a person residing in a facility operated by the division:
58841 (i) upon request of a parent or guardian of the person; or
58842 (ii) under administrative or court order; and
58843 (t) fulfill the responsibilities described in Chapter 5a, Coordinating Council for Persons
58844 with Disabilities.
58845 (3) The due process procedures described in Subsection (2)(g):
58846 (a) shall include initial and periodic reviews to determine the constitutional
58847 appropriateness of the placement; and
58848 (b) with regard to facilities in the community, do not require commitment to the
58849 division.
58850 Section 1146. Section **62A-5-103.1** is amended to read:
58851 **62A-5-103.1. Pilot program for provision of supported employment services.**
58852 (1) There is established a pilot program for the provision of supported employment
58853 services to be administered by the division, beginning on July 1, 2006, and ending on July 1,
58854 2008.
58855 (2) The division shall make rules, in accordance with [~~Title 63, Chapter 46a~~] Title
58856 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary for the implementation and
58857 administration of this section.
58858 (3) In accordance with Subsection (4), within funds appropriated by the Legislature for
58859 the pilot program described in this section, the division shall provide supported employment
58860 services to a person with a disability who:
58861 (a) is eligible to receive services from the division;
58862 (b) has applied for, and is waiting to, receive services from the division;
58863 (c) is not receiving other ongoing services from the division;
58864 (d) is not able to receive sufficient supported employment services from other sources;
58865 (e) the division determines would substantially benefit from the provision of supported

58866 employment services; and
58867 (f) does not require the provision of other ongoing services from the division in order
58868 to substantially benefit from the provision of supported employment services.
58869 (4) (a) The division shall provide supported employment services under this section
58870 outside of the prioritization criteria established by the division for the receipt of other services
58871 from the division.
58872 (b) The division shall establish criteria to determine the priority, between persons
58873 eligible for services under this section, for receiving services under this section.
58874 (5) It is the intent of the Legislature that the services provided under the pilot program
58875 described in this section:
58876 (a) shall be provided separately from the Medicaid program described in Title XIX of
58877 the Social Security Act;
58878 (b) may not be supported with Medicaid funds;
58879 (c) may not be provided as part of a Medicaid waiver;
58880 (d) do not constitute an entitlement of any kind; and
58881 (e) may be withdrawn from a person at any time.
58882 (6) The director of the division shall report to the Health and Human Services Interim
58883 Committee during the 2007 interim regarding:
58884 (a) the operation and accomplishments of the pilot program described in this section;
58885 (b) whether the Legislature should convert the pilot program to an ongoing program
58886 within the division; and
58887 (c) recommendations for changes, if any, relating to the pilot program.
58888 (7) During the 2007 interim, the Health and Human Services Interim Committee shall:
58889 (a) hear or review the report described in Subsection (6); and
58890 (b) determine whether the pilot program described in this section should be converted
58891 to an ongoing program within the division.
58892 Section 1147. Section **62A-5-103.2** is amended to read:
58893 **62A-5-103.2. Pilot program for family preservation services.**
58894 (1) There is established a pilot program for the provision of family preservation
58895 services to a person with a disability and that person's family, beginning on July 1, 2007, and
58896 ending on July 1, 2009.

58897 (2) The family preservation services described in Subsection (1) may include:
58898 (a) family skill building classes;
58899 (b) respite hours for class attendance; or
58900 (c) professional intervention.
58901 (3) The division shall make rules, in accordance with [~~Title 63, Chapter 46a~~] Title
58902 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary for the implementation and
58903 administration of this section.
58904 (4) In accordance with Subsection (5), within funds appropriated by the Legislature for
58905 the pilot program described in this section, the division shall provide family preservation
58906 services to a person with a disability, and that person's family, if that person:
58907 (a) is eligible to receive services from the division;
58908 (b) has applied for, and is willing to receive, services from the division;
58909 (c) is not receiving other ongoing services from the division;
58910 (d) is not able to receive sufficient family preservation services from other sources;
58911 (e) is determined by the division to be a person who would substantially benefit from
58912 the provision of family preservation services; and
58913 (f) does not require the provision of other ongoing services from the division in order
58914 to substantially benefit from the provision of family preservation services.
58915 (5) (a) The division shall provide family preservation services under this section
58916 outside of the prioritization criteria established by the division for the receipt of other services
58917 from the division.
58918 (b) The division shall establish criteria to determine the priority, between persons
58919 eligible for services under this section, for receiving services under this section.
58920 (6) It is the intent of the Legislature that the services provided under the pilot program
58921 described in this section:
58922 (a) shall be provided separately from the Medicaid program described in Title XIX of
58923 the Social Security Act;
58924 (b) may not be supported with Medicaid funds;
58925 (c) may not be provided as part of a Medicaid waiver;
58926 (d) do not constitute an entitlement of any kind; and
58927 (e) may be withdrawn from a person at any time.

58928 (7) The director of the division shall report to the Health and Human Services Interim
58929 Committee during the 2008 interim regarding:
58930 (a) the operation and accomplishments of the pilot program described in this section;
58931 (b) whether the Legislature should convert the pilot program to an ongoing program
58932 within the division; and
58933 (c) recommendations for changes, if any, related to the pilot program.
58934 (8) During the 2008 interim, the Health and Human Services Interim Committee shall:
58935 (a) hear or review the report described in Subsection (7); and
58936 (b) determine whether the pilot program described in this section should be converted
58937 into an ongoing program within the division.
58938 Section 1148. Section **62A-5-105** is amended to read:
58939 **62A-5-105. Board -- Membership -- Responsibilities -- Policy mediation.**
58940 (1) The board is the policymaking body for the division and shall establish by rule the
58941 policy of the division in accordance with:
58942 (a) the policy of the Legislature as set forth by this chapter; and
58943 (b) [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
58944 (2) The board shall:
58945 (a) establish program policy for the division, the developmental center, and programs
58946 and facilities operated by or under contract with the division;
58947 (b) establish policies for the assessment and collection of fees for programs within the
58948 division;
58949 (c) no later than July 1, 2003, establish a graduated fee schedule based on ability to pay
58950 and implement the schedule with respect to service recipients and their families where not
58951 otherwise prohibited by federal law or regulation or not otherwise provided for in Section
58952 62A-5-109;
58953 (d) establish procedures to ensure that private citizens, consumers, private contract
58954 providers, allied state and local agencies, and others are provided with an opportunity to
58955 comment and provide input regarding any new policy or proposed revision to an existing
58956 policy;
58957 (e) provide a mechanism for systematic and regular review of existing policy and for
58958 consideration of policy changes proposed by the persons and agencies described under

58959 Subsection (2)(d);
58960 (f) (i) establish and periodically review the criteria used to determine who may receive
58961 services from the division and how the delivery of those services is prioritized within available
58962 funding; and
58963 (ii) make periodic recommendations based on the review conducted under Subsection
58964 (2)(f)(i) to the Health and Human Services Interim Committee beginning at or before the
58965 September 2002 meeting of the committee;
58966 (g) review implementation and compliance by the division with policies established by
58967 the board to ensure that the policies established by the Legislature in this chapter are carried
58968 out; and
58969 (h) annually report to the executive director.
58970 (3) At least one member of the board shall be a person whose life or family is directly
58971 affected by a disability, and at least one other board member shall be a person with a physical
58972 disability.
58973 (4) The executive director shall mediate any differences which arise between the
58974 policies of the board and those of any other policy board in the department.
58975 Section 1149. Section **62A-5-313** is amended to read:
58976 **62A-5-313. Transfer -- Procedures.**
58977 (1) The director of the division, or [~~his~~] the director's designee, may place an
58978 involuntarily committed resident in appropriate care or treatment outside the mental retardation
58979 facility. During that placement, the order of commitment shall remain in effect, until the
58980 resident is discharged or the order is terminated.
58981 (2) If the resident, or [~~his~~] the resident's parent or guardian, objects to a proposed
58982 placement under this section, [~~he~~] the resident may appeal the decision to the executive director
58983 or [~~his~~] the executive director's designee. Those appeals shall be conducted in accordance with
58984 the procedures and requirements of [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
58985 Administrative Procedures Act. If an objection is made, the proposed placement may not take
58986 effect until the committee holds that hearing and the executive director makes a final decision
58987 on the placement.
58988 Section 1150. Section **62A-5a-104** is amended to read:
58989 **62A-5a-104. Powers of council.**

58990 (1) The council has authority, after local or individual efforts have failed, including,
58991 with regard to persons under 22 years of age, actions by local interagency councils established
58992 under Section [~~63-75-5.7~~] 63M-9-301, to:
58993 (a) coordinate the appropriate transition of persons with disabilities who receive
58994 services and support from one state agency to receive services and support from another state
58995 agency;
58996 (b) coordinate policies governing the provision of services and support for persons
58997 with disabilities by state agencies; and
58998 (c) consider issues regarding eligibility for services and support and, where possible,
58999 develop uniform eligibility standards for state agencies.
59000 (2) The council may receive appropriations from the Legislature to purchase services
59001 and supports for persons with disabilities as the council deems appropriate.
59002 Section 1151. Section **62A-7-202** is amended to read:
59003 **62A-7-202. Location of detention facilities and services.**
59004 (1) The division shall provide detention facilities and services in each county, or group
59005 of counties, as the population demands, in accordance with the provisions of this chapter.
59006 (2) The division, through its detention centers, is responsible for development,
59007 implementation, and administration of home detention services, and shall establish criteria for
59008 placement on home detention.
59009 (3) The division shall make rules, in accordance with [~~Title 63, Chapter 46a~~] Title
59010 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing standards for admission to
59011 secure detention and home detention programs.
59012 (4) The division shall provide training regarding implementation of the rules to law
59013 enforcement agencies, division employees, juvenile court employees, and other affected
59014 agencies and individuals upon their request.
59015 Section 1152. Section **62A-11-104.1** is amended to read:
59016 **62A-11-104.1. Disclosure of information regarding employees.**
59017 (1) Upon request by the office, for purposes of an official investigation made in
59018 connection with its duties under Section 62A-11-104, the following disclosures shall be made
59019 to the office:
59020 (a) a public or private employer shall disclose an employee's name, address, date of

59021 birth, income, social security number, and health insurance information pertaining to the
59022 employee and [~~his~~] the employee's dependents;
59023 (b) an insurance organization subject to Title 31A, Insurance Code, or the insurance
59024 administrators of a self-insured employer shall disclose health insurance information pertaining
59025 to an insured or an insured's dependents, if known; and
59026 (c) a financial institution subject to Title 7, Financial Institutions, shall disclose
59027 financial record information of a customer named in the request.
59028 (2) The office shall specify by rule the type of health insurance and financial record
59029 information required to be disclosed under this section.
59030 (3) All information received under this section is subject to [~~Title 63, Chapter 2~~] Title
59031 63G, Chapter 2, Government Records Access and Management Act.
59032 (4) An employer, financial institution, or insurance organization, or its agent or
59033 employee, is not civilly or criminally liable for providing information to the office in
59034 accordance with this section, whether the information is provided pursuant to oral or written
59035 request.
59036 Section 1153. Section **62A-11-105** is amended to read:
59037 **62A-11-105. Adjudicative proceedings.**
59038 The office and the department shall comply with the procedures and requirements of
59039 [~~Title 63, Chapter 46b,~~] Title 63G, Chapter 4, Administrative Procedures Act, in their
59040 adjudicative proceedings.
59041 Section 1154. Section **62A-11-303** is amended to read:
59042 **62A-11-303. Definitions.**
59043 As used in this part:
59044 (1) "Adjudicative proceeding" means an action or proceeding of the office conducted in
59045 accordance with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
59046 (2) "Administrative order" means an order that has been issued by the office, the
59047 department, or an administrative agency of another state or other comparable jurisdiction with
59048 similar authority to that of the office.
59049 (3) "Assistance" or "public assistance" is defined in Section 62A-11-103.
59050 (4) "Business day" means a day on which state offices are open for regular business.
59051 (5) "Child" means:

59052 (a) a son or daughter under the age of 18 years who is not otherwise emancipated,
59053 self-supporting, married, or a member of the armed forces of the United States;
59054 (b) a son or daughter over the age of 18 years, while enrolled in high school during the
59055 normal and expected year of graduation and not otherwise emancipated, self-supporting,
59056 married, or a member of the armed forces of the United States; or
59057 (c) a son or daughter of any age who is incapacitated from earning a living and is
59058 without sufficient means.
59059 (6) "Child support" is defined in Section 62A-11-401.
59060 (7) "Child support guidelines" or "guidelines" is defined in Section 78-45-2.
59061 (8) "Child support order" or "support order" is defined in Section 62A-11-401.
59062 (9) "Child support services" or "IV-D child support services" is defined in Section
59063 62A-11-103.
59064 (10) "Court order" means a judgment or order of a tribunal of appropriate jurisdiction
59065 of this state, another state, Native American tribe, the federal government, or any other
59066 comparable jurisdiction.
59067 (11) "Director" means the director of the Office of Recovery Services.
59068 (12) "Disposable earnings" is defined in Section 62A-11-103.
59069 (13) "High-volume automated administrative enforcement" in interstate cases means,
59070 on the request of another state, the identification by the office, through automatic data matches
59071 with financial institutions and other entities where assets may be found, of assets owned by
59072 persons who owe child support in the requesting state, and the seizure of the assets by the
59073 office, through levy or other appropriate processes.
59074 (14) "Income" is defined in Section 62A-11-103.
59075 (15) "Notice of agency action" means the notice required to commence an adjudicative
59076 proceeding in accordance with Section [~~63-46b-3~~] 63G-4-201.
59077 (16) "Obligee" means an individual, this state, another state, or other comparable
59078 jurisdiction to whom a duty of child support is owed, or who is entitled to reimbursement of
59079 child support or public assistance.
59080 (17) "Obligor" means a person, firm, corporation, or the estate of a decedent owing a
59081 duty of support to this state, to an individual, to another state, or other corporate jurisdiction in
59082 whose behalf this state is acting.

59083 (18) "Office" is defined in Section 62A-11-103.
59084 (19) "Parent" means a natural parent or an adoptive parent of a dependent child.
59085 (20) "Person" includes an individual, firm, corporation, association, political
59086 subdivision, department, or office.
59087 (21) "Presiding officer" means a presiding officer described in Section [~~63-46b-2~~]
59088 63G-4-103.
59089 (22) "Support" includes past-due, present, and future obligations established by:
59090 (a) a tribunal or imposed by law for the financial support, maintenance, medical, or
59091 dental care of a dependent child; and
59092 (b) a tribunal for the financial support of a spouse or former spouse with whom the
59093 obligor's dependent child resides if the obligor also owes a child support obligation that is
59094 being enforced by the state.
59095 (23) "Support debt," "past-due support," or "arrears" means the debt created by
59096 nonpayment of support.
59097 (24) "Tribunal" means the district court, the Department of Human Services, the Office
59098 of Recovery Services, or court or administrative agency of any state, territory, possession of the
59099 United States, the District of Columbia, the Commonwealth of Puerto Rico, Native American
59100 Tribe, or other comparable domestic or foreign jurisdiction.
59101 Section 1155. Section **62A-11-304.1** is amended to read:
59102 **62A-11-304.1. Expedited procedures for establishing paternity or establishing,**
59103 **modifying, or enforcing a support order.**
59104 (1) The office may, without the necessity of initiating an adjudicative proceeding or
59105 obtaining an order from any other judicial or administrative tribunal, take the following actions
59106 related to the establishment of paternity or the establishment, modification, or enforcement of a
59107 support order, and to recognize and enforce the authority of state agencies of other states to
59108 take the following actions:
59109 (a) require a child, mother, and alleged father to submit to genetic testing;
59110 (b) subpoena financial or other information needed to establish, modify, or enforce a
59111 support order, including:
59112 (i) the name, address, and employer of a person who owes or is owed support that
59113 appears on the customer records of public utilities and cable television companies; and

59114 (ii) information held by financial institutions on such things as the assets and liabilities
59115 of a person who owes or is owed support;
59116 (c) require a public or private employer to promptly disclose information to the office
59117 on the name, address, date of birth, social security number, employment status, compensation,
59118 and benefits, including health insurance, of any person employed as an employee or contractor
59119 by the employer;
59120 (d) require an insurance organization subject to Title 31A, Insurance Code, or an
59121 insurance administrator of a self-insured employer to promptly disclose to the office health
59122 insurance information pertaining to an insured or an insured's dependents, if known;
59123 (e) obtain access to information in the records and automated databases of other state
59124 and local government agencies, including:
59125 (i) marriage, birth, and divorce records;
59126 (ii) state and local tax and revenue records providing information on such things as
59127 residential and mailing addresses, employers, income, and assets;
59128 (iii) real and titled personal property records;
59129 (iv) records concerning occupational and professional licenses and the ownership and
59130 control of corporations, partnerships, and other business entities;
59131 (v) employment security records;
59132 (vi) records of agencies administering public assistance programs;
59133 (vii) motor vehicle department records; and
59134 (viii) corrections records;
59135 (f) upon providing notice to the obligor and obligee, direct an obligor or other payor to
59136 change the payee to the office if support has been assigned to the office under Section
59137 35A-7-108 or if support is paid through the office pursuant to the Social Security Act, 42
59138 U.S.C. Sec. 654B;
59139 (g) order income withholding in accordance with Part 4 of this chapter;
59140 (h) secure assets to satisfy past-due support by:
59141 (i) intercepting or seizing periodic or lump-sum payments from:
59142 (A) a state or local government agency, including unemployment compensation,
59143 workers' compensation, and other benefits; and
59144 (B) judgments, settlements, and lotteries;

59145 (ii) attaching and seizing assets of an obligor held in financial institutions;
59146 (iii) attaching public and private retirement funds, if the obligor presently:
59147 (A) receives periodic payments; or
59148 (B) has the authority to withdraw some or all of the funds; and
59149 (iv) imposing liens against real and personal property in accordance with this section
59150 and Section 62A-11-312.5; and
59151 (i) increase monthly payments in accordance with Section 62A-11-320.
59152 (2) (a) When taking action under Subsection (1), the office shall send notice under this
59153 Subsection (2)(a) to the person or entity who is required to comply with the action if not a party
59154 to a case receiving IV-D services. The notice shall include:
59155 (i) the authority of the office to take the action;
59156 (ii) the response required by the recipient;
59157 (iii) the opportunity to provide clarifying information to the office under Subsection
59158 (2)(b);
59159 (iv) the name and telephone number of a person in the office who can respond to
59160 inquiries; and
59161 (v) the protection from criminal and civil liability extended under Subsection (7).
59162 (b) The recipient of a notice sent under Subsection (2)(a) shall promptly comply with
59163 the terms of the notice and may, if the recipient believes the office's request is in error, send
59164 clarifying information to the office setting forth the basis for the recipient's belief.
59165 (3) The office shall in any case in which it requires genetic testing under Subsection
59166 (1)(a):
59167 (a) consider clarifying information if submitted by the obligee and alleged father;
59168 (b) proceed with testing as the office considers appropriate;
59169 (c) pay the cost of the tests, subject to recoupment from the alleged father if paternity is
59170 established;
59171 (d) order a second test if the original test result is challenged, and the challenger pays
59172 the cost of the second test in advance; and
59173 (e) require that the genetic test is:
59174 (i) of a type generally acknowledged as reliable by accreditation bodies designated by
59175 the federal Secretary of Health and Human Services; and

59176 (ii) performed by a laboratory approved by such an accreditation body.
59177 (4) The office may impose a penalty against an entity for failing to provide information
59178 requested in a subpoena issued under Subsection (1) as follows:
59179 (a) $25 for each failure to provide requested information; or
59180 (b) $500 if the failure to provide requested information is the result of a conspiracy
59181 between the entity and the obligor to not supply the requested information or to supply false or
59182 incomplete information.
59183 (5) (a) Unless a court or administrative agency has reduced past-due support to a sum
59184 certain judgment, the office shall provide concurrent notice to an obligor in accordance with
59185 Section 62A-11-304.4 of:
59186 (i) any action taken pursuant to Subsections (1)(h)(i)(B), (l)(h)(ii), (1)(h)(iii), or
59187 Subsection 62A-11-304.5(1)(b) if Subsection (5)(b)(iii) does not apply; and
59188 (ii) the opportunity of the obligor to contest the action and the amount claimed to be
59189 past-due by filing a written request for an adjudicative proceeding with the office within 15
59190 days of notice being sent.
59191 (b) (i) Upon receipt of a notice of levy from the office for an action taken pursuant to
59192 Subsections (1)(h)(i)(B), (1)(h)(ii), (1)(h)(iii), or Subsection 62A-11-304.5(1)(b), a person in
59193 possession of personal property of the obligor shall:
59194 (A) secure the property from unauthorized transfer or disposition as required by
59195 Section 62A-11-313; and
59196 (B) surrender the property to the office after 21 days of receiving the notice unless the
59197 office has notified the person to release all or part of the property to the obligor.
59198 (ii) Unless released by the office, a notice of levy upon personal property shall be:
59199 (A) valid for 60 days; and
59200 (B) effective against any additional property which the obligor may deposit or transfer
59201 into the possession of the person up to the amount of the levy.
59202 (iii) If the property upon which the office imposes a levy is insufficient to satisfy the
59203 specified amount of past-due support and the obligor fails to contest that amount under
59204 Subsection (5)(a)(ii), the office may proceed under Subsections (1)(h)(i)(B), (1)(h)(ii),
59205 (1)(h)(iii), or Subsection 62A-11-304.5(1)(b) against additional property of the obligor until the
59206 amount specified and the reasonable costs of collection are fully paid.

59207 (c) Except as provided in Subsection (5)(b)(iii), the office may not disburse funds
59208 resulting from action requiring notice under Subsection (5)(a)(i) until:
59209 (i) 21 days after notice was sent to the obligor; and
59210 (ii) the obligor, if [~~he~~] the obligor contests the action under Subsection (5)(a)(ii), has
59211 exhausted [~~his~~] the obligor's administrative remedies and, if appealed to a district court, the
59212 district court has rendered a final decision.
59213 (d) Before intercepting or seizing any periodic or lump-sum payment under Subsection
59214 (1)(h)(i)(A), the office shall:
59215 (i) comply with Subsection 59-10-529(2)(a); and
59216 (ii) include in the notice required by Subsection 59-10-529(2)(a) reference to
59217 Subsection (1)(h)(i)(A).
59218 (e) If Subsection (5)(a) or (5)(d) does not apply, an action against the real or personal
59219 property of the obligor shall be in accordance with Section 62A-11-312.5.
59220 (6) All information received under this section is subject to [~~Title 63, Chapter 2~~] Title
59221 63G, Chapter 2, Government Records Access and Management Act.
59222 (7) No employer, financial institution, public utility, cable company, insurance
59223 organization, its agent or employee, or related entity may be civilly or criminally liable for
59224 providing information to the office or taking any other action requested by the office pursuant
59225 to this section.
59226 (8) The actions the office may take under Subsection (1) are in addition to the actions
59227 the office may take pursuant to Part 4, Income Withholding in IV-D Cases.
59228 Section 1156. Section **62A-11-304.2** is amended to read:
59229 **62A-11-304.2. Issuance or modification of administrative order -- Compliance**
59230 **with court order -- Authority of office -- Stipulated agreements -- Notification**
59231 **requirements.**
59232 (1) Through an adjudicative proceeding the office may issue or modify an
59233 administrative order that:
59234 (a) determines paternity;
59235 (b) determines whether an obligor owes support;
59236 (c) determines temporary orders of child support upon clear and convincing evidence
59237 of paternity in the form of genetic test results or other evidence;

59238 (d) requires an obligor to pay a specific or determinable amount of present and future
59239 support;
59240 (e) determines the amount of past-due support;
59241 (f) orders an obligor who owes past-due support and is obligated to support a child
59242 receiving public assistance to participate in appropriate work activities if the obligor is
59243 unemployed and is not otherwise incapacitated;
59244 (g) imposes a penalty authorized under this chapter;
59245 (h) determines an issue that may be specifically contested under this chapter by a party
59246 who timely files a written request for an adjudicative proceeding with the office; and
59247 (i) renews an administrative judgment.
59248 (2) (a) An abstract of a final administrative order issued under this section or a notice
59249 of judgment-lien under Section 62A-11-312.5 may be filed with the clerk of any district court.
59250 (b) Upon a filing under Subsection (2)(a), the clerk of the court shall:
59251 (i) docket the abstract or notice in the judgment docket of the court and note the time of
59252 receipt on the abstract or notice and in the judgment docket; and
59253 (ii) at the request of the office, place a copy of the abstract or notice in the file of a
59254 child support action involving the same parties.
59255 (3) If a judicial order has been issued, the office may not issue an order under
59256 Subsection (1) that is not based on the judicial order, except:
59257 (a) the office may establish a new obligation in those cases in which the juvenile court
59258 has ordered the parties to meet with the office to determine the support pursuant to Section
59259 78-3a-906; or
59260 (b) the office may issue an order of current support in accordance with the child support
59261 guidelines if the conditions of Subsection 78-45f-207(2)(c) are met.
59262 (4) The office may proceed under this section in the name of this state, another state
59263 under Section 62A-11-305, any department of this state, the office, or the obligee.
59264 (5) The office may accept voluntary acknowledgment of a support obligation and enter
59265 into stipulated agreements providing for the issuance of an administrative order under this part.
59266 (6) The office may act in the name of the obligee in endorsing and cashing any drafts,
59267 checks, money orders, or other negotiable instruments received by the office for support.
59268 (7) The obligor shall, after a notice of agency action has been served on [~~him~~] the

59269 obligor in accordance with Section [~~63-46b-3~~] 63G-4-201, keep the office informed of:
59270 (a) [~~his~~] the obligor's current address;
59271 (b) the name and address of current payors of income;
59272 (c) availability of or access to health insurance coverage; and
59273 (d) applicable health insurance policy information.
59274 Section 1157. Section **62A-11-304.4** is amended to read:
59275 **62A-11-304.4. Filing of location information -- Service of process.**
59276 (1) (a) Upon the entry of an order in a proceeding to establish paternity or to establish,
59277 modify, or enforce a support order, each party shall file identifying information and shall
59278 update that information as changes occur:
59279 (i) with the court or administrative agency that conducted the proceeding; and
59280 (ii) after October 1, 1998, with the state case registry.
59281 (b) The identifying information required under Subsection (1)(a) shall include the
59282 person's Social Security number, driver's license number, residential and mailing addresses,
59283 telephone numbers, the name, address, and telephone number of employers, and any other data
59284 required by the United States Secretary of Health and Human Services.
59285 (c) In any subsequent child support action involving the office or between the parties,
59286 state due process requirements for notice and service of process shall be satisfied as to a party
59287 upon:
59288 (i) a sufficient showing that diligent effort has been made to ascertain the location of
59289 the party; and
59290 (ii) delivery of notice to the most recent residential or employer address filed with the
59291 court, administrative agency, or state case registry under Subsection (1)(a).
59292 (2) (a) The office shall provide individuals who are applying for or receiving services
59293 under this chapter or who are parties to cases in which services are being provided under this
59294 chapter:
59295 (i) with notice of all proceedings in which support obligations might be established or
59296 modified; and
59297 (ii) with a copy of any order establishing or modifying a child support obligation, or in
59298 the case of a petition for modification, a notice of determination that there should be no change
59299 in the amount of the child support award, within 14 days after issuance of such order or

59300 determination.
59301 (b) Notwithstanding Subsection (2)(a)(ii), notice in the case of an interstate order shall
59302 be provided in accordance with Section 78-45f-614.
59303 (3) Service of all notices and orders under this part shall be made in accordance with
59304 [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, the Utah Rules of
59305 Civil Procedure, or this section.
59306 (4) Consistent with [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records
59307 Access and Management Act, the office shall adopt procedures to classify records to prohibit
59308 the unauthorized use or disclosure of information relating to a proceeding to:
59309 (a) establish paternity; or
59310 (b) establish or enforce support.
59311 (5) (a) The office shall, upon written request, provide location information available in
59312 its files on a custodial or noncustodial parent to the other party or the other party's legal counsel
59313 provided that:
59314 (i) the party seeking the information produces a copy of the parent-time order signed by
59315 the court;
59316 (ii) the information has not been safeguarded in accordance with Section 454 of the
59317 Social Security Act;
59318 (iii) the party whose location is being sought has been afforded notice in accordance
59319 with this section of the opportunity to contest release of the information;
59320 (iv) the party whose location is being sought has not provided the office with a copy of
59321 a protective order, a current court order prohibiting disclosure, a current court order limiting or
59322 prohibiting the requesting person's contact with the party or child whose location is being
59323 sought, a criminal order, an administrative order pursuant to Section 62A-4a-1009, or
59324 documentation of a pending proceeding for any of the above; and
59325 (v) there is no other state or federal law that would prohibit disclosure.
59326 (b) "Location information" shall consist of the current residential address of the
59327 custodial or noncustodial parent and, if different and known to the office, the current residence
59328 of any children who are the subject of the parent-time order. If there is no current residential
59329 address available, the person's place of employment and any other location information shall be
59330 disclosed.

59331 (c) For the purposes of this section, "reason to believe" under Section 454 of the Social
59332 Security Act means that the person seeking to safeguard information has provided to the office
59333 a copy of a protective order, current court order prohibiting disclosure, current court order
59334 prohibiting or limiting the requesting person's contact with the party or child whose location is
59335 being sought, criminal order signed by a court of competent jurisdiction, an administrative
59336 order pursuant to Section 62A-4a-1009, or documentation of a pending proceeding for any of
59337 the above.
59338 (d) Neither the state, the department, the office nor its employees shall be liable for any
59339 information released in accordance with this section.
59340 (6) Custodial or noncustodial parents or their legal representatives who are denied
59341 location information in accordance with Subsection (5) may serve the Office of Recovery
59342 Services to initiate an action to obtain the information.
59343 Section 1158. Section **62A-11-326.3** is amended to read:
59344 **62A-11-326.3. Determination of parental liability.**
59345 (1) In accordance with [~~Title 63, Chapter 46b, Utah~~] Title 63G, Chapter 4,
59346 Administrative Procedures Act, the office may determine by order the amount of a parent's
59347 liability for uninsured medical, hospital, and dental expenses of a dependent child, when the
59348 parent:
59349 (a) is required by a prior court or administrative order to:
59350 (i) share those expenses with the other parent of the dependent child; or
59351 (ii) obtain medical, hospital, or dental care insurance but fails to do so; or
59352 (b) receives direct payment from an insurer under insurance coverage obtained after the
59353 prior court or administrative order was issued.
59354 (2) If the prior court or administrative order does not specify what proportions of the
59355 expenses are to be shared, the office may determine the amount of liability in accordance with
59356 established rules.
59357 (3) This section applies to an order without regard to when it was issued.
59358 Section 1159. Section **62A-11-333** is amended to read:
59359 **62A-11-333. Right to judicial review.**
59360 (1) (a) Within 30 days of notice of any administrative action on the part of the office to
59361 establish paternity or establish, modify or enforce a child support order, the obligor may file a

59362 petition for de novo review with the district court.
59363 (b) For purposes of Subsection (1)(a), notice includes:
59364 (i) notice actually received by the obligor in accordance with Section 62A-11-304.4;
59365 (ii) participation by the obligor in the proceedings related to the establishment of the
59366 paternity or the modification or enforcement of child support; or
59367 (iii) receiving a paycheck in which a reduction has been made for child support.
59368 (2) The petition shall name the office and all other appropriate parties as respondents
59369 and meet the form requirements specified in Section [~~63-46b-15~~] 63G-4-402.
59370 (3) A copy of the petition shall be served upon the Child and Family Support Division
59371 of the Office of Attorney General.
59372 (4) (a) If the petition is regarding the amount of the child support obligation established
59373 in accordance with Title 78, Chapter 45, Uniform Civil Liability for Support Act, the court may
59374 issue a temporary order for child support until a final order is issued.
59375 (b) The petitioner may file an affidavit stating the amount of child support reasonably
59376 believed to be due and the court may issue a temporary order for that amount. The temporary
59377 order shall be valid for 60 days, unless extended by the court while the action is being pursued.
59378 (c) If the court upholds the amount of support established in Subsection (4)(a), the
59379 petitioner shall be ordered to make up the difference between the amount originally ordered in
59380 Subsection (4)(a) and the amount temporarily ordered under Subsection (4)(b).
59381 (d) This Subsection (4) does not apply to an action for the court-ordered modification
59382 of a judicial child support order.
59383 (5) The court may, on its own initiative and based on the evidence before it, determine
59384 whether the petitioner violated U.R. Civ. P. Rule 11 by filing the action. If the court
59385 determines that U.R.Civ.P. Rule 11 was violated, it shall, at a minimum, award to the office
59386 attorneys' fees and costs for the action.
59387 (6) Nothing in this section precludes the obligor from seeking administrative remedies
59388 as provided in this chapter.
59389 Section 1160. Section **62A-11-407** is amended to read:
59390 **62A-11-407. Payor's procedures for income withholding.**
59391 (1) (a) A payor is subject to the requirements, penalties, and effects of a notice served
59392 on the payor under Section 62A-11-406.

59393 (b) A payment of withheld income mailed to the office in an envelope postmarked
59394 within seven business days of the date the amount would have been paid or credited to the
59395 obligor but for this section satisfies Subsection 62A-11-406(3).
59396 (2) (a) If a payor fails to comply with a notice served upon him under Section
59397 62A-11-406, the office, the obligee, if an assignment has not been made under Section
59398 35A-7-108, or the obligor may proceed with a civil action against the payor to enforce a
59399 provision of the notice.
59400 (b) In addition to a civil action under Subsection (2)(a), the office may bring an
59401 administrative action pursuant to [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
59402 Procedures Act, to enforce a provision of the notice.
59403 (c) If an obligee or obligor brings a civil action under Subsection (2)(a) to enforce a
59404 provision of the notice, the obligee or obligor may recover any penalty related to that provision
59405 under Section 62A-11-406 in place of the office.
59406 (3) If the obligor's child support is owed monthly and the payor's pay periods are at
59407 more frequent intervals, the payor, with the consent of the office may withhold an equal
59408 amount at each pay period cumulatively sufficient to pay the monthly child support obligation.
59409 (4) A payor may combine amounts which [~~he~~] the payor has withheld from the
59410 incomes of multiple obligors into a single payment to the office. If such a combined payment
59411 is made, the payor shall specify the amount attributable to each individual obligor by name and
59412 Social Security number.
59413 (5) In addition to any other remedy provided in this section, a payor is liable to the
59414 office, obligee, or obligor for costs and reasonable attorneys' fees incurred in enforcing a
59415 provision in the notice mailed or delivered under Section 62A-11-406.
59416 (6) Notwithstanding this section or Section 62A-11-406, if a payor receives an income
59417 withholding order or notice issued by another state, the payor shall apply the income
59418 withholding law of the state of the obligor's principal place of employment in determining:
59419 (a) the payor's fee for processing income withholding;
59420 (b) the maximum amount permitted to be withheld from the obligor's income;
59421 (c) the time periods within which the payor must implement income withholding and
59422 forward child support payments;
59423 (d) the priorities for withholding and allocating withheld income for multiple child

59424 support obligees; and
59425 (e) any term or condition for withholding not specified in the notice.
59426 Section 1161. Section **62A-11-603 (Effective 07/01/08)** is amended to read:
59427 **62A-11-603 (Effective 07/01/08). Suspension of driver license for child support**
59428 **delinquency -- Reinstatement.**
59429 (1) Subject to the provisions of this section, the office may order the suspension of a
59430 person's driver license if the person is delinquent on a child support obligation.
59431 (2) Before ordering a suspension of a person's driver license, the office shall serve the
59432 person with a "notice of intent to suspend driver license."
59433 (3) The notice described in Subsection (2) shall:
59434 (a) be personally served or served by certified mail;
59435 (b) except as otherwise provided in this section, comply with [~~Title 63, Chapter 46b~~]
59436 Title 63G, Chapter 4, Administrative Procedures Act;
59437 (c) state the amount that the person is in arrears on the person's child support
59438 obligation; and
59439 (d) state that, if the person desires to contest the suspension of the person's driver
59440 license, the person must request an informal adjudicative proceeding with the office within 30
59441 days after the day on which the notice is mailed or personally served.
59442 (4) (a) The office shall hold an informal adjudicative proceeding to determine whether
59443 a person's driver license should be suspended if the person requests a hearing within 30 days
59444 after the day on which the notice described in Subsection (2) is mailed or personally served on
59445 the person.
59446 (b) The informal adjudicative proceeding described in Subsection (4)(a), and any
59447 appeal of the decision rendered in that proceeding, shall comply with [~~Title 63, Chapter 46b~~]
59448 Title 63G, Chapter 4, Administrative Procedures Act.
59449 (5) Except as provided in Subsection (6), the office may order that a person's driver
59450 license be suspended:
59451 (a) if, after the notice described in Subsection (2) is mailed or personally served, the
59452 person fails to request an informal adjudicative proceeding within the time period described in
59453 Subsection (4)(a); or
59454 (b) following the informal adjudicative proceeding described in Subsection (4)(a), if:

59455 (i) the presiding officer finds that the person is delinquent on a child support
59456 obligation; and
59457 (ii) the finding described in Subsection (5)(b)(i):
59458 (A) is not timely appealed; or
59459 (B) is upheld after a timely appeal becomes final.
59460 (6) The office may not order the suspension of a person's driver license if the person:
59461 (a) pays the full amount that the person is in arrears on the person's child support
59462 obligation;
59463 (b) subject to Subsection (8):
59464 (i) enters into a payment agreement with the office for the payment of the person's
59465 current child support obligation and all arrears; and
59466 (ii) complies with the agreement described in Subsection (6)(b)(i) for any initial
59467 compliance period required by the agreement;
59468 (c) obtains a judicial order staying enforcement of the person's child support obligation
59469 or the amount in arrears; or
59470 (d) is not currently delinquent on a child support obligation.
59471 (7) The office shall rescind an order made by the office to suspend a driver license if
59472 the person:
59473 (a) pays the full amount that the person is in arrears on the person's child support
59474 obligation;
59475 (b) subject to Subsection (8):
59476 (i) enters into a payment agreement with the office for the payment of the person's
59477 current child support obligation and all arrears; and
59478 (ii) complies with the agreement described in Subsection (7)(b)(i) for any initial
59479 compliance period required by the agreement;
59480 (c) obtains a judicial order staying enforcement of the person's child support obligation
59481 or the amount in arrears; or
59482 (d) is not currently delinquent on a child support obligation.
59483 (8) For purposes of Subsections (6)(b) and (7)(b), the office shall diligently strive to
59484 enter into a fair and reasonable payment agreement that takes into account the person's
59485 employment and financial ability to make payments, provided that there is a reasonable basis to

59486 believe that the person will comply with the agreement.
59487 (9) (a) If, after the office seeks to suspend a person's driver license under this section, it
59488 is determined that the person is not delinquent, the office shall refund to the person any
59489 noncustodial parent income withholding fee that was collected from the person during the
59490 erroneously alleged delinquency.
59491 (b) Subsection (9)(a) does not apply if the person described in Subsection (9)(a) is
59492 otherwise in arrears on a child support obligation.
59493 (10) (a) A person whose driver license is ordered suspended pursuant to this section
59494 may file a request with the office, on a form provided by the office, to have the office rescind
59495 the order of suspension if:
59496 (i) the person claims that, since the time of the suspension, circumstances have
59497 changed such that the person is entitled to have the order of suspension rescinded under
59498 Subsection (7); and
59499 (ii) the office has not rescinded the order of suspension.
59500 (b) The office shall respond, in writing, to a person described in Subsection (10),
59501 within 10 days after the day on which the request is filed with the office, stating whether the
59502 person is entitled to have the order of suspension rescinded.
59503 (c) If the office determines, under Subsection (10)(b), that an order to suspend a
59504 person's license should be rescinded, the office shall immediately rescind the order.
59505 (d) If the office determines, under Subsection (10)(b), that an order to suspend a
59506 person's license should not be rescinded:
59507 (i) the office shall, as part of the response described in Subsection (10)(b), notify the
59508 person, in writing, of the reasons for that determination; and
59509 (ii) the person described in this Subsection (10)(d) may, within 15 days after the day on
59510 which the office sends the response described in Subsection (10)(b), appeal the determination
59511 of the office to district court.
59512 (e) The office may not require that a person file the request described in Subsection
59513 (10)(a) before the office orders that an order of suspension is rescinded, if the office has already
59514 determined that the order of suspension should be rescinded under Subsection (7).
59515 (11) The office may make rules, in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
59516 Chapter 3, Utah Administrative Rulemaking Act, to:

59517 (a) implement the provisions of this part; and
59518 (b) determine when the arrears described in Subsections (6) and (7) are considered
59519 paid.
59520 Section 1162. Section **62A-13-105** is amended to read:
59521 **62A-13-105. Department duties and powers.**
59522 (1) The department shall administer this chapter within the Division of Substance
59523 Abuse and Mental Health, created in Section 62A-15-103 and under the policy direction of the
59524 Board of Substance Abuse and Mental Health created in Section 62A-1-105.
59525 (2) The Division of Substance Abuse and Mental Health shall establish rules in
59526 accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
59527 Rulemaking Act to:
59528 (a) establish application procedures for grants and scholarships;
59529 (b) establish eligibility and selection criteria for grant and scholarship recipients;
59530 (c) determine grant and scholarship awards and conditions for each recipient;
59531 (d) designate eligible underserved rural areas regarding available mental health therapy
59532 services in which recipients may fulfill their service obligations; and
59533 (e) establish educational requirements necessary for the grant or scholarship recipient
59534 to be qualified to meet service obligations.
59535 (3) The Division of Substance Abuse and Mental Health may:
59536 (a) approve the specific site at which a recipient may fulfill [~~his~~] the recipient's service
59537 obligations under this chapter;
59538 (b) set limitations on the amount an individual may receive and on the number of years
59539 for which an individual may receive funds under this chapter;
59540 (c) cancel grants or scholarships for cause and, for compelling reasons, accept a lesser
59541 measure of damages for breach of a grant or scholarship contract or release a recipient from the
59542 service obligation without penalty for extreme hardship or other good cause;
59543 (d) cancel a grant or scholarship for cause without penalty to the state; and
59544 (e) cancel a grant or a scholarship if the recipient fails to meet the conditions of the
59545 award or if it reasonably appears the recipient will not meet the grant or scholarship conditions.
59546 (4) The department may accept gifts, grants, loans, and other aid or funds from any
59547 person, association, foundation, trust, corporation, governmental agency, or other entity for the

59548 purposes set forth in this chapter.
59549 Section 1163. Section **62A-14-105** is amended to read:
59550 **62A-14-105. Powers and duties of the office.**
59551 (1) The office shall:
59552 (a) before January 1, 2000, develop and operate a statewide program to:
59553 (i) educate the public about the role and function of guardians and conservators; and
59554 (ii) serve as a guardian, conservator, or both for a ward upon appointment by a court
59555 when no other person is able and willing to do so and the office petitioned for or agreed in
59556 advance to the appointment;
59557 (b) possess and exercise all the powers and duties specifically given to the office by
59558 virtue of being appointed as guardian or conservator of a ward, including the power to access a
59559 ward's records;
59560 (c) review and monitor the personal and, if appropriate, financial status of each ward
59561 for whom the office has been appointed to serve as guardian or conservator;
59562 (d) train and monitor each employee and volunteer, and monitor each contract provider
59563 to whom the office has delegated a responsibility for a ward;
59564 (e) retain all court-delegated powers and duties for a ward;
59565 (f) report on the personal and financial status of a ward as required by a court in
59566 accordance with Title 75, Chapter 5, Protection of Persons under Disability and their Property;
59567 (g) handle a ward's funds in accordance with the department's trust account system;
59568 (h) request that the department's audit plan, established pursuant to Section
59569 [~~63-91-401~~] 63I-5-401, include the requirement of an annual audit of all funds and property
59570 held by the office on behalf of wards;
59571 (i) maintain accurate records concerning each ward, [~~his~~] the ward's property, and
59572 office services provided to [~~him~~] the ward;
59573 (j) make reasonable and continuous efforts to find a family member, friend, or other
59574 person to serve as a ward's guardian or conservator;
59575 (k) after termination as guardian or conservator, distribute a ward's property in
59576 accordance with Title 75, Chapter 5, Protection of Persons under Disability and their Property;
59577 (l) submit recommendations for changes in state law and funding to the governor and
59578 the Legislature and report to the governor and Legislature, upon request; and

59579 (m) implement and enforce policies established by the board.
59580 (2) The office may:
59581 (a) petition a court pursuant to Title 75, Chapter 5, Protection of Persons under
59582 Disability and their Property, to be appointed an incapacitated person's guardian, conservator,
59583 or both after conducting a prepetition assessment under Section 62A-14-107;
59584 (b) develop and operate a statewide program to recruit, train, supervise, and monitor
59585 volunteers to assist the office in providing guardian and conservator services;
59586 (c) delegate one or more responsibilities for a ward to an employee, volunteer, or
59587 contract provider, except as provided in Subsection 62A-14-107(1);
59588 (d) solicit and receive private donations to provide guardian and conservator services
59589 under this chapter; and
59590 (e) adopt rules, in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
59591 Administrative Rulemaking Act, to:
59592 (i) effectuate board policy; and
59593 (ii) carry out the office's role as guardian and conservator of wards as provided in this
59594 chapter.
59595 Section 1164. Section **62A-14-106** is amended to read:
59596 **62A-14-106. Board of Public Guardian Services.**
59597 (1) The Board of Public Guardian Services, created in accordance with this section and
59598 Section 62A-1-105, is responsible for establishing the policy of the office in accordance with
59599 this chapter and seeing that the legislative purposes for the office are carried out.
59600 (2) The executive director shall appoint nine members to the Board of Public Guardian
59601 Services, as follows:
59602 (a) a member of the Board of Aging and Adult Services or designee;
59603 (b) a member of the Board of Services for Persons with Disabilities or designee;
59604 (c) a member of the Board of Substance Abuse and Mental Health or designee;
59605 (d) a representative of the long-term care industry;
59606 (e) a representative of the hospital industry;
59607 (f) a representative of persons with disabilities;
59608 (g) a representative of senior citizens;
59609 (h) a physician; and

59610 (i) an attorney with experience in guardianship and conservatorship law.
59611 (3) (a) Except as provided in Subsection (3)(b), each member shall be appointed for a
59612 four-year term and eligible for one reappointment.
59613 (b) Notwithstanding Subsection (3)(a), the executive director shall, at the time of
59614 appointment or reappointment, adjust the length of terms to ensure that the terms of board
59615 members are staggered so that approximately half of the board is appointed every two years,
59616 taking into account the remaining term of board members who serve on other department
59617 boards.
59618 (c) A board member shall continue in office until the expiration of the member's term
59619 and until a successor is appointed, which may not exceed 90 days after the formal expiration of
59620 the term.
59621 (d) When a vacancy occurs in membership for any reason, the replacement shall be
59622 appointed for the unexpired term.
59623 (e) The make up of the board should reflect political and geographic diversity.
59624 (4) The board shall annually elect a chairperson from its membership. The board shall
59625 hold meetings at least once every three months. Meetings shall be held from time to time on
59626 the call of the chairperson or a majority of the board members. Five board members are
59627 necessary to constitute a quorum at any meeting and, if a quorum exists, the action of a
59628 majority of members present shall be the action of the board.
59629 (5) (a) Board members who are not government employees may not receive
59630 compensation or benefits for their services, but may receive per diem and expenses incurred in
59631 the performance of their official duties at rates established by the Division of Finance under
59632 Sections 63A-3-106 and 63A-3-107.
59633 (b) Members of the board may decline to receive per diem expenses for their services.
59634 (6) The board shall:
59635 (a) establish program policy for the office;
59636 (b) establish a mechanism for systematic and regular review of existing policy and for
59637 consideration of policy changes; and
59638 (c) set fees for the office, excluding attorneys fees, in accordance with Section
59639 [~~63-38-3.2~~] 63J-1-303.
59640 Section 1165. Section **62A-14-108** is amended to read:

59641 **62A-14-108. Office volunteers.**
59642 (1) A person who desires to be an office volunteer shall:
59643 (a) possess demonstrated personal characteristics of honesty, integrity, compassion,
59644 and concern for incapacitated persons; and
59645 (b) upon request, submit information for a background check pursuant to Section
59646 62A-1-118.
59647 (2) An office volunteer may not receive compensation or benefits, but may be
59648 reimbursed by the office for expenses actually and reasonably incurred, consistent with Title
59649 67, Chapter 20, Volunteer Government Workers Act.
59650 (3) An office volunteer is immune from civil liability pursuant to [~~Title 63, Chapter~~
59651 ~~30b~~] Title 63G, Chapter 8, Immunity for Persons Performing Voluntary Services.
59652 Section 1166. Section **62A-14-109** is amended to read:
59653 **62A-14-109. Contract for services.**
59654 (1) In accordance with [~~Title 63, Chapter 56~~] Title 63G, Chapter 6, Utah Procurement
59655 Code, the office may contract with one or more providers to perform guardian and conservator
59656 duties.
59657 (2) The office shall review and monitor the services provided by a contract provider to
59658 a ward for whom the office has been appointed guardian or conservator.
59659 Section 1167. Section **62A-15-103** is amended to read:
59660 **62A-15-103. Division -- Creation -- Responsibilities.**
59661 (1) There is created the Division of Substance Abuse and Mental Health within the
59662 department, under the administration and general supervision of the executive director, and,
59663 with regard to its programs, under the policy direction of the board. The division is the
59664 substance abuse authority and the mental health authority for this state.
59665 (2) The division shall:
59666 (a) (i) educate the general public regarding the nature and consequences of substance
59667 abuse by promoting school and community-based prevention programs;
59668 (ii) render support and assistance to public schools through approved school-based
59669 substance abuse education programs aimed at prevention of substance abuse;
59670 (iii) promote or establish programs for the prevention of substance abuse within the
59671 community setting through community-based prevention programs;

59672 (iv) cooperate and assist other organizations and private treatment centers for substance
59673 abusers, by providing them with essential materials for furthering programs of prevention and
59674 rehabilitation of actual and potential substance abusers; and
59675 (v) promote or establish programs for education and certification of instructors to
59676 educate persons convicted of driving under the influence of alcohol or drugs or driving with
59677 any measurable controlled substance in the body;
59678 (b) (i) collect and disseminate information pertaining to mental health; and
59679 (ii) provide direction over the state hospital including approval of its budget,
59680 administrative policy, and coordination of services with local service plans;
59681 (iii) promulgate rules in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
59682 Utah Administrative Rulemaking Act, to educate families concerning mental illness and
59683 promote family involvement, when appropriate, and with patient consent, in the treatment
59684 program of a family member; and
59685 (iv) promulgate rules in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
59686 Utah Administrative Rulemaking Act, to direct that all individuals receiving services through
59687 local mental health authorities or the Utah State Hospital be informed about and, if desired,
59688 provided assistance in completion of a declaration for mental health treatment in accordance
59689 with Section 62A-15-1002;
59690 (c) (i) consult and coordinate with local substance abuse authorities and local mental
59691 health authorities regarding programs and services;
59692 (ii) provide consultation and other assistance to public and private agencies and groups
59693 working on substance abuse and mental health issues;
59694 (iii) promote and establish cooperative relationships with courts, hospitals, clinics,
59695 medical and social agencies, public health authorities, law enforcement agencies, education and
59696 research organizations, and other related groups;
59697 (iv) promote or conduct research on substance abuse and mental health issues, and
59698 submit to the governor and the Legislature recommendations for changes in policy and
59699 legislation;
59700 (v) receive, distribute, and provide direction over public funds for substance abuse and
59701 mental health services;
59702 (vi) monitor and evaluate programs provided by local substance abuse authorities and

59703 local mental health authorities;
59704 (vii) examine expenditures of any local, state, and federal funds;
59705 (viii) monitor the expenditure of public funds by:
59706 (A) local substance abuse authorities;
59707 (B) local mental health authorities; and
59708 (C) in counties where they exist, the private contract provider that has an annual or
59709 otherwise ongoing contract to provide comprehensive substance abuse or mental health
59710 programs or services for the local substance abuse authority or local mental health authorities;
59711 (ix) contract with local substance abuse authorities and local mental health authorities
59712 to provide a comprehensive continuum of services in accordance with board and division
59713 policy, contract provisions, and the local plan;
59714 (x) contract with private and public entities for special statewide or nonclinical services
59715 according to board and division policy;
59716 (xi) review and approve each local substance abuse authority's plan and each local
59717 mental health authority's plan in order to ensure:
59718 (A) a statewide comprehensive continuum of substance abuse services;
59719 (B) a statewide comprehensive continuum of mental health services; and
59720 (C) appropriate expenditure of public funds;
59721 (xii) review and make recommendations regarding each local substance abuse
59722 authority's contract with its provider of substance abuse programs and services and each local
59723 mental health authority's contract with its provider of mental health programs and services to
59724 ensure compliance with state and federal law and policy;
59725 (xiii) monitor and ensure compliance with board and division policy and contract
59726 requirements; and
59727 (xiv) withhold funds from local substance abuse authorities, local mental health
59728 authorities, and public and private providers for contract noncompliance, failure to comply
59729 with division directives regarding the use of public funds, or for misuse of public funds or
59730 monies;
59731 (d) assure that the requirements of this part are met and applied uniformly by local
59732 substance abuse authorities and local mental health authorities across the state;
59733 (e) require each local substance abuse authority and each local mental health authority

59734 to submit its plan to the division by May 1 of each year;
59735 (f) conduct an annual program audit and review of each local substance abuse authority
59736 in the state and its contract provider and each local mental health authority in the state and its
59737 contract provider, including:
59738 (i) a review and determination regarding whether:
59739 (A) public funds allocated to local substance abuse authorities and local mental health
59740 authorities are consistent with services rendered and outcomes reported by them or their
59741 contract providers; and
59742 (B) each local substance abuse authority and each local mental health authority is
59743 exercising sufficient oversight and control over public funds allocated for substance abuse and
59744 mental health programs and services; and
59745 (ii) items determined by the division to be necessary and appropriate;
59746 (g) by July 1 of each year, provide to the Health and Human Services Interim
59747 Committee and the Health and Human Services Appropriations Subcommittee a written report
59748 that includes:
59749 (i) the annual audit and review;
59750 (ii) the financial expenditures of each local substance abuse authority and its contract
59751 provider and each local mental health authority and its contract provider;
59752 (iii) the status of the compliance of each local authority and its contract provider with
59753 its plan, state statutes, and the provisions of the contract awarded; and
59754 (iv) whether audit guidelines established under Section 62A-15-110 and Subsection
59755 67-3-1(10) provide the division with sufficient criteria and assurances of appropriate
59756 expenditures of public funds; and
59757 (h) if requested by the Health and Human Services Interim Committee or the Health
59758 and Human Services Appropriations Subcommittee, provide an oral report as requested.
59759 (3) (a) The division may refuse to contract with and may pursue its legal remedies
59760 against any local substance abuse authority or local mental health authority that fails, or has
59761 failed, to expend public funds in accordance with state law, division policy, contract
59762 provisions, or directives issued in accordance with state law.
59763 (b) The division may withhold funds from a local substance abuse authority or local
59764 mental health authority if the authority's contract with its provider of substance abuse or mental

59765 health programs or services fails to comply with state and federal law or policy.
59766 (4) Before reissuing or renewing a contract with any local substance abuse authority or
59767 local mental health authority, the division shall review and determine whether the local
59768 substance abuse authority or local mental health authority is complying with its oversight and
59769 management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and
59770 17-43-309. Nothing in this Subsection (4) may be used as a defense to the responsibility and
59771 liability described in Section 17-43-303 and to the responsibility and liability described in
59772 Section 17-43-203.
59773 (5) In carrying out its duties and responsibilities, the division may not duplicate
59774 treatment or educational facilities that exist in other divisions or departments of the state, but
59775 shall work in conjunction with those divisions and departments in rendering the treatment or
59776 educational services that those divisions and departments are competent and able to provide.
59777 (6) (a) The division may accept in the name of and on behalf of the state donations,
59778 gifts, devises, or bequests of real or personal property or services to be used as specified by the
59779 donor.
59780 (b) Those donations, gifts, devises, or bequests shall be used by the division in
59781 performing its powers and duties. Any money so obtained shall be considered private
59782 nonlapsing funds and shall be deposited into an interest-bearing restricted special revenue fund
59783 to be used by the division for substance abuse or mental health services. The state treasurer
59784 may invest the fund and all interest shall remain with the fund.
59785 (7) The division shall annually review with each local substance abuse authority and
59786 each local mental health authority the authority's statutory and contract responsibilities
59787 regarding:
59788 (a) the use of public funds;
59789 (b) oversight responsibilities regarding public funds; and
59790 (c) governance of substance abuse and mental health programs and services.
59791 (8) The Legislature may refuse to appropriate funds to the division upon the division's
59792 failure to comply with the provisions of this part.
59793 Section 1168. Section **62A-15-105** is amended to read:
59794 **62A-15-105. Authority and responsibilities of board.**
59795 The board is the policymaking body for the division and for programs funded with state

59796 and federal moneys under Sections 17-43-201, 17-43-301, 17-43-304, and 62A-15-110. The
59797 board shall:
59798 (1) in establishing policy, seek input from local substance abuse authorities, local
59799 mental health authorities, consumers, providers, advocates, division staff, and other interested
59800 parties as determined by the board;
59801 (2) establish, by rule, minimum standards for local substance abuse authorities and
59802 local mental health authorities;
59803 (3) establish, by rule, procedures for developing its policies which ensure that local
59804 substance abuse authorities and local mental health authorities are given opportunity to
59805 comment and provide input on any new policy of the board or proposed changes in existing
59806 policy of the board;
59807 (4) provide a mechanism for review of its existing policy, and for consideration of
59808 policy changes that are proposed by local substance abuse authorities or local mental health
59809 authorities;
59810 (5) develop program policies, standards, rules, and fee schedules for the division; and
59811 (6) in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
59812 Administrative Rulemaking Act, make rules approving the form and content of substance
59813 abuse treatment, educational series, screening, and assessment that are described in Section
59814 41-6a-501.
59815 Section 1169. Section **62A-15-401** is amended to read:
59816 **62A-15-401. Alcohol training and education seminar.**
59817 (1) As used in this part:
59818 (a) "Instructor" means a person that directly provides the instruction during an alcohol
59819 training and education seminar for a seminar provider.
59820 (b) "Licensee" means a person who is:
59821 (i) (A) a new or renewing licensee under Title 32A, Alcoholic Beverage Control Act;
59822 and
59823 (B) engaged in the retail sale of alcoholic beverages for consumption on the premises
59824 of the licensee; or
59825 (ii) a business that is:
59826 (A) a new or renewing licensee licensed by a city, town, or county; and

59827 (B) engaged in the retail sale of beer for consumption off the premises of the licensee.
59828 (c) "Off-premise beer retailer" is as defined in Section 32A-1-105.
59829 (d) "Seminar provider" means a person other than the division who provides an alcohol
59830 training and education seminar meeting the requirements of this section.
59831 (2) (a) This section applies to an individual who, as defined by the board by rule:
59832 (i) manages operations at the premises of a licensee engaged in the retail sale of
59833 alcoholic beverages for consumption on the premises of the licensee;
59834 (ii) supervises the serving of alcoholic beverages to a customer for consumption on the
59835 premises of a licensee;
59836 (iii) serves alcoholic beverages to a customer for consumption on the premises of a
59837 licensee;
59838 (iv) directly supervises the sale of beer to a customer for consumption off the premises
59839 of an off-premise beer retailer licensee; or
59840 (v) sells beer to a customer for consumption off the premises of an off-premise beer
59841 retailer licensee.
59842 (b) If the individual does not have a valid certificate that the individual has completed
59843 an alcohol training and education seminar, an individual described in Subsection (2)(a) shall:
59844 (i) (A) complete an alcohol training and education seminar within 30 days of the
59845 following if the individual is described in Subsections (2)(a)(i) through (iii):
59846 (I) if the individual is an employee, the day the individual begins employment;
59847 (II) if the individual is an independent contractor, the day the individual is first hired;
59848 or
59849 (III) if the individual holds an ownership interest in the licensee, the day that the
59850 individual first engages in an activity that would result in that individual being required to
59851 complete an alcohol training and education seminar; or
59852 (B) complete an alcohol training and education seminar within the time periods
59853 specified in Subsection 32A-10-103(1) if the individual is described in Subsections (2)(a)(iv)
59854 and (v); and
59855 (ii) pay a fee:
59856 (A) to the seminar provider; and
59857 (B) that is equal to or greater than the amount established under Subsection (4)(h).

59858 (c) An individual shall have a valid certificate that the individual completed an alcohol
59859 training and education seminar within the time period provided in this Subsection (2) to engage
59860 in an activity described in Subsection (2)(a).
59861 (d) A certificate that an individual has completed an alcohol training and education
59862 seminar is valid for:
59863 (i) three years from the day on which the certificate is issued for an individual
59864 described in Subsection (2)(a)(i), (ii), or (iii); and
59865 (ii) five years from the day on which the certificate is issued for an individual described
59866 in Subsection (2)(a)(iv) or (v).
59867 (3) (a) A licensee may not permit an individual who is not in compliance with
59868 Subsection (2) to:
59869 (i) serve or supervise the serving of alcoholic beverages to a customer for consumption
59870 on the premises of the licensee;
59871 (ii) engage in any activity that would constitute managing operations at the premises of
59872 a licensee that engages in the retail sale of alcoholic beverages for consumption on the
59873 premises of the licensee;
59874 (iii) directly supervise the sale of beer to a customer for consumption off the premises
59875 of an off-premise beer retailer licensee; or
59876 (iv) sell beer to a customer for consumption off the premises of an off-premise beer
59877 retailer licensee.
59878 (b) A licensee that violates Subsection (3)(a) is subject to Section 32A-1-401.
59879 (4) The division shall:
59880 (a) (i) provide alcohol training and education seminars; or
59881 (ii) certify one or more seminar providers;
59882 (b) establish the curriculum for an alcohol training and education seminar that includes
59883 the following subjects:
59884 (i) (A) alcohol as a drug; and
59885 (B) alcohol's effect on the body and behavior;
59886 (ii) recognizing the problem drinker or signs of intoxication;
59887 (iii) an overview of state alcohol laws related to responsible beverage sale or service,
59888 as determined in consultation with the Department of Alcoholic Beverage Control;

59889 (iv) dealing with the problem customer, including ways to terminate sale or service;
59890 and
59891 (v) for those supervising or engaging in the retail sale of alcoholic beverages for
59892 consumption on the premises of a licensee, alternative means of transportation to get the
59893 customer safely home;
59894 (c) recertify each seminar provider every three years;
59895 (d) monitor compliance with the curriculum described in Subsection (4)(b);
59896 (e) maintain for at least five years a record of every person who has completed an
59897 alcohol training and education seminar;
59898 (f) provide the information described in Subsection (4)(e) on request to:
59899 (i) the Department of Alcoholic Beverage Control;
59900 (ii) law enforcement; or
59901 (iii) a person licensed by the state or a local government to sell alcoholic beverages;
59902 (g) provide the Department of Alcoholic Beverage Control on request a list of any
59903 seminar provider certified by the division; and
59904 (h) establish a fee amount for each person attending an alcohol training and education
59905 seminar that is sufficient to offset the division's cost of administering this section.
59906 (5) The board shall by rule made in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
59907 Chapter 3, Utah Administrative Rulemaking Act:
59908 (a) define what constitutes under this section an individual who:
59909 (i) manages operations at the premises of a licensee engaged in the retail sale of
59910 alcoholic beverages for consumption on the premises of the licensee;
59911 (ii) supervises the serving of alcoholic beverages to a customer for consumption on the
59912 premises of a licensee;
59913 (iii) serves alcoholic beverages to a customer for consumption on the premises of a
59914 licensee;
59915 (iv) directly supervises the sale of beer to a customer for consumption off the premises
59916 of an off-premise retailer beer licensee; or
59917 (v) sells beer to a customer for consumption off the premises of an off-premise beer
59918 retailer licensee;
59919 (b) establish criteria for certifying and recertifying a seminar provider; and

59920 (c) establish guidelines for the manner in which an instructor provides an alcohol
59921 education and training seminar.
59922 (6) A seminar provider shall:
59923 (a) obtain recertification by the division every three years;
59924 (b) ensure that an instructor used by the seminar provider:
59925 (i) follows the curriculum established under this section; and
59926 (ii) conducts an alcohol training and education seminar in accordance with the
59927 guidelines established by rule;
59928 (c) ensure that any information provided by the seminar provider or instructor of a
59929 seminar provider is consistent with:
59930 (i) the curriculum established under this section; and
59931 (ii) this section;
59932 (d) provide the division with the names of all persons who complete an alcohol training
59933 and education seminar provided by the seminar provider;
59934 (e) (i) collect a fee for each person attending an alcohol training and education seminar
59935 in accordance with Subsection (2); and
59936 (ii) forward to the division the portion of the fee that is equal to the amount described
59937 in Subsection (4)(h); and
59938 (f) issue a certificate to an individual that completes an alcohol training and education
59939 seminar provided by the seminar provider.
59940 (7) (a) If after a hearing conducted in accordance with [~~Title 63, Chapter 46b~~] Title
59941 63G, Chapter 4, Administrative Procedures Act, the division finds that a seminar provider
59942 violates this section or that an instructor of the seminar provider violates this section, the
59943 division may:
59944 (i) suspend the certification of the seminar provider for a period not to exceed 90 days;
59945 (ii) revoke the certification of the seminar provider;
59946 (iii) require the seminar provider to take corrective action regarding an instructor; or
59947 (iv) prohibit the seminar provider from using an instructor until such time that the
59948 seminar provider establishes to the satisfaction of the division that the instructor is in
59949 compliance with Subsection (6)(b).
59950 (b) The division may certify a seminar provider whose certification is revoked:

59951 (i) no sooner than 90 days from the date the certification is revoked; and
59952 (ii) if the seminar provider establishes to the satisfaction of the division that the
59953 seminar provider will comply with this section.
59954 Section 1170. Section **62A-15-704** is amended to read:
59955 **62A-15-704. Invasive treatment -- Due process proceedings.**
59956 (1) For purposes of this section, "invasive treatment" means treatment in which a
59957 constitutionally protected liberty or privacy interest may be affected, including antipsychotic
59958 medication, electroshock therapy, and psychosurgery.
59959 (2) The requirements of this section apply to all children receiving services or
59960 treatment from a local mental health authority, its designee, or its provider regardless of
59961 whether a local mental health authority has physical custody of the child or the child is
59962 receiving outpatient treatment from the local authority, its designee, or provider.
59963 (3) (a) The division shall promulgate rules, in accordance with [~~Title 63, Chapter 46a~~]
59964 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing due process
59965 procedures for children prior to any invasive treatment as follows:
59966 (i) with regard to antipsychotic medications, if either the parent or child disagrees with
59967 that treatment, a due process proceeding shall be held in compliance with the procedures
59968 established under this Subsection (3);
59969 (ii) with regard to psychosurgery and electroshock therapy, a due process proceeding
59970 shall be conducted pursuant to the procedures established under this Subsection (3), regardless
59971 of whether the parent or child agree or disagree with the treatment; and
59972 (iii) other possible invasive treatments may be conducted unless either the parent or
59973 child disagrees with the treatment, in which case a due process proceeding shall be conducted
59974 pursuant to the procedures established under this Subsection (3).
59975 (b) In promulgating the rules required by Subsection (3)(a), the division shall consider
59976 the advisability of utilizing an administrative law judge, court proceedings, a neutral and
59977 detached fact finder, and other methods of providing due process for the purposes of this
59978 section. The division shall also establish the criteria and basis for determining when invasive
59979 treatment should be administered.
59980 Section 1171. Section **62A-15-707** is amended to read:
59981 **62A-15-707. Confidentiality of information and records -- Exceptions -- Penalty.**

59982 (1) Notwithstanding the provisions of [~~Sections 63-2-101 through 63-2-909~~] Title 63G,
59983 Chapter 2, Government Records Access Management Act, all certificates, applications,
59984 records, and reports made for the purpose of this part that directly or indirectly identify a
59985 patient or former patient or an individual whose commitment has been sought under this part,
59986 shall be kept confidential and may not be disclosed by any person except as follows:
59987 (a) the individual identified consents after reaching 18 years of age;
59988 (b) the child's parent or legal guardian consents;
59989 (c) disclosure is necessary to carry out any of the provisions of this part; or
59990 (d) a court may direct, upon its determination that disclosure is necessary for the
59991 conduct of proceedings before it, and that failure to make the disclosure would be contrary to
59992 the public interest.
59993 (2) A person who violates any provision of this section is guilty of a class B
59994 misdemeanor.
59995 Section 1172. Section **62A-15-902** is amended to read:
59996 **62A-15-902. Design and operation -- Security.**
59997 (1) The forensic mental health facility is a secure treatment facility.
59998 (2) (a) The forensic mental health facility accommodates the following populations:
59999 (i) prison inmates displaying mental illness, as defined in Section 62A-15-602,
60000 necessitating treatment in a secure mental health facility;
60001 (ii) criminally adjudicated persons found guilty and mentally ill or guilty and mentally
60002 ill at the time of the offense undergoing evaluation for mental illness under Title 77, Chapter
60003 16a, Commitment and Treatment of Mentally Ill Persons;
60004 (iii) criminally adjudicated persons undergoing evaluation for competency or found
60005 guilty and mentally ill or guilty and mentally ill at the time of the offense under Title 77,
60006 Chapter 16a, Commitment and Treatment of Mentally Ill Persons, also have mental retardation;
60007 (iv) persons undergoing evaluation for competency or found by a court to be
60008 incompetent to proceed in accordance with Title 77, Chapter 15, Inquiry Into Sanity of
60009 Defendant, or not guilty by reason of insanity under Title 77, Chapter 14, Defenses;
60010 (v) persons who are civilly committed to the custody of a local mental health authority
60011 in accordance with Title 62A, Chapter 15, Part 6, Utah State Hospital and Other Mental Health
60012 Facilities, and who may not be properly supervised by the Utah State Hospital because of a lack

60013 of necessary security, as determined by the superintendent or [~~his~~] the superintendent's
60014 designee; and
60015 (vi) persons ordered to commit themselves to the custody of the Division of Substance
60016 Abuse and Mental Health for treatment at the Utah State Hospital as a condition of probation or
60017 stay of sentence pursuant to Title 77, Chapter 18, The Judgment.
60018 (b) Placement of an offender in the forensic mental health facility under any category
60019 described in Subsection (2)(a)(ii), (iii), (iv), or (vi) shall be made on the basis of the offender's
60020 status as established by the court at the time of adjudication.
60021 (c) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
60022 Administrative Rulemaking Act, the department shall make rules providing for the allocation
60023 of beds to the categories described in Subsection (2)(a).
60024 (3) The department shall:
60025 (a) own and operate the forensic mental health facility;
60026 (b) provide and supervise administrative and clinical staff; and
60027 (c) provide security staff who are trained as psychiatric technicians.
60028 (4) Pursuant to Subsection 62A-15-603(3) the executive director shall designate
60029 individuals to perform security functions for the state hospital.
60030 Section 1173. Section **63-11-12** is amended to read:
60031 **63-11-12. Board of Parks and Recreation -- Creation -- Functions.**
60032 There is created within the Department of Natural Resources a Board of Parks and
60033 Recreation which, except as otherwise provided in this act, shall assume all of the
60034 policy-making functions, powers, duties, rights and responsibilities of the Utah State Park and
60035 Recreation Commission, together with all functions, powers, duties, rights and responsibilities
60036 granted to the Board of Parks and Recreation by this act. The Board of Parks and Recreation
60037 shall be the policy-making body of the Division of Parks and Recreation. Except as otherwise
60038 provided in this act, whenever reference is made in Title 63, or any other provision of law, to
60039 the Utah State Park and Recreation Commission, it shall be construed as referring to the Board
60040 of Parks and Recreation where such reference pertains to policy-making functions, powers,
60041 duties, rights and responsibilities; but in all other instances such reference shall be construed as
60042 referring to the Division of Parks and Recreation.
60043 Section 1174. Section **63-11-17** is amended to read:

60044 **63-11-17. Powers and duties of Board and Division of Parks and Recreation.**
60045 (1) (a) The board may make rules:
60046 (i) governing the use of the state park system;
60047 (ii) to protect state parks and their natural and cultural resources from misuse or
60048 damage, including watersheds, plants, wildlife, and park amenities; and
60049 (iii) to provide for public safety and preserve the peace within state parks.
60050 (b) To accomplish the purposes stated in Subsection (1)(a), the board may enact rules
60051 that:
60052 (i) close or partially close state parks; or
60053 (ii) establish use or access restrictions within state parks.
60054 (c) Rules made under Subsection (1) may not have the effect of preventing the transfer
60055 of livestock along a livestock highway established in accordance with Section 72-3-112.
60056 (2) The Division of Wildlife Resources shall retain the power and jurisdiction
60057 conferred upon it by law within state parks and on property controlled by the Division of Parks
60058 and Recreation with reference to fish and game.
60059 (3) The Division of Parks and Recreation shall permit multiple use of state parks and
60060 property controlled by it for purposes such as grazing, fishing and hunting, mining, and the
60061 development and utilization of water and other natural resources.
60062 (4) (a) The division may acquire real and personal property in the name of the state by
60063 all legal and proper means, including purchase, gift, devise, eminent domain, lease, exchange,
60064 or otherwise, subject to the approval of the executive director and the governor.
60065 (b) As used in this section, "real property" includes land under water, upland, and all
60066 other property commonly or legally defined as real property.
60067 (c) In acquiring any real or personal property, the credit of the state may not be pledged
60068 without the consent of the legislature.
60069 (5) (a) Before acquiring any real property, the division shall notify the county
60070 legislative body of the county where the property is situated of its intention to acquire the
60071 property.
60072 (b) If the county legislative body requests a hearing within ten days of receipt of the
60073 notice, the board shall hold a public hearing in the county concerning the matter.
60074 (6) Acceptance of gifts or devises of land or other property shall be at the discretion of

60075 the division, subject to the approval of the executive director of the Department of Natural
60076 Resources and the governor.
60077 (7) Acquisition of property by eminent domain shall be in the manner authorized by
60078 Title 78, Chapter 34, Eminent Domain.
60079 (8) (a) The Division of Parks and Recreation may make charges for special services
60080 and use of facilities, the income from which shall be available for park and recreation purposes.
60081 (b) The division may conduct and operate those services necessary for the comfort and
60082 convenience of the public.
60083 (c) The board shall adopt appropriate rules governing the collection of charges under
60084 this Subsection (8).
60085 (9) (a) The division may lease or rent concessions of all lawful kinds and nature in state
60086 parks and property to persons, partnerships, and corporations for a valuable consideration upon
60087 the recommendation of the board.
60088 (b) The division shall comply with [~~Title 63, Chapter 56~~] Title 63G, Chapter 6, Utah
60089 Procurement Code, in selecting concessionaires.
60090 (10) The division shall proceed without delay to negotiate with the federal government
60091 concerning the Weber Basin and other recreation and reclamation projects.
60092 Section 1175. Section **63-11a-503** is amended to read:
60093 **63-11a-503. Centennial Nonmotorized Paths and Trail Crossings Program --**
60094 **Eligibility and distribution -- Rulemaking.**
60095 (1) There is created the Centennial Nonmotorized Paths and Trail Crossings Program.
60096 (2) The program shall be funded from the following sources:
60097 (a) appropriations made to the program by the Legislature; and
60098 (b) contributions from other public and private sources for deposit into the program.
60099 (3) All monies appropriated to the Centennial Nonmotorized Paths and Trail Crossings
60100 Program are nonlapsing.
60101 (4) Subject to Subsection (5), the division, upon the recommendation of the council,
60102 shall authorize the use of program monies for state, county, and municipal projects that:
60103 (a) provide continuous and safe routes, paths, or trails for equestrian riders,
60104 pedestrians, bicyclists, and other human powered vehicle operators; and
60105 (b) provide access past major highways and other physical impediments that limit safe

60106 equestrian riders, pedestrian, bicyclist, and other human powered vehicles.
60107 (5) The program monies authorized under Subsection (4) are subject to:
60108 (a) monies available in the program;
60109 (b) the provisions of this section; and
60110 (c) rules made under Subsection (8).
60111 (6) (a) The state, a county, or a municipality may apply to the division under this
60112 section for monies from the program for a specified project.
60113 (b) (i) Program monies may not exceed 50% of the total costs for any project. The
60114 remaining project costs must be provided by the state, the county, or the municipality that
60115 applies for program monies as matching funds.
60116 (ii) Matching funds may be provided from any available source, including grants and
60117 other private or public sources.
60118 (7) A single project may not receive more than 50% of the total program monies
60119 available in a fiscal year except upon the unanimous recommendation of the council.
60120 (8) (a) The division shall administer the program.
60121 (b) The Board of Parks and Recreation shall make rules in accordance with [~~Title 63,~~
60122 ~~Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing the:
60123 (i) prioritizing and awarding of program monies by the division; and
60124 (ii) procedures for the state, a county, or a municipality to apply for program monies
60125 for projects.
60126 Section 1176. Section **63-34-3.1** is amended to read:
60127 **63-34-3.1. Procedures -- Adjudicative proceedings.**
60128 The Department of Natural Resources and the divisions, boards, and councils referred
60129 to in Section 63-34-3 shall comply with the procedures and requirements of [~~Title 63, Chapter~~
60130 ~~46b,~~] Title 63G, Chapter 4, Administrative Procedures Act, in their adjudicative proceedings.
60131 Section 1177. Section **63-34-5 (Contingently Effective)** is amended to read:
60132 **63-34-5 (Contingently Effective). Executive director of Department of Natural**
60133 **Resources -- Appointment -- Removal -- Compensation -- Responsibilities -- Department**
60134 **fee schedule.**
60135 (1) (a) The chief administrative officer of the Department of Natural Resources shall be
60136 an executive director appointed by the governor with the consent of the Senate.

60137 (b) The executive director may be removed at the will of the governor.
60138 (c) The executive director shall receive a salary established by the governor within the
60139 salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.
60140 (2) The executive director shall:
60141 (a) administer and supervise the Department of Natural Resources and provide for
60142 coordination and cooperation among the boards, divisions, and offices of the department;
60143 (b) approve the budget of each board and division;
60144 (c) participate in regulatory proceedings as appropriate to the functions and duties of
60145 the department;
60146 (d) ensure that funds appropriated to the Department of Natural Resources from the
60147 Wetlands Protection Account created by Section 63-34-3.2 are expended in accordance with
60148 Subsection 63-34-3.2(3);
60149 (e) ensure that funds appropriated to the Department of Natural Resources from the
60150 Recreational Trails and Streams Enhancement and Protection Account created by Section
60151 63-34-3.3 are expended in accordance with Subsection 63-34-3.3(3);
60152 (f) report at the end of each fiscal year to the governor on department activities, and
60153 activities of the boards and divisions; and
60154 (g) perform other duties as provided by the Legislature by statute.
60155 (3) (a) Unless otherwise provided by statute, the department may adopt a schedule of
60156 fees assessed for services provided by the department.
60157 (b) A fee described in Subsection (3)(a) shall:
60158 (i) be reasonable and fair; and
60159 (ii) reflect the cost of services provided.
60160 (c) Each fee established under this Subsection (3) shall be submitted to and approved
60161 by the Legislature as part of the department's annual appropriations request.
60162 (d) The department may not charge or collect any fee established under this Subsection
60163 (3) without approval of the Legislature.
60164 Section 1178. Section **63-34-15** is amended to read:
60165 **63-34-15. Outdoor recreation facilities -- Participation in federal programs.**
60166 (1) The Legislature finds that the state of Utah and its political subdivisions should
60167 enjoy the benefits of federal assistance programs for the planning and development of the

60168 outdoor recreation resources of the state, including the acquisition of lands and waters and
60169 interests in land and water.
60170 (2) To accomplish those purposes, the executive director of the Department of Natural
60171 Resources may, by following the procedures and requirements of [~~Title 63, Chapter 38c~~] Title
60172 63J, Chapter 5, Federal Funds Procedures, seek federal grants, loans, or participation in federal
60173 programs.
60174 Section 1179. Section **63-34-17** is amended to read:
60175 **63-34-17. Outdoor recreation facilities -- Powers of executive director to obtain**
60176 **federal aid.**
60177 The executive director of natural resources may, by following the procedures and
60178 requirements of [~~Title 63, Chapter 38c~~] Title 63J, Chapter 5, Federal Funds Procedures, apply
60179 to any appropriate agency or officer of the United States for participation in or the receipt of aid
60180 from any federal program respecting outdoor recreation. [~~He~~] The executive director may, in
60181 cooperation with other state agencies and after obtaining the approvals required by [~~Title 63,~~
60182 ~~Chapter 38c~~] Title 63J, Chapter 5, Federal Funds Procedures, enter into contracts and
60183 agreements with the United States or any appropriate agency thereof, keep financial and other
60184 records relating thereto, and furnish to appropriate officials and agencies of the United States
60185 such reports and information as may be reasonably necessary to enable such officials and
60186 agencies to perform their duties under such programs. In connection with obtaining the
60187 benefits of any such program, the executive director of natural resources shall coordinate the
60188 department's activities with and represent the interests of all agencies and subdivisions of the
60189 state having interests in the planning, development, and maintenance of outdoor recreation
60190 resources and facilities.
60191 Section 1180. Section **63-63c-101** is amended to read:
60192 **63-63c-101. Security surcharge -- Application and exemptions -- Deposit in**
60193 **restricted account.**
60194 (1) In addition to any fine, penalty, forfeiture, or other surcharge, a security surcharge
60195 of $25 shall be assessed in all courts of record on all criminal convictions and juvenile
60196 delinquency judgments.
60197 (2) The security surcharge may not be imposed upon:
60198 (a) nonmoving traffic violations;

60199 (b) community service; and
60200 (c) penalties assessed by the juvenile court as part of the nonjudicial adjustment of a
60201 case under Section 78-3a-502.
60202 (3) The security surcharge shall be collected after the surcharge under Section
60203 [~~63-63a-1~~] 51-9-401, but before any fine, and deposited with the state treasurer. A fine that
60204 would otherwise have been charged may not be reduced due to the imposition of the security
60205 surcharge.
60206 (4) The state treasurer shall deposit the collected security surcharge in the restricted
60207 account, Court Security Account, as provided in Section 63-63c-102.
60208 Section 1181. Section **63-73-4** is amended to read:
60209 **63-73-4. Responsibilities of board.**
60210 The board has the following responsibilities:
60211 (1) establish and review policies, programs, and priorities;
60212 (2) review and recommend budgets;
60213 (3) assess the needs of the community with regard to development and use of geologic
60214 resources;
60215 (4) keep the director advised concerning survey policies; and
60216 (5) enact rules in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, the
60217 Utah Administrative Rulemaking Act, that are necessary to carry out the purposes of this
60218 chapter.
60219 Section 1182. Section **63-73-6** is amended to read:
60220 **63-73-6. Powers and duties of survey.**
60221 (1) The survey shall:
60222 (a) assist and advise state and local governmental agencies and state educational
60223 institutions on geologic, paleontologic, and mineralogic subjects;
60224 (b) collect and distribute reliable information regarding the mineral industry and
60225 mineral resources, topography, paleontology, and geology of the state;
60226 (c) survey the geology of the state, including mineral occurrences and the ores of
60227 metals, energy resources, industrial minerals and rocks, mineral-bearing waters, and surface
60228 and ground water resources, with special reference to their economic contents, values, uses,
60229 kind, and availability in order to facilitate their economic use;

60230 (d) investigate the kind, amount, and availability of mineral substances contained in
60231 lands owned and controlled by the state, to contribute to the most effective and beneficial
60232 administration of these lands for the state;
60233 (e) determine and investigate areas of geologic and topographic hazards that could
60234 affect the safety of, or cause economic loss to, the citizens of the state;
60235 (f) assist local and state government agencies in their planning, zoning, and building
60236 regulation functions by publishing maps, delineating appropriately wide special earthquake risk
60237 areas, and, at the request of state agencies or other governmental agencies, review the siting of
60238 critical facilities;
60239 (g) cooperate with state agencies, political subdivisions of the state,
60240 quasi-governmental agencies, federal agencies, schools of higher education, and others in fields
60241 of mutual concern, which may include field investigations and preparation, publication, and
60242 distribution of reports and maps;
60243 (h) collect and preserve data pertaining to mineral resource exploration and
60244 development programs and construction activities, such as claim maps, location of drill holes,
60245 location of surface and underground workings, geologic plans and sections, drill logs, and
60246 assay and sample maps, including the maintenance of a sample library of cores and cuttings;
60247 (i) study and analyze other scientific, economic, or aesthetic problems as, in the
60248 judgment of the board, should be undertaken by the survey to serve the needs of the state and to
60249 support the development of natural resources and utilization of lands within the state;
60250 (j) prepare, publish, distribute, and sell maps, reports, and bulletins, embodying the
60251 work accomplished by the survey, directly or in collaboration with others, and collect and
60252 prepare exhibits of the geological and mineral resources of this state and interpret their
60253 significance;
60254 (k) collect, maintain, and preserve data and information in order to accomplish the
60255 purposes of this section and act as a repository for information concerning the geology of this
60256 state;
60257 (l) stimulate research, study, and activities in the field of paleontology;
60258 (m) mark, protect, and preserve critical paleontological sites;
60259 (n) collect, preserve, and administer critical paleontological specimens until they are
60260 placed in a repository or curation facility;

60261 (o) administer critical paleontological site excavation records;
60262 (p) edit and publish critical paleontological records and reports; and
60263 (q) by following the procedures and requirements of [~~Title 63, Chapter 38c~~] Title 63J,
60264 Chapter 5, Federal Funds Procedures, seek federal grants, loans, or participation in federal
60265 programs, and, in accordance with applicable federal program guidelines, administer federally
60266 funded state programs regarding:
60267 (i) renewable energy;
60268 (ii) energy efficiency; and
60269 (iii) energy conservation.
60270 (2) (a) The survey may maintain as confidential, and not as a public record,
60271 information provided to the survey by any source.
60272 (b) The board shall adopt rules in order to determine whether to accept such
60273 information and to maintain the confidentiality of the accepted information.
60274 (c) The survey shall maintain information received from any source at the level of
60275 confidentiality assigned to it by the source.
60276 (3) Upon approval of the board, the survey shall undertake other activities consistent
60277 with Subsection (1).
60278 (4) (a) Subject to the authority granted to the department, the survey may enter into
60279 cooperative agreements with the entities specified in Subsection (1)(g), if approved by the
60280 board, and may accept or commit allocated or budgeted funds in connection with those
60281 agreements.
60282 (b) The survey may undertake joint projects with private entities if:
60283 (i) the action is approved by the board;
60284 (ii) the projects are not inconsistent with the state's objectives; and
60285 (iii) the results of the projects are available to the public.
60286 Section 1183. Section **63A-1-105.5** is amended to read:
60287 **63A-1-105.5. Rulemaking authority of executive director.**
60288 The executive director shall, upon the recommendation of the appropriate division
60289 directors, make rules consistent with state and federal law, and in accordance with [~~Title 63,~~
60290 ~~Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing:
60291 (1) administrative services; and

60292 (2) the provision and use of administrative services furnished to state agencies and
60293 institutions.
60294 Section 1184. Section **63A-1-112** is amended to read:
60295 **63A-1-112. Certificates of participation -- Legislative approval required --**
60296 **Definition -- Exception.**
60297 (1) (a) Certificates of participation for either capital facilities or capital improvements
60298 may not be issued by the department, its subdivisions, or any other state agency after July 1,
60299 1985, without prior legislative approval.
60300 (b) Nothing in this section affects the rights and obligations surrounding certificates of
60301 participation that were issued prior to July 1, 1985.
60302 (2) (a) As used in this section, "certificate of participation" means an instrument that
60303 acts as evidence of the certificate holder's undivided interest in property being lease-purchased,
60304 the payment on which is subject to appropriation by the Legislature.
60305 (b) (i) For purposes of this Subsection (2)(b), "energy savings agreement" has the
60306 meaning as defined in Section [~~63-9-67~~] 63A-5-701.
60307 (ii) "Certificate of participation" does not include an energy savings agreement.
60308 Section 1185. Section **63A-1-114** is amended to read:
60309 **63A-1-114. Rate Committee -- Membership -- Duties.**
60310 (1) (a) There is created a Rate Committee which shall consist of:
60311 (i) the director of the Governor's Office of Planning and Budget, or a designee;
60312 (ii) the executive directors of three state agencies that use services and pay rates to one
60313 of the department internal service funds, or their designee, appointed by the governor for a
60314 two-year term;
60315 (iii) the executive director of the Department of Administrative Services, or a designee;
60316 (iv) the director of the Division of Finance, or a designee; and
60317 (v) the chief information officer.
60318 (b) (i) The committee shall elect a chair from its members.
60319 (ii) Members of the committee who are state government employees and who do not
60320 receive salary, per diem, or expenses from their agency for their service on the committee shall
60321 receive no compensation, benefits, per diem, or expenses for the members' service on the
60322 committee.

60323 (c) The Department of Administrative Services shall provide staff services to the
60324 committee.
60325 (2) (a) The internal service funds managed by the following divisions shall submit to
60326 the committee a proposed rate and fee schedule for services rendered by the divisions to an
60327 executive branch entity or an entity that subscribes to services rendered by the division, the:
60328 (i) Division of Facilities Construction and Management;
60329 (ii) Division of Fleet Operations;
60330 (iii) Division of Purchasing and General Services; and
60331 (iv) Division of Risk Management.
60332 (b) The committee shall:
60333 (i) conduct meetings in accordance with Title 52, Chapter 4, Open and Public Meetings
60334 Act;
60335 (ii) review the proposed rate and fee schedules and may approve, increase, or decrease
60336 the rate and fee;
60337 (iii) recommend a proposed rate and fee schedule for each internal service fund to:
60338 (A) the Governor's Office of Planning and Budget; and
60339 (B) the legislative appropriations subcommittees that, in accordance with Section
60340 [~~63-38-3.5~~] 63J-1-306, approve the internal service fund agency's rates, fees, and budget; and
60341 (iv) review and approve, increase or decrease an interim rate, fee, or amount when an
60342 internal service fund agency begins a new service or introduces a new product between annual
60343 general sessions of the Legislature.
60344 (c) The committee may in accordance with Subsection [~~63-38-3.5~~] 63J-1-306(4)
60345 decrease a rate, fee, or amount that has been approved by the Legislature.
60346 Section 1186. Section **63A-2-103** is amended to read:
60347 **63A-2-103. General services provided -- Subscription by state departments, state**
60348 **agencies, and certain local governmental entities -- Fee schedule.**
60349 (1) (a) The director of the Division of Purchasing and General Services shall operate,
60350 manage, and maintain:
60351 (i) a central mailing service; and
60352 (ii) an electronic central store system for procuring goods and services.
60353 (b) The director may establish microfilming, duplicating, printing, addressograph, and

60354 other central services.
60355 (2) (a) Each state department and agency shall subscribe to all of the services described
60356 in Subsection (1), unless the director delegates the director's authority to a department or
60357 agency under Section 63A-2-104.
60358 (b) An institution of higher education, school district, or political subdivision of the
60359 state may subscribe to one or more of the services described in Subsection (1).
60360 (3) The director shall:
60361 (a) prescribe a schedule of fees to be charged for all services provided by the division
60362 to any department or agency after the director:
60363 (i) submits the proposed rate, fees, or other amounts for services provided by the
60364 division's internal service fund to the Rate Committee established in Section 63A-1-114; and
60365 (ii) obtains the approval of the Legislature, as required by Sections [~~63-38-3.2~~]
60366 63J-1-303 and [~~63-38-3.5~~] 63J-1-306;
60367 (b) when practicable, ensure that the fees are approximately equal to the cost of
60368 providing the services; and
60369 (c) conduct a market analysis by July 1, 2005, and periodically thereafter of fees, which
60370 analysis shall include comparison of the division's rates with the fees of other public or private
60371 sector providers where comparable services and rates are reasonably available.
60372 Section 1187. Section **63A-3-306** is amended to read:
60373 **63A-3-306. Hearing examiner -- Procedures -- Adjudicative proceedings.**
60374 (1) (a) The hearing shall be held before a hearing examiner designated by the state.
60375 (b) The hearing examiner may not be an officer or employee of the entity in state
60376 government responsible for collecting or administering the account.
60377 (2) The state shall comply with the procedures and requirements of [~~Title 63, Chapter~~
60378 ~~46b~~] Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative proceedings.
60379 Section 1188. Section **63A-4-102** is amended to read:
60380 **63A-4-102. Risk manager -- Powers.**
60381 (1) The risk manager may:
60382 (a) enter into contracts;
60383 (b) purchase insurance;
60384 (c) adjust, settle, and pay claims;

60385 (d) pay expenses and costs;
60386 (e) study the risks of all state agencies and properties;
60387 (f) issue certificates of coverage to state agencies for any risks covered by Risk
60388 Management Fund;
60389 (g) make recommendations about risk management and risk reduction strategies to
60390 state agencies;
60391 (h) in consultation with the attorney general, prescribe insurance and liability
60392 provisions to be included in all state contracts;
60393 (i) review agency building construction, major remodeling plans, agency program
60394 plans, and make recommendations to the agency about needed changes to address risk
60395 considerations;
60396 (j) attend agency planning and management meetings when necessary;
60397 (k) review any proposed legislation and communicate with legislators and legislative
60398 committees about the liability or risk management issues connected with any legislation; and
60399 (l) solicit any needed information about agency plans, agency programs, or agency
60400 risks necessary to perform [~~his~~] the risk manager's responsibilities under this part.
60401 (2) (a) The risk manager may expend monies from the Risk Management Fund to
60402 procure and provide coverage to all state agencies and their indemnified employees, except
60403 those agencies or employees specifically exempted by statute.
60404 (b) The risk manager shall apportion the costs of that coverage according to the
60405 requirements of this part.
60406 (3) Before charging a rate, fee, or other amount to an executive branch agency, or to a
60407 subscriber of services other than an executive branch agency, the director shall:
60408 (a) submit the proposed rates, fees, or other amount and cost analysis to the Rate
60409 Committee established in Section 63A-1-114; and
60410 (b) obtain the approval of the Legislature as required by Section [~~63-38-3.5~~] 63J-1-306.
60411 (4) The director shall conduct a market analysis by July 1, 2005, and periodically
60412 thereafter, of proposed rates and fees, which analysis shall include a comparison of the
60413 division's rates and fees with the fees of other public or private sector providers where
60414 comparable services and rates are reasonably available.
60415 Section 1189. Section **63A-4-204** is amended to read:

60416 **63A-4-204. School district participation in Risk Management Fund.**
60417 (1) (a) For the purpose of this section, action by a public school district shall be taken
60418 upon resolution by a majority of the members of the school district's board of education.
60419 (b) (i) Upon approval by the state risk manager and the board of education of the
60420 school district, a public school district may participate in the Risk Management Fund and may
60421 permit a foundation established under Section 53A-4-205 to participate in the Risk
60422 Management Fund.
60423 (ii) Upon approval by the state risk manager and the State Board of Education, a state
60424 public education foundation may participate in the Risk Management Fund.
60425 (c) Subject to any cancellation or other applicable coverage provisions, either the state
60426 risk manager or the public school district may terminate participation in the fund.
60427 (2) The state risk manager shall contract for all insurance, legal, loss adjustment,
60428 consulting, loss control, safety, and other related services necessary to support the insurance
60429 program provided to a participating public school district, except that all supporting legal
60430 services are subject to the prior approval of the state attorney general.
60431 (3) (a) The state risk manager shall treat each participating public school district as a
60432 state agency when participating in the Risk Management Fund.
60433 (b) Each public school district participating in the fund shall comply with the
60434 provisions of this part that affect state agencies.
60435 (4) (a) By no later than March 31 of each year, the risk manager shall prepare, in
60436 writing, the information required by Subsection (4)(b) regarding the coverage against legal
60437 liability provided a school district employee of this state:
60438 (i) by the Risk Management Fund;
60439 (ii) under [~~Title 63, Chapter 30d~~] Title 63G, Chapter 7, Governmental Immunity Act of
60440 Utah; and
60441 (iii) under [~~Title 63, Chapter 30a~~] Title 52, Chapter 6, Reimbursement of Legal Fees
60442 and Costs to Officers and Employees.
60443 (b) (i) The information described in Subsection (4)(a) shall include:
60444 (A) the eligibility requirements, if any, to receive the coverage;
60445 (B) the basic nature of the coverage for a school district employee, including what is
60446 not covered; and

60447 (C) whether the coverage is primary or in excess of any other coverage the risk
60448 manager knows is commonly available to a school district employee in this state.
60449 (ii) The information described in Subsection (4)(a) may include:
60450 (A) comparisons the risk manager considers beneficial to a school district employee
60451 between:
60452 (I) the coverage described in Subsection (4)(a); and
60453 (II) other coverage the risk manager knows is commonly available to a school district
60454 employee in this state; and
60455 (B) any other information the risk manager considers appropriate.
60456 (c) The risk manager shall provide the information prepared under this Subsection (4)
60457 to each school district that participates in the Risk Management Fund.
60458 (d) A school district that participates in the Risk Management Fund shall provide a
60459 copy of the information described in Subsection (4)(c) to each school district employee within
60460 the school district:
60461 (i) at the time an employee enters into an employment contract and signs a separate
60462 acknowledgment of legal liability protection in accordance with Section 53A-3-411; or
60463 (ii) if the school district does not provide the information to the employee pursuant to
60464 Subsection (4)(d)(i):
60465 (A) within 30 days of the day the school district employee is hired by the school
60466 district; and
60467 (B) by no later than April 15 of each calendar year.
60468 Section 1190. Section **63A-4-204.5** is amended to read:
60469 **63A-4-204.5. Charter school participation in Risk Management Fund.**
60470 (1) A charter school established under the authority of Title 53A, Chapter 1a, Part 5,
60471 The Utah Charter Schools Act, may participate in the Risk Management Fund upon the
60472 approval of the state risk manager and the governing body of the charter school.
60473 (2) (a) For purposes of administration, the state risk manager shall treat each charter
60474 school participating in the fund as a state agency.
60475 (b) Each charter school participating in the fund shall comply with the provisions of
60476 this part that affect state agencies.
60477 (3) (a) By no later than March 31 of each year, the risk manager shall prepare, in

60478 writing, the information required by Subsection (3)(b) regarding the coverage against legal
60479 liability provided a charter school employee of this state:
60480 (i) by the Risk Management Fund;
60481 (ii) under [~~Title 63, Chapter 30d~~] Title 63G, Chapter 7, Utah Governmental Immunity
60482 Act of Utah; and
60483 (iii) under [~~Title 63, Chapter 30a~~] Title 52, Chapter 6, Reimbursement of Legal Fees
60484 and Costs to Officers and Employees.
60485 (b) (i) The information described in Subsection (3)(a) shall include:
60486 (A) the eligibility requirements, if any, to receive the coverage;
60487 (B) the basic nature of the coverage for a charter school employee, including what is
60488 not covered; and
60489 (C) whether the coverage is primary or in excess of any other coverage the risk
60490 manager knows is commonly available to a charter school employee in this state.
60491 (ii) The information described in Subsection (3)(a) may include:
60492 (A) comparisons the risk manager considers beneficial to a charter school employee
60493 between:
60494 (I) the coverage described in Subsection (3)(a); and
60495 (II) other coverage the risk manager knows is commonly available to a charter school
60496 employee in this state; and
60497 (B) any other information the risk manager considers appropriate.
60498 (c) The risk manager shall provide the information prepared under this Subsection (3)
60499 to each charter school that participates in the Risk Management Fund.
60500 (d) A charter school that participates in the Risk Management Fund shall provide a
60501 copy of the information described in Subsection (3)(c) to each charter school employee within
60502 the charter school:
60503 (i) within 30 days of the day the charter school employee is hired by the charter school;
60504 and
60505 (ii) by no later than April 15 of each calendar year.
60506 Section 1191. Section **63A-4-207** is amended to read:
60507 **63A-4-207. Records of risk management.**
60508 (1) A record provided to the Division of Risk Management by any governmental entity

60509 or political subdivision covered by the Risk Management Fund for the purpose of risk control
60510 or claims activities of the division shall be considered a record of the originating governmental
60511 entity or political subdivision for purposes of [~~Title 63, Chapter 2~~] Title 63G, Chapter 2,
60512 Government Records Access and Management Act, if the originating governmental entity or
60513 political subdivision retains a copy of the record.
60514 (2) Notwithstanding Subsection [~~63-2-201~~] 63G-2-201(5), records may be exchanged
60515 between the Division of Risk Management and any governmental entity or political subdivision
60516 covered by the Risk Management Fund without meeting the requirements of Section
60517 [~~63-2-206~~] 63G-2-206, provided that they are used only for purposes of risk control or claims
60518 activities.
60519 Section 1192. Section **63A-5-103** is amended to read:
60520 **63A-5-103. Board -- Powers.**
60521 (1) The State Building Board shall:
60522 (a) in cooperation with state institutions, departments, commissions, and agencies,
60523 prepare a master plan of structures built or contemplated;
60524 (b) submit to the governor and the Legislature a comprehensive five-year building plan
60525 for the state containing the information required by Subsection (2);
60526 (c) amend and keep current the five-year building program for submission to the
60527 governor and subsequent legislatures;
60528 (d) as a part of the long-range plan, recommend to the governor and Legislature any
60529 changes in the law that are necessary to insure an effective, well-coordinated building program
60530 for all state institutions;
60531 (e) in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
60532 Administrative Rulemaking Act, make rules:
60533 (i) that are necessary to discharge its duties and the duties of the Division of Facilities
60534 Construction and Management; and
60535 (ii) to establish standards and requirements for life cycle cost-effectiveness of state
60536 facility projects;
60537 (f) with support from the Division of Facilities Construction and Management,
60538 establish design criteria, standards, and procedures for planning, design, and construction of
60539 new state facilities and for improvements to existing state facilities, including life-cycle

60540 costing, cost-effectiveness studies, and other methods and procedures that address:
60541 (i) the need for the building or facility;
60542 (ii) the effectiveness of its design;
60543 (iii) the efficiency of energy use; and
60544 (iv) the usefulness of the building or facility over its lifetime;
60545 (g) prepare and submit a yearly request to the governor and the Legislature for a
60546 designated amount of square footage by type of space to be leased by the Division of Facilities
60547 Construction and Management in that fiscal year; and
60548 (h) assure the efficient use of all building space.
60549 (2) In order to provide adequate information upon which the State Building Board may
60550 make its recommendation under Subsection (1), any state agency requesting new full-time
60551 employees for the next fiscal year shall report those anticipated requests to the building board
60552 at least 90 days before the annual general session in which the request is made.
60553 (3) (a) The State Building Board shall ensure that the five-year building plan required
60554 by Subsection (1)(c) includes:
60555 (i) a list that prioritizes construction of new buildings for all structures built or
60556 contemplated based upon each agency's, department's, commission's, and institution's present
60557 and future needs;
60558 (ii) information, and space use data for all state-owned and leased facilities;
60559 (iii) substantiating data to support the adequacy of any projected plans;
60560 (iv) a summary of all statewide contingency reserve and project reserve balances as of
60561 the end of the most recent fiscal year;
60562 (v) a list of buildings that have completed a comprehensive facility evaluation by an
60563 architect/engineer or are scheduled to have an evaluation;
60564 (vi) for those buildings that have completed the evaluation, the estimated costs of
60565 needed improvements; and
60566 (vii) for projects recommended in the first two years of the five-year building plan:
60567 (A) detailed estimates of the cost of each project;
60568 (B) the estimated cost to operate and maintain the building or facility on an annual
60569 basis;
60570 (C) the estimated number of new agency full-time employees expected to be housed in

60571 the building or facility;
60572 (D) the estimated cost of new or expanded programs and personnel expected to be
60573 housed in the building or facility;
60574 (E) the estimated lifespan of the building with associated costs for major component
60575 replacement over the life of the building; and
60576 (F) the estimated cost of any required support facilities.
60577 (b) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
60578 Administrative Rulemaking Act, the State Building Board may make rules prescribing the
60579 format for submitting the information required by this Subsection (3).
60580 (4) (a) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
60581 Administrative Rulemaking Act, the State Building Board may make rules establishing
60582 circumstances under which bids may be modified when all bids for a construction project
60583 exceed available funds as certified by the director.
60584 (b) In making those rules, the State Building Board shall provide for the fair and
60585 equitable treatment of bidders.
60586 (5) (a) A person who violates a rule adopted by the board under Subsection (1)(e) is
60587 subject to a civil penalty not to exceed $2,500 for each violation plus the amount of any actual
60588 damages, expenses, and costs related to the violation of the rule that are incurred by the state.
60589 (b) The board may take any other action allowed by law.
60590 (c) If any violation of a rule adopted by the board is also an offense under Title 76,
60591 Utah Criminal Code, the violation is subject to the civil penalty, damages, expenses, and costs
60592 allowed under Subsection (1)(e) in addition to any criminal prosecution.
60593 Section 1193. Section **63A-5-104** is amended to read:
60594 **63A-5-104. Capital development and capital improvement process -- Approval**
60595 **requirements -- Limitations on new projects -- Emergencies.**
60596 (1) As used in this section:
60597 (a) "Capital developments" means any:
60598 (i) remodeling, site, or utility projects with a total cost of $2,500,000 or more;
60599 (ii) new facility with a construction cost of $500,000 or more; or
60600 (iii) purchase of real property where an appropriation is requested to fund the purchase.
60601 (b) "Capital improvements" means any:

60602 (i) remodeling, alteration, replacement, or repair project with a total cost of less than
60603 $2,500,000;
60604 (ii) site and utility improvement with a total cost of less than $2,500,000; or
60605 (iii) new facility with a total construction cost of less than $500,000.
60606 (c) (i) "New facility" means the construction of any new building on state property
60607 regardless of funding source.
60608 (ii) "New facility" includes:
60609 (A) an addition to an existing building; and
60610 (B) the enclosure of space that was not previously fully enclosed.
60611 (iii) "New facility" does not mean:
60612 (A) the replacement of state-owned space that is demolished or that is otherwise
60613 removed from state use, if the total construction cost of the replacement space is less than
60614 $2,500,000; or
60615 (B) the construction of facilities that do not fully enclose a space.
60616 (d) "Replacement cost of existing state facilities" means the replacement cost, as
60617 determined by the Division of Risk Management, of state facilities, excluding auxiliary
60618 facilities as defined by the State Building Board.
60619 (e) "State funds" means public monies appropriated by the Legislature.
60620 (2) The State Building Board, on behalf of all state agencies, commissions,
60621 departments, and institutions shall submit its capital development recommendations and
60622 priorities to the Legislature for approval and prioritization.
60623 (3) (a) Except as provided in Subsections (3)(b), (d), and (e), a capital development
60624 project may not be constructed on state property without legislative approval.
60625 (b) Legislative approval is not required for a capital development project if the State
60626 Building Board determines that:
60627 (i) the requesting higher education institution has provided adequate assurance that:
60628 (A) state funds will not be used for the design or construction of the facility; and
60629 (B) the higher education institution has a plan for funding in place that will not require
60630 increased state funding to cover the cost of operations and maintenance to, or state funding for,
60631 immediate or future capital improvements to the resulting facility; and
60632 (ii) the use of the state property is:

60633 (A) appropriate and consistent with the master plan for the property; and
60634 (B) will not create an adverse impact on the state.
60635 (c) (i) The Division of Facilities Construction and Management shall maintain a record
60636 of facilities constructed under the exemption provided in Subsection (3)(b).
60637 (ii) For facilities constructed under the exemption provided in Subsection (3)(b), a
60638 higher education institution may not request:
60639 (A) increased state funds for operations and maintenance; or
60640 (B) state capital improvement funding.
60641 (d) Legislative approval is not required for:
60642 (i) the renovation, remodeling, or retrofitting of an existing facility with nonstate funds;
60643 (ii) facilities to be built with nonstate funds and owned by nonstate entities within
60644 research park areas at the University of Utah and Utah State University;
60645 (iii) facilities to be built at This is the Place State Park by This is the Place Foundation
60646 with funds of the foundation, including grant monies from the state, or with donated services or
60647 materials;
60648 (iv) capital projects that are funded by the Navajo Trust Fund Board from Navajo Trust
60649 Fund monies and the Uintah Basin Revitalization Fund that do not provide a new facility for a
60650 state agency or higher education institution; or
60651 (v) capital projects on school and institutional trust lands that are funded by the School
60652 and Institutional Trust Lands Administration from the Land Grant Management Fund and that
60653 do not fund construction of a new facility for a state agency or higher education institution.
60654 (e) (i) Legislative approval is not required for capital development projects to be built
60655 for the Department of Transportation as a result of an exchange of real property under Section
60656 72-5-111.
60657 (ii) When the Department of Transportation approves those exchanges, it shall notify
60658 the president of the Senate, the speaker of the House, and the cochairs of the Capital Facilities
60659 and Administrative Services Subcommittee of the Legislature's Joint Appropriation Committee
60660 about any new facilities to be built under this exemption.
60661 (4) (a) The State Building Board, on behalf of all state agencies, commissions,
60662 departments, and institutions shall by January 15 of each year, submit a list of anticipated
60663 capital improvement requirements to the Legislature for review and approval.

60664 (b) Unless otherwise directed by the Legislature, the building board shall prioritize
60665 capital improvements from the list submitted to the Legislature up to the level of appropriation
60666 made by the Legislature.
60667 (c) In prioritizing capital improvements, the building board shall consider the results of
60668 facility evaluations completed by an architect/engineer as stipulated by the building board's
60669 facilities maintenance standards.
60670 (d) The building board may require an entity that benefits from a capital improvement
60671 project to repay the capital improvement funds from savings that result from the project.
60672 (5) The Legislature may authorize:
60673 (a) the total square feet to be occupied by each state agency; and
60674 (b) the total square feet and total cost of lease space for each agency.
60675 (6) (a) Except as provided in Subsection (6)(b), the Legislature may not fund the design
60676 or construction of any new capital development projects, except to complete the funding of
60677 projects for which partial funding has been previously provided, until the Legislature has
60678 appropriated 1.1% of the replacement cost of existing state facilities to capital improvements.
60679 (b) (i) As used in this Subsection (6)(b), "operating deficit" means that estimated
60680 General Fund or Uniform School Fund revenues are less than budgeted for the current or next
60681 fiscal year.
60682 (ii) If the Legislature determines that an operating deficit exists, the Legislature may, in
60683 eliminating the deficit, reduce the amount appropriated to capital improvements to 0.9% of the
60684 replacement cost of state buildings.
60685 (7) (a) If, after approval of capital development and capital improvement priorities by
60686 the Legislature under this section, emergencies arise that create unforeseen critical capital
60687 improvement projects, the State Building Board may, notwithstanding the requirements of
60688 [~~Title 63, Chapter 38~~] Title 63J, Chapter 1, Budgetary Procedures Act, reallocate capital
60689 improvement funds to address those projects.
60690 (b) The building board shall report any changes it makes in capital improvement
60691 allocations approved by the Legislature to:
60692 (i) the Office of Legislative Fiscal Analyst within 30 days of the reallocation; and
60693 (ii) the Legislature at its next annual general session.
60694 (8) (a) The State Building Board may adopt a rule allocating to institutions and

60695 agencies their proportionate share of capital improvement funding.
60696 (b) The building board shall ensure that the rule:
60697 (i) reserves funds for the Division of Facilities Construction and Management for
60698 emergency projects; and
60699 (ii) allows the delegation of projects to some institutions and agencies with the
60700 requirement that a report of expenditures will be filed annually with the Division of Facilities
60701 Construction and Management and appropriate governing bodies.
60702 (9) It is the intent of the Legislature that in funding capital improvement requirements
60703 under this section the General Fund be considered as a funding source for at least half of those
60704 costs.
60705 Section 1194. Section **63A-5-204** is amended to read:
60706 **63A-5-204. Specific powers and duties of director.**
60707 (1) As used in this section, "capitol hill facilities" and "capitol hill grounds" have the
60708 same meaning as provided in Section 63C-9-102.
60709 (2) (a) The director shall:
60710 (i) recommend rules to the executive director for the use and management of facilities
60711 and grounds owned or occupied by the state for the use of its departments and agencies;
60712 (ii) supervise and control the allocation of space, in accordance with legislative
60713 directive through annual appropriations acts or other specific legislation, to the various
60714 departments, commissions, institutions, and agencies in all buildings or space owned, leased, or
60715 rented by or to the state, except capitol hill facilities and capitol hill grounds and except as
60716 otherwise provided by law;
60717 (iii) comply with the procedures and requirements of Title 63A, Chapter 5, Part 3,
60718 Division of Facilities Construction and Management Leasing;
60719 (iv) except as provided in Subsection (2)(b), acquire, as authorized by the Legislature
60720 through the appropriations act or other specific legislation, and hold title to, in the name of the
60721 division, all real property, buildings, fixtures, or appurtenances owned by the state or any of its
60722 agencies;
60723 (v) adopt and use a common seal, of a form and design determined by the director, and
60724 of which courts shall take judicial notice;
60725 (vi) file a description and impression of the seal with the Division of Archives;

60726 (vii) collect and maintain all deeds, abstracts of title, and all other documents
60727 evidencing title to or interest in property belonging to the state or any of its departments, except
60728 institutions of higher education and the School and Institutional Trust Lands Administration;
60729 (viii) report all properties acquired by the state, except those acquired by institutions of
60730 higher education, to the director of the Division of Finance for inclusion in the state's financial
60731 records;
60732 (ix) before charging a rate, fee, or other amount for services provided by the division's
60733 internal service fund to an executive branch agency, or to a subscriber of services other than an
60734 executive branch agency:
60735 (A) submit the proposed rates, fees, and cost analysis to the Rate Committee
60736 established in Section 63A-1-114; and
60737 (B) obtain the approval of the Legislature as required by Section [~~63-38-3.5~~]
60738 63J-1-306;
60739 (x) conduct a market analysis by July 1, 2005, and periodically thereafter, of proposed
60740 rates and fees, which analysis shall include a comparison of the division's rates and fees with
60741 the fees of other public or private sector providers where comparable services and rates are
60742 reasonably available;
60743 (xi) implement the State Building Energy Efficiency Program under Section [~~63-9-67~~]
60744 63A-5-701; and
60745 (xii) take all other action necessary for carrying out the purposes of this chapter.
60746 (b) Legislative approval is not required for acquisitions by the division that cost less
60747 than $250,000.
60748 (3) (a) The director shall direct or delegate maintenance and operations, preventive
60749 maintenance, and facilities inspection programs and activities for any department, commission,
60750 institution, or agency, except:
60751 (i) the State Capitol Preservation Board; and
60752 (ii) state institutions of higher education.
60753 (b) The director may choose to delegate responsibility for these functions only when
60754 the director determines that:
60755 (i) the department or agency has requested the responsibility;
60756 (ii) the department or agency has the necessary resources and skills to comply with

60757 facility maintenance standards approved by the State Building Board; and
60758 (iii) the delegation would result in net cost savings to the state as a whole.
60759 (c) The State Capitol Preservation Board and state institutions of higher education are
60760 exempt from Division of Facilities Construction and Management oversight.
60761 (d) Each state institution of higher education shall comply with the facility
60762 maintenance standards approved by the State Building Board.
60763 (e) Except for the State Capitol Preservation Board, agencies and institutions that are
60764 exempt from division oversight shall annually report their compliance with the facility
60765 maintenance standards to the division in the format required by the division.
60766 (f) The division shall:
60767 (i) prescribe a standard format for reporting compliance with the facility maintenance
60768 standards;
60769 (ii) report agency and institution compliance or noncompliance with the standards to
60770 the Legislature; and
60771 (iii) conduct periodic audits of exempt agencies and institutions to ensure that they are
60772 complying with the standards.
60773 (4) (a) In making any allocations of space under Subsection (2), the director shall:
60774 (i) conduct studies to determine the actual needs of each department, commission,
60775 institution, or agency; and
60776 (ii) comply with the restrictions contained in this Subsection (4).
60777 (b) The supervision and control of the legislative area is reserved to the Legislature.
60778 (c) The supervision and control of the judicial area is reserved to the judiciary for trial
60779 courts only.
60780 (d) The director may not supervise or control the allocation of space for entities in the
60781 public and higher education systems.
60782 (e) The supervision and control of capitol hill facilities and capitol hill grounds is
60783 reserved to the State Capitol Preservation Board.
60784 (5) The director may:
60785 (a) hire or otherwise procure assistance and services, professional, skilled, or
60786 otherwise, that are necessary to carry out the director's responsibilities, and may expend funds
60787 provided for that purpose either through annual operating budget appropriations or from

60788 nonlapsing project funds;
60789 (b) sue and be sued in the name of the division; and
60790 (c) hold, buy, lease, and acquire by exchange or otherwise, as authorized by the
60791 Legislature, whatever real or personal property that is necessary for the discharge of the
60792 director's duties.
60793 (6) Notwithstanding the provisions of Subsection (2)(a)(iv), the following entities may
60794 hold title to any real property, buildings, fixtures, and appurtenances held by them for purposes
60795 other than administration that are under their control and management:
60796 (a) the Office of Trust Administrator;
60797 (b) the Department of Transportation;
60798 (c) the Division of Forestry, Fire and State Lands;
60799 (d) the Department of Natural Resources;
60800 (e) the Utah National Guard;
60801 (f) any area vocational center or other institution administered by the State Board of
60802 Education;
60803 (g) any institution of higher education; and
60804 (h) the Utah Science Technology and Research Governing Authority.
60805 (7) The director shall ensure that any firm performing testing and inspection work
60806 governed by the American Society for Testing Materials Standard E-329 on public buildings
60807 under the director's supervision shall:
60808 (a) fully comply with the American Society for Testing Materials standard
60809 specifications for agencies engaged in the testing and inspection of materials known as ASTM
60810 E-329; and
60811 (b) carry a minimum of $1,000,000 of errors and omissions insurance.
60812 (8) Notwithstanding Subsections (2)(a)(iii) and (iv), the School and Institutional Trust
60813 Lands Administration may hold title to any real property, buildings, fixtures, and appurtenances
60814 held by it that are under its control.
60815 Section 1195. Section **63A-5-205** is amended to read:
60816 **63A-5-205. Contracting powers of director -- Retainage.**
60817 (1) As used in this section, "capital developments" and "capital improvements" have
60818 the same meaning as provided in Section 63A-5-104.

60819 (2) In accordance with [~~Title 63, Chapter 56~~] Title 63G, Chapter 6, Utah Procurement
60820 Code, the director may:
60821 (a) enter into contracts for any work or professional services which the division or the
60822 State Building Board may do or have done; and
60823 (b) as a condition of any contract for architectural or engineering services, prohibit the
60824 architect or engineer from retaining a sales or agent engineer for the necessary design work.
60825 (3) The judgment of the director as to the responsibility and qualifications of a bidder
60826 is conclusive, except in case of fraud or bad faith.
60827 (4) The division shall make all payments to the contractor for completed work in
60828 accordance with the contract and pay the interest specified in the contract on any payments that
60829 are late.
60830 (5) If any payment on a contract with a private contractor to do work for the division or
60831 the State Building Board is retained or withheld, it shall be retained or withheld and released as
60832 provided in Section 13-8-5.
60833 Section 1196. Section **63A-5-206** is amended to read:
60834 **63A-5-206. Construction, alteration, and repair of state facilities -- Powers of**
60835 **director -- Exceptions -- Expenditure of appropriations -- Notification to local**
60836 **governments for construction or modification of certain facilities.**
60837 (1) As used in this section:
60838 (a) "Capital developments" and "capital improvements" have the same meaning as
60839 provided in Section 63A-5-104.
60840 (b) "Compliance agency" has the same meaning as provided in Subsection 58-56-3(4).
60841 (c) (i) "Facility" means any building, structure, or other improvement that is
60842 constructed on property owned by the state, its departments, commissions, institutions, or
60843 agencies.
60844 (ii) "Facility" does not mean an unoccupied structure that is a component of the state
60845 highway system.
60846 (d) "Life cycle cost-effective" means, as provided for in rules adopted by the State
60847 Building Board, in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
60848 Administrative Rulemaking Act, the most prudent cost of owning and operating a facility,
60849 including the initial cost, energy costs, operation and maintenance costs, repair costs, and the

60850 costs of energy conservation and renewable energy systems.
60851 (e) "Local government" means the county, municipality, or local school district that
60852 would have jurisdiction to act as the compliance agency if the property on which the project is
60853 being constructed were not owned by the state.
60854 (f) "Renewable energy system" means a system designed to use solar, wind, geothermal
60855 power, wood, or other replenishable energy source to heat, cool, or provide electricity to a
60856 building.
60857 (2) (a) (i) Except as provided in Subsections (3) and (4), the director shall exercise
60858 direct supervision over the design and construction of all new facilities, and all alterations,
60859 repairs, and improvements to existing facilities if the total project construction cost, regardless
60860 of the funding source, is greater than $100,000.
60861 (ii) A state entity may exercise direct supervision over the design and construction of
60862 all new facilities, and all alterations, repairs, and improvements to existing facilities if:
60863 (A) the total project construction cost, regardless of the funding sources, is $100,000 or
60864 less; and
60865 (B) the state entity assures compliance with the division's forms and contracts and the
60866 division's design, construction, alteration, repair, improvements, and code inspection standards.
60867 (b) The director shall prepare or have prepared by private firms or individuals designs,
60868 plans, and specifications for the projects administered by the division.
60869 (c) Before proceeding with construction, the director and the officials charged with the
60870 administration of the affairs of the particular department, commission, institution, or agency
60871 shall approve the location, design, plans, and specifications.
60872 (3) Projects for the construction of new facilities and alterations, repairs, and
60873 improvements to existing facilities are not subject to Subsection (2) if the project:
60874 (a) occurs on property under the jurisdiction of the State Capitol Preservation Board;
60875 (b) is within a designated research park at the University of Utah or Utah State
60876 University;
60877 (c) occurs within the boundaries of This is the Place State Park and is administered by
60878 This is the Place Foundation except that This is the Place Foundation may request the director
60879 to administer the design and construction; or
60880 (d) is for the creation and installation of art under Title 9, Chapter 6, Part 4, Utah

60881 Percent-for-Art Act.
60882 (4) (a) (i) The State Building Board may authorize the delegation of control over
60883 design, construction, and all other aspects of any project to entities of state government on a
60884 project-by-project basis or for projects within a particular dollar range and a particular project
60885 type.
60886 (ii) The state entity to whom control is delegated shall assume fiduciary control over
60887 project finances, shall assume all responsibility for project budgets and expenditures, and shall
60888 receive all funds appropriated for the project, including any contingency funds contained in the
60889 appropriated project budget.
60890 (iii) Delegation of project control does not exempt the state entity from complying with
60891 the codes and guidelines for design and construction adopted by the division and the State
60892 Building Board.
60893 (iv) State entities that receive a delegated project may not access, for the delegated
60894 project, the division's statewide contingency reserve and project reserve authorized in Section
60895 63A-5-209.
60896 (b) For facilities that will be owned, operated, maintained, and repaired by an entity
60897 that is not a state agency or institution and that are located on state property, the State Building
60898 Board may authorize the owner to administer the design and construction of the project instead
60899 of the division.
60900 (5) Notwithstanding any other provision of this section, if a donor donates land to an
60901 eligible institution of higher education and commits to build a building or buildings on that
60902 land, and the institution agrees to provide funds for the operations and maintenance costs from
60903 sources other than state funds, and agrees that the building or buildings will not be eligible for
60904 state capital improvement funding, the higher education institution may:
60905 (a) oversee and manage the construction without involvement, oversight, or
60906 management from the division; or
60907 (b) arrange for management of the project by the division.
60908 (6) (a) The role of compliance agency as provided in Title 58, Chapter 56, Utah
60909 Uniform Building Standards Act, shall be provided by:
60910 (i) the director, for projects administered by the division;
60911 (ii) the entity designated by the State Capitol Preservation Board, for projects under

60912 Subsection (3)(a);
60913 (iii) the local government, for projects exempt from the division's administration under
60914 Subsection (3)(b) or administered by This is the Place Foundation under Subsection (3)(c);
60915 (iv) the state entity or local government designated by the State Building Board, for
60916 projects under Subsection (4); or
60917 (v) the institution, for projects exempt from the division's administration under
60918 Subsection (5)(a).
60919 (b) For the installation of art under Subsection (3)(d), the role of compliance agency
60920 shall be provided by the entity that is acting in this capacity for the balance of the project as
60921 provided in Subsection (6)(a).
60922 (c) The local government acting as the compliance agency under Subsection (6)(a)(iii)
60923 may:
60924 (i) only review plans and inspect construction to enforce the building codes as adopted
60925 by the Uniform Building Codes Commission; and
60926 (ii) charge a building permit fee of no more than the amount it could have charged if
60927 the land upon which the improvements are located were not owned by the state.
60928 (d) (i) The use of state property and any improvements constructed on state property,
60929 including improvements constructed by nonstate entities, is not subject to the zoning authority
60930 of local governments as provided in Sections 10-9a-304 and 17-27a-304.
60931 (ii) The state entity controlling the use of the state property shall consider any input
60932 received from the local government in determining how the property shall be used.
60933 (7) Before construction may begin, the director shall review the design of projects
60934 exempted from the division's administration under Subsection (4) to determine if the design:
60935 (a) complies with any restrictions placed on the project by the State Building Board;
60936 and
60937 (b) is appropriate for the purpose and setting of the project.
60938 (8) The director shall ensure that state-owned facilities, except for facilities under the
60939 control of the State Capitol Preservation Board, are life cycle cost-effective.
60940 (9) The director may expend appropriations for statewide projects from funds provided
60941 by the Legislature for those specific purposes and within guidelines established by the State
60942 Building Board.

60943 (10) (a) The director, with the approval of the Office of Legislative Fiscal Analyst,
60944 shall develop standard forms to present capital development and capital improvement cost
60945 summary data.
60946 (b) The director shall:
60947 (i) within 30 days after the completion of each capital development project, submit cost
60948 summary data for the project on the standard form to the Office of Legislative Fiscal Analyst;
60949 and
60950 (ii) upon request, submit cost summary data for a capital improvement project to the
60951 Office of Legislative Fiscal Analyst on the standard form.
60952 (11) Notwithstanding the requirements of [~~Title 63, Chapter 38~~] Title 63J, Chapter 1,
60953 Budgetary Procedures Act, the director may:
60954 (a) accelerate the design of projects funded by any appropriation act passed by the
60955 Legislature in its annual general session;
60956 (b) use any unencumbered existing account balances to fund that design work; and
60957 (c) reimburse those account balances from the amount funded for those projects when
60958 the appropriation act funding the project becomes effective.
60959 (12) (a) The director, [~~his~~] the director's designee, or the state entity to whom control
60960 has been designated under Subsection (4), shall notify in writing the elected representatives of
60961 local government entities directly and substantively affected by any diagnostic, treatment,
60962 parole, probation, or other secured facility project exceeding $250,000, if:
60963 (i) the nature of the project has been significantly altered since prior notification;
60964 (ii) the project would significantly change the nature of the functions presently
60965 conducted at the location; or
60966 (iii) the project is new construction.
60967 (b) At the request of either the state entity or the local government entity,
60968 representatives from the state entity and the affected local entity shall conduct or participate in
60969 a local public hearing or hearings to discuss these issues.
60970 (13) (a) (i) Before beginning the construction of student housing on property owned by
60971 the state or a public institution of higher education, the director shall provide written notice of
60972 the proposed construction, as provided in Subsection (13)(a)(ii), if any of the proposed student
60973 housing buildings is within 300 feet of privately owned residential property.

60974 (ii) Each notice under Subsection (13)(a)(i) shall be provided to the legislative body
60975 and, if applicable, the mayor of:
60976 (A) the county in whose unincorporated area the privately owned residential property is
60977 located; or
60978 (B) the municipality in whose boundaries the privately owned residential property is
60979 located.
60980 (b) (i) Within 21 days after receiving the notice required by Subsection (13)(a)(i), a
60981 county or municipality entitled to the notice may submit a written request to the director for a
60982 public hearing on the proposed student housing construction.
60983 (ii) If a county or municipality requests a hearing under Subsection (13)(b)(i), the
60984 director and the county or municipality shall jointly hold a public hearing to provide
60985 information to the public and to allow the director and the county or municipality to receive
60986 input from the public about the proposed student housing construction.
60987 Section 1197. Section **63A-5-208** is amended to read:
60988 **63A-5-208. Definitions -- Certain public construction bids to list subcontractors --**
60989 **Changing subcontractors -- Bidders as subcontractors -- Dispute resolution process --**
60990 **Penalties.**
60991 (1) As used in this section:
60992 (a) "First-tier subcontractor" means a subcontractor who contracts directly with the
60993 prime contractor.
60994 (b) "Subcontractor" means any person or entity under contract with a contractor or
60995 another subcontractor to provide services or labor for the construction, installation, or repair of
60996 an improvement to real property.
60997 (c) "Subcontractor" includes a trade contractor or specialty contractor.
60998 (d) "Subcontractor" does not include suppliers who provide only materials, equipment,
60999 or supplies to a contractor or subcontractor.
61000 (2) The director shall apply the provisions of this section to achieve fair and
61001 competitive bidding and to discourage bid-shopping by contractors.
61002 (3) (a) (i) (A) On each public construction project, the director shall require the
61003 apparent lowest three bidders to submit a list of their first-tier subcontractors indicating each
61004 subcontractor's name, bid amount, and other information required by rule.

61005 (B) Other bidders who are not one of the apparent lowest three bidders may also
61006 submit a list of their first-tier subcontractors containing the information required by this
61007 Subsection (3).
61008 (C) The director may not consider any bid submitted by a bidder if the bidder fails to
61009 submit a subcontractor list meeting the requirements of this section.
61010 (ii) On projects where the contractor's total bid is less than $500,000, subcontractors
61011 whose bid is less than $20,000 need not be listed.
61012 (iii) On projects where the contractor's total bid is $500,000 or more, subcontractors
61013 whose bid is less than $35,000 need not be listed.
61014 (b) (i) The bidders shall submit this list within 24 hours after the bid opening time, not
61015 including Saturdays, Sundays, and state holidays.
61016 (ii) This list does not limit the director's right to authorize a change in the listing of any
61017 subcontractor.
61018 (c) The bidders shall verify that all subcontractors listed as part of their bids are
61019 licensed as required by state law.
61020 (d) Twenty-four hours after the bid opening, the contractor may change [~~his~~] the
61021 contractor's subcontractors only after:
61022 (i) receiving permission from the director; and
61023 (ii) establishing that:
61024 (A) the change is in the best interest of the state; and
61025 (B) the contractor establishes reasons for the change that meet the standards established
61026 by the State Building Board.
61027 (e) If the director approves any changes in subcontractors that result in a net lower
61028 contract price for subcontracted work, the total of the prime contract may be reduced to reflect
61029 the changes.
61030 (4) (a) A bidder may list himself as a subcontractor when the bidder is currently
61031 licensed to perform the portion of the work for which the bidder lists himself as a subcontractor
61032 and:
61033 (i) the bidder intends to perform the work of a subcontractor himself; or
61034 (ii) the bidder intends to obtain a subcontractor to perform the work at a later date
61035 because the bidder was unable to:

61036 (A) obtain a bid from a qualified subcontractor; or
61037 (B) obtain a bid from a qualified subcontractor at a cost that the bidder considers to be
61038 reasonable.
61039 (b) (i) When the bidder intends to perform the work of a subcontractor himself, the
61040 director may, by written request, require that the bidder provide the director with information
61041 indicating the bidder's:
61042 (A) previous experience in the type of work to be performed; and
61043 (B) qualifications for performing the work.
61044 (ii) The bidder must respond in writing within five business days of receiving the
61045 director's written request.
61046 (iii) If the bidder's submitted information causes the director to reasonably believe that
61047 self-performance of the portion of the work by the bidder is likely to yield a substandard
61048 finished product, the director shall:
61049 (A) require the bidder to use a subcontractor for the portion of the work in question and
61050 obtain the subcontractor bid under the supervision of the director; or
61051 (B) reject the bidder's bid.
61052 (c) (i) When the bidder intends to obtain a subcontractor to perform the work at a later
61053 date, the bidder shall provide documentation with the subcontractor list describing:
61054 (A) the bidder's efforts to obtain a bid of a qualified subcontractor at a reasonable cost;
61055 and
61056 (B) why the bidder was unable to obtain a qualified subcontractor bid.
61057 (ii) If the bidder who intends to obtain a subcontractor to perform the work at a later
61058 date is awarded a contract, the director shall supervise the bidder's efforts to obtain a qualified
61059 subcontractor bid.
61060 (iii) The director may not adjust the amount of the contract awarded in order to reflect
61061 the actual amount of the subcontractor's bid.
61062 (5) The division may not disclose any subcontractor bid amounts obtained under this
61063 section until the division has awarded the project to a contractor.
61064 (6) (a) The director shall, in consultation with the State Building Board, prepare draft
61065 rules establishing a process for resolving disputes involved with contracts under the division's
61066 procurement authority.

61067 (b) The draft rules shall be presented to the Government Operations Interim Committee
61068 for review, comment, and recommendations before August 31, 2004.
61069 (c) The director shall consider, and the rules may include:
61070 (i) requirements regarding preliminary resolution efforts between the parties directly
61071 involved with the dispute;
61072 (ii) requirements for the filing of claims, including notification, timeframes, and
61073 documentation;
61074 (iii) identification of the types of costs eligible for allocation and a method for
61075 allocating costs among the parties to the dispute;
61076 (iv) required time periods, not to exceed 60 days, for the resolution of the claim;
61077 (v) provision for an independent hearing officer, panel, or arbitrator to extend the time
61078 period for resolution of the claim by not to exceed 60 additional days for good cause;
61079 (vi) provision for the extension of required time periods if the claimant agrees;
61080 (vii) requirements that decisions be issued in writing;
61081 (viii) provisions for administrative appeals of the decision;
61082 (ix) provisions for the timely payment of claims after resolution of the dispute,
61083 including any appeals;
61084 (x) a requirement that the final determination resulting from the dispute resolution
61085 process provided for in the rules is a final agency action subject to judicial review as provided
61086 in Sections [~~63-46b-14~~] 63G-4-401 and [~~63-46b-15~~] 63G-4-402;
61087 (xi) a requirement that a claim or dispute that does not include a monetary claim
61088 against the division or its agents is not limited to the dispute resolution process provided for in
61089 this Subsection (6);
61090 (xii) requirements for claims and disputes to be eligible for this dispute resolution
61091 process;
61092 (xiii) the use of an independent hearing officer, panel, arbitration, or mediation; and
61093 (xiv) the circumstances under which a subcontractor may file a claim directly with the
61094 division.
61095 (d) Persons pursuing claims under the process required by this Subsection (6):
61096 (i) are bound by the decision reached under this process unless the decision is properly
61097 appealed; and

61098 (ii) may not pursue claims or disputes under the dispute resolution process established
61099 in Sections [~~63-56-805~~] 63G-6-805 through [~~63-56-814~~] 63G-6-814.
61100 (7) In addition to all other reasons allowed by law or rule, the director may reject all
61101 bids if none of the bidders whose bid is within the budget of the project submit a subcontractor
61102 list that meets the requirements of this section.
61103 (8) Any violation of this section, or any fraudulent misrepresentation by a contractor,
61104 subcontractor, or supplier, may be grounds for:
61105 (a) the contractor, subcontractor, or supplier to be suspended or debarred by the
61106 director; or
61107 (b) the contractor or subcontractor to be disciplined by the Division of Professional and
61108 Occupational Licensing.
61109 Section 1198. Section **63A-5-302** is amended to read:
61110 **63A-5-302. Leasing responsibilities of the director.**
61111 (1) The director shall:
61112 (a) lease, in the name of the division, all real property space to be occupied by an
61113 agency;
61114 (b) in leasing space, comply with:
61115 (i) [~~Title 63, Chapter 56~~] Title 63G, Chapter 6, Utah Procurement Code; and
61116 (ii) any legislative mandates contained in the appropriations act or other specific
61117 legislation;
61118 (c) apply the criteria contained in Subsection (e) to prepare a report evaluating each
61119 high-cost lease at least 12 months before it expires;
61120 (d) evaluate each lease under the division's control and apply the criteria contained in
61121 Subsection (e), when appropriate, to evaluate those leases;
61122 (e) in evaluating leases:
61123 (i) determine whether or not the lease is cost-effective when the needs of the agency to
61124 be housed in the leased facilities are considered;
61125 (ii) determine whether or not another option such as construction, use of other
61126 state-owned space, or a lease-purchase agreement is more cost-effective than leasing;
61127 (iii) determine whether or not the significant lease terms are cost-effective and provide
61128 the state with sufficient flexibility and protection from liability;

61129 (iv) compare the proposed lease payments to the current market rates, and evaluate
61130 whether or not the proposed lease payments are reasonable under current market conditions;
61131 (v) compare proposed significant lease terms to the current market, and recommend
61132 whether or not these proposed terms are reasonable under current market conditions; and
61133 (vi) if applicable, recommend that the lease or modification to a lease be approved or
61134 disapproved;
61135 (f) based upon the evaluation, include in the report recommendations that identify
61136 viable alternatives to:
61137 (i) make the lease cost-effective; or
61138 (ii) meet the agency's needs when the lease expires; and
61139 (g) upon request, provide the information included in the report to:
61140 (i) the agency benefited by the lease; and
61141 (ii) the Office of Legislative Fiscal Analyst.
61142 (2) The director may:
61143 (a) subject to legislative appropriation, enter into facility leases with terms of up to ten
61144 years when the length of the lease's term is economically advantageous to the state; and
61145 (b) with the approval of the State Building Board and subject to legislative
61146 appropriation, enter into facility leases with terms of more than ten years when the length of the
61147 lease's term is economically advantageous to the state.
61148 Section 1199. Section **63A-5-501**, which is renumbered from Section 63-9-21 is
61149 renumbered and amended to read:
61150 **Part 5. Keys to Public Buildings**
61151 **[~~63-9-21~~]. 63A-5-501. Making keys to buildings of state, political subdivisions**
61152 **or colleges and universities without permission prohibited.**
61153 No person shall knowingly make or cause to be made any key or duplicate key for any
61154 building, laboratory, facility, room, dormitory, hall or any other structure or part thereof owned
61155 by the state, by any political subdivision thereof or by the board of regents or other governing
61156 body of any college or university which is supported wholly or in part by the state without the
61157 prior written consent of the state, political subdivision, board of regents, or other governing
61158 body.
61159 Section 1200. Section **63A-5-502**, which is renumbered from Section 63-9-22 is

61160 renumbered and amended to read:
61161 **[~~63-9-22~~]. 63A-5-502. Violation -- Misdemeanor.**
61162 Any person who violates this act shall be guilty of a misdemeanor.
61163 Section 1201. Section **63A-5-601**, which is renumbered from Section 63-9-63 is
61164 renumbered and amended to read:
61165 **Part 6. Energy Conservation and Alternative Financing**
61166 **[~~63-9-63~~]. 63A-5-601. Legislative findings and policy.**
61167 (1) The Legislature finds the following:
61168 (a) The operation of facilities owned and controlled by the state consumes significant
61169 amounts of energy.
61170 (b) Facilities owned and controlled by the state present a significant opportunity for
61171 energy cost savings through the implementation of conservation measures.
61172 (c) Principles which produce efficient facility management in the private sector are
61173 equally applicable to the management of public buildings and facilities.
61174 (d) There exists, in the private sector, favorable alternative methods of financing
61175 energy conservation measures which are not readily adaptable to financing state facility energy
61176 efficiency improvements due to current budgetary practices.
61177 (e) Maximization of energy conservation efforts in light of limited resources requires
61178 careful advance planning by responsible agencies.
61179 (2) The Legislature declares that it is the policy of the state to:
61180 (a) undertake aggressive programs designed to reduce energy use in state facilities in
61181 order to reduce the operating costs of state government and to set an example of energy
61182 efficiency for the public;
61183 (b) utilize, to the greatest practical extent, alternative funding sources and methods of
61184 financing energy efficiency improvements in state facilities in a manner which minimizes the
61185 necessity for increased appropriations;
61186 (c) employ private sector management incentive principles, to the extent practicable, to
61187 implement the policies in Subsections (2)(a) and (b);
61188 (d) develop incentives to encourage state entities to conserve energy, reduce energy
61189 costs, and utilize renewable energy sources where practicable; and
61190 (e) procure and use energy efficient products where practicable.

61191 Section 1202. Section **63A-5-701**, which is renumbered from Section 63-9-67 is
61192 renumbered and amended to read:
61193 **Part 7. State Building Energy Efficiency Program**
61194 **[~~63-9-67~~]. 63A-5-701. State Building Energy Efficiency Program.**
61195 (1) For purposes of this section:
61196 (a) "Division" means the Division of Facilities Construction and Management
61197 established in Section 63A-5-201.
61198 (b) "Energy efficiency measures" means actions taken or initiated by a state agency that
61199 reduce the state agency's energy use, increase the state agency's energy efficiency, reduce
61200 source energy consumption, reduce water consumption, or lower the costs of energy or water to
61201 the state agency.
61202 (c) "Energy savings agreement" means an agreement entered into by a state agency
61203 whereby the state agency implements energy efficiency measures and finances the costs
61204 associated with implementation of energy efficiency measures using the stream of expected
61205 savings in utility costs resulting from implementation of the energy efficiency measures as the
61206 funding source for repayment.
61207 (d) "State agency" means each executive, legislative, and judicial branch department,
61208 agency, board, commission, or division, and includes a state institution of higher education as
61209 defined in Section 53B-3-102.
61210 (e) "State Building Energy Efficiency Program" means a program established under
61211 this section for the purpose of improving energy efficiency measures and reducing the energy
61212 costs for state facilities.
61213 (f) (i) "State facility" means any building, structure, or other improvement that is
61214 constructed on property owned by the state, its departments, commissions, institutions, or
61215 agencies, or a state institution of higher education.
61216 (ii) "State facility" does not mean:
61217 (A) an unoccupied structure that is a component of the state highway system;
61218 (B) a privately owned structure that is located on property owned by the state, its
61219 departments, commissions, institutions, or agencies, or a state institution of higher education;
61220 or
61221 (C) a structure that is located on land administered by the School and Institutional

61222 Trust Lands Administration under a lease, permit, or contract with the School and Institutional
61223 Trust Lands Administration.
61224 (2) The division shall:
61225 (a) develop and administer the state building energy efficiency program, which shall
61226 include guidelines and procedures to improve energy efficiency in the maintenance and
61227 management of state facilities;
61228 (b) provide information and assistance to state agencies in their efforts to improve
61229 energy efficiency;
61230 (c) analyze energy consumption by state agencies to identify opportunities for
61231 improved energy efficiency;
61232 (d) establish an advisory group composed of representatives of state agencies to
61233 provide information and assistance in the development and implementation of the state
61234 building energy efficiency program; and
61235 (e) submit to the governor and to the Capital Facilities and Administrative Services
61236 Appropriations Subcommittee of the Legislature an annual report that:
61237 (i) identifies strategies for long-term improvement in energy efficiency;
61238 (ii) identifies goals for energy conservation for the upcoming year; and
61239 (iii) details energy management programs and strategies that were undertaken in the
61240 previous year to improve the energy efficiency of state agencies and the energy savings
61241 achieved.
61242 (3) Each state agency shall:
61243 (a) designate a staff member that is responsible for coordinating energy efficiency
61244 efforts within the agency;
61245 (b) provide energy consumption and costs information to the division;
61246 (c) develop strategies for improving energy efficiency and reducing energy costs; and
61247 (d) provide the division with information regarding the agency's energy efficiency and
61248 reduction strategies.
61249 (4) (a) A state agency may enter into an energy savings agreement for a term of up to
61250 20 years.
61251 (b) Before entering into an energy savings agreement, the state agency shall:
61252 (i) utilize the division to oversee the project unless the project is exempt from the

61253 division's oversight or the oversight is delegated to the agency under the provisions of Section
61254 63A-5-206;
61255 (ii) obtain the prior approval of the governor or the governor's designee; and
61256 (iii) provide the Office of Legislative Fiscal Analyst with a copy of the proposed
61257 agreement before the agency enters into the agreement.
61258 Section 1203. Section **63A-5-801**, which is renumbered from Section 63-9-68 is
61259 renumbered and amended to read:
61260 **Part 8. State Memorials**
61261 **[~~63-9-68~~]. 63A-5-801. Memorials by the state or state agencies.**
61262 (1) As used in this section:
61263 (a) "State agency" means any of the following of the state that holds title to state land:
61264 (i) a department;
61265 (ii) a division;
61266 (iii) a board;
61267 (iv) an institution of higher education; or
61268 (v) for the judicial branch, the state court administrator.
61269 (b) "State agency" does not mean a local district under Title 17B, Limited Purpose
61270 Local Government Entities - Local Districts, a special service district under Title 17A, Chapter
61271 2, Part 13, Utah Special Service District Act, or a dependent district under Title 17A, Chapter
61272 3, Dependent Districts.
61273 (2) The Legislature, the governor, or a state agency may authorize the use or donation
61274 of state land for the purpose of maintaining, erecting, or contributing to the erection or
61275 maintenance of a memorial to commemorate those individuals who have:
61276 (a) participated in or have given their lives in any of the one or more wars or military
61277 conflicts in which the United States of America has been a participant; or
61278 (b) given their lives in association with public service on behalf of the state, including
61279 firefighters, peace officers, highway patrol officers, or other public servants.
61280 (3) The use or donation of state land in relation to a memorial described in Subsection
61281 (2) may include:
61282 (a) using or appropriating public funds for the purchase, development, improvement, or
61283 maintenance of state land on which a memorial is located or established;

61284 (b) using or appropriating public funds for the erection, improvement, or maintenance
61285 of a memorial;
61286 (c) donating or selling state land for use in relation to a memorial; or
61287 (d) authorizing the use of state land for a memorial that is funded or maintained in part
61288 or in full by another public or private entity.
61289 (4) The Legislature, the governor, or a state agency may specify the form, placement,
61290 and design of a memorial that is subject to this section if the Legislature, the governor, or the
61291 state agency holds title to, has authority over, or donates the land on which a memorial is
61292 established.
61293 (5) Memorials within the definition of a capital development as defined in Section
61294 63A-5-104 must be approved as provided for in Section 63A-5-104.
61295 (6) Nothing in this section shall be construed as a prohibition of memorials, including
61296 those for purposes not covered by this section, which have been erected within the approval
61297 requirements in effect at the time of their erection or which may be duly authorized through
61298 other legal means.
61299 Section 1204. Section **63A-8-201** is amended to read:
61300 **63A-8-201. Office of State Debt Collection created -- Duties.**
61301 (1) The state and each state agency shall comply with the requirements of this chapter
61302 and any rules established by the Office of State Debt Collection.
61303 (2) There is created the Office of State Debt Collection in the Department of
61304 Administrative Services.
61305 (3) The office shall:
61306 (a) have overall responsibility for collecting and managing state receivables;
61307 (b) develop consistent policies governing the collection and management of state
61308 receivables;
61309 (c) oversee and monitor state receivables to ensure that state agencies are:
61310 (i) implementing all appropriate collection methods;
61311 (ii) following established receivables guidelines; and
61312 (iii) accounting for and reporting receivables in the appropriate manner;
61313 (d) develop policies, procedures, and guidelines for accounting, reporting, and
61314 collecting monies owed to the state;

61315 (e) provide information, training, and technical assistance to all state agencies on
61316 various collection-related topics;
61317 (f) write an inclusive receivables management and collection manual for use by all
61318 state agencies;
61319 (g) prepare quarterly and annual reports of the state's receivables;
61320 (h) create or coordinate a state accounts receivable database;
61321 (i) develop reasonable criteria to gauge state agencies' efforts in maintaining an
61322 effective accounts receivable program;
61323 (j) identify those state agencies that are not making satisfactory progress toward
61324 implementing collection techniques and improving accounts receivable collections;
61325 (k) coordinate information, systems, and procedures between state agencies to
61326 maximize the collection of past-due accounts receivable;
61327 (l) establish an automated cash receipt process between state agencies;
61328 (m) establish procedures for writing off accounts receivable for accounting and
61329 collection purposes;
61330 (n) establish standard time limits after which an agency will delegate responsibility to
61331 collect state receivables to the office or its designee;
61332 (o) be a real party in interest for an account receivable referred to the office by any
61333 state agency; and
61334 (p) allocate monies collected for judgments registered under Section 77-18-6 in
61335 accordance with Sections [~~63-63a-2~~] 51-9-402, 63A-8-302, and 78-3-14.5.
61336 (4) The office may:
61337 (a) recommend to the Legislature new laws to enhance collection of past-due accounts
61338 by state agencies;
61339 (b) collect accounts receivables for higher education entities, if the higher education
61340 entity agrees;
61341 (c) prepare a request for proposal for consulting services to:
61342 (i) analyze the state's receivable management and collection efforts; and
61343 (ii) identify improvements needed to further enhance the state's effectiveness in
61344 collecting its receivables;
61345 (d) contract with private or state agencies to collect past-due accounts;

61346 (e) perform other appropriate and cost-effective coordinating work directly related to
61347 collection of state receivables;
61348 (f) obtain access to records of any state agency that are necessary to the duties of the
61349 office by following the procedures and requirements of Section [~~63-2-206~~] 63G-2-206;
61350 (g) collect interest and fees related to the collection of receivables under this chapter,
61351 and establish, by following the procedures and requirements of Section [~~63-38-3.2~~] 63J-1-303:
61352 (i) a fee to cover the administrative costs of collection, on accounts administered by the
61353 office;
61354 (ii) a late penalty fee that may not be more than 10% of the account receivable on
61355 accounts administered by the office;
61356 (iii) an interest charge that is:
61357 (A) the postjudgment interest rate established by Section 15-1-4 in judgments
61358 established by the courts; or
61359 (B) not more than 2% above the prime rate as of July 1 of each fiscal year for accounts
61360 receivable for which no court judgment has been entered; and
61361 (iv) fees to collect accounts receivable for higher education;
61362 (h) collect reasonable attorney's fees and reasonable costs of collection that are related
61363 to the collection of receivables under this chapter;
61364 (i) make rules that allow accounts receivable to be collected over a reasonable period
61365 of time and under certain conditions with credit cards;
61366 (j) file a satisfaction of judgment in the district court by following the procedures and
61367 requirements of the Utah Rules of Civil Procedure;
61368 (k) ensure that judgments for which the office is the judgment creditor are renewed, as
61369 necessary; and
61370 (l) notwithstanding Section [~~63-2-206~~] 63G-2-206, share records obtained under
61371 Subsection (4)(f) with private sector vendors under contract with the state to assist state
61372 agencies in collecting debts owed to the state agencies without changing the classification of
61373 any private, controlled, or protected record into a public record.
61374 (5) The office shall ensure that:
61375 (a) a record obtained by the office or a private sector vendor as referred to in
61376 Subsection (4)(l):

61377 (i) is used only for the limited purpose of collecting accounts receivable; and
61378 (ii) is subject to federal, state, and local agency records restrictions; and
61379 (b) any person employed by, or formerly employed by, the office or a private sector
61380 vendor as referred to in Subsection (4)(l) is subject to:
61381 (i) the same duty of confidentiality with respect to the record imposed by law on
61382 officers and employees of the state agency from which the record was obtained; and
61383 (ii) any civil or criminal penalties imposed by law for violations of lawful access to a
61384 private, controlled, or protected record.
61385 (6) (a) The office shall collect accounts receivable ordered by the district court as a
61386 result of prosecution for a criminal offense that have been transferred to the office under
61387 Subsection 76-3-201.1(5)(h) or (8).
61388 (b) The office may not assess the interest charge established by the office under
61389 Subsection (4) on an account receivable subject to the postjudgment interest rate established by
61390 Section 15-1-4.
61391 (7) The office shall require state agencies to:
61392 (a) transfer collection responsibilities to the office or its designee according to time
61393 limits established by the office;
61394 (b) make annual progress towards implementing collection techniques and improved
61395 accounts receivable collections;
61396 (c) use the state's accounts receivable system or develop systems that are adequate to
61397 properly account for and report their receivables;
61398 (d) develop and implement internal policies and procedures that comply with the
61399 collections policies and guidelines established by the office;
61400 (e) provide internal accounts receivable training to staff involved in their management
61401 and collection of receivables as a supplement to statewide training;
61402 (f) bill for and make initial collection efforts of its receivables up to the time the
61403 accounts must be transferred; and
61404 (g) submit quarterly receivable reports to the office that identify the age, collection
61405 status, and funding source of each receivable.
61406 (8) The office shall use the information provided by the agencies and any additional
61407 information from the office's records to compile a one-page summary report of each agency.

61408 (9) The summary shall include:
61409 (a) the type of revenue that is owed to the agency;
61410 (b) any attempted collection activity; and
61411 (c) any costs incurred in the collection process.
61412 (10) The office shall annually provide copies of each agency's summary to the governor
61413 and to the Legislature.
61414 Section 1205. Section **63A-8-204** is amended to read:
61415 **63A-8-204. Rulemaking authority -- Collection techniques.**
61416 In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
61417 Rulemaking Act, the office shall make rules:
61418 (1) providing details, as necessary, for the distribution of debts collected in accordance
61419 with the priorities under Subsection 63A-8-301(3); and
61420 (2) to govern collection techniques, which may include the use of:
61421 (a) credit reporting bureaus;
61422 (b) collection agencies;
61423 (c) garnishments;
61424 (d) liens;
61425 (e) judgments; and
61426 (f) administrative offsets.
61427 Section 1206. Section **63A-9-401** is amended to read:
61428 **63A-9-401. Division -- Duties.**
61429 (1) The division shall:
61430 (a) perform all administrative duties and functions related to management of state
61431 vehicles;
61432 (b) coordinate all purchases of state vehicles;
61433 (c) establish one or more fleet automation and information systems for state vehicles;
61434 (d) make rules establishing requirements for:
61435 (i) maintenance operations for state vehicles;
61436 (ii) use requirements for state vehicles;
61437 (iii) fleet safety and loss prevention programs;
61438 (iv) preventative maintenance programs;

61439 (v) procurement of state vehicles, including:
61440 (A) vehicle standards;
61441 (B) alternative fuel vehicle requirements;
61442 (C) short-term lease programs;
61443 (D) equipment installation; and
61444 (E) warranty recovery programs;
61445 (vi) fuel management programs;
61446 (vii) cost management programs;
61447 (viii) business and personal use practices, including commute standards;
61448 (ix) cost recovery and billing procedures;
61449 (x) disposal of state vehicles;
61450 (xi) reassignment of state vehicles and reallocation of vehicles throughout the fleet;
61451 (xii) standard use and rate structures for state vehicles; and
61452 (xiii) insurance and risk management requirements;
61453 (e) establish a parts inventory;
61454 (f) create and administer a fuel dispensing services program that meets the
61455 requirements of Subsection (2);
61456 (g) emphasize customer service when dealing with agencies and agency employees;
61457 (h) conduct an annual audit of all state vehicles for compliance with division
61458 requirements;
61459 (i) before charging a rate, fee, or other amount to an executive branch agency, or to a
61460 subscriber of services other than an executive branch agency:
61461 (i) submit the proposed rates, fees, and cost analysis to the Rate Committee established
61462 in Section 63A-1-114; and
61463 (ii) obtain the approval of the Legislature as required by Section [~~63-38-3.5~~]
61464 63J-1-306; and
61465 (j) conduct an annual market analysis of proposed rates and fees, which analysis shall
61466 include a comparison of the division's rates and fees with the fees of other public or private
61467 sector providers where comparable services and rates are reasonably available.
61468 (2) The division shall operate a fuel dispensing services program in a manner that:
61469 (a) reduces the risk of environmental damage and subsequent liability for leaks

61470 involving state-owned underground storage tanks;
61471 (b) eliminates fuel site duplication and reduces overall costs associated with fuel
61472 dispensing;
61473 (c) provides efficient fuel management and efficient and accurate accounting of
61474 fuel-related expenses;
61475 (d) where practicable, privatizes portions of the state's fuel dispensing system;
61476 (e) provides central planning for fuel contingencies;
61477 (f) establishes fuel dispensing sites that meet geographical distribution needs and that
61478 reflect usage patterns;
61479 (g) where practicable, uses alternative sources of energy; and
61480 (h) provides safe, accessible fuel supplies in an emergency.
61481 (3) The division shall:
61482 (a) ensure that the state and each of its agencies comply with state and federal law and
61483 state and federal rules and regulations governing underground storage tanks;
61484 (b) coordinate the installation of new state-owned underground storage tanks and the
61485 upgrading or retrofitting of existing underground storage tanks; and
61486 (c) ensure that counties, municipalities, school districts, local districts, and special
61487 service districts subscribing to services provided by the division sign a contract that:
61488 (i) establishes the duties and responsibilities of the parties;
61489 (ii) establishes the cost for the services; and
61490 (iii) defines the liability of the parties.
61491 (4) (a) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
61492 Administrative Rulemaking Act, the director of the Division of Fleet Operations:
61493 (i) may make rules governing fuel dispensing; and
61494 (ii) shall make rules establishing standards and procedures for purchasing the most
61495 economically appropriate size and type of vehicle for the purposes and driving conditions for
61496 which the vehicle will be used, including procedures for granting exceptions to the standards
61497 by the executive director of the Department of Administrative Services.
61498 (b) Rules made under Subsection (4)(a)(ii):
61499 (i) shall designate a standard vehicle size and type that shall be designated as the
61500 statewide standard vehicle for fleet expansion and vehicle replacement;

61501 (ii) may designate different standard vehicle size and types based on defined categories
61502 of vehicle use;
61503 (iii) may, when determining a standard vehicle size and type for a specific category of
61504 vehicle use, consider the following factors affecting the vehicle class:
61505 (A) size requirements;
61506 (B) economic savings;
61507 (C) fuel efficiency;
61508 (D) driving and use requirements;
61509 (E) safety;
61510 (F) maintenance requirements; and
61511 (G) resale value; and
61512 (iv) shall require agencies that request a vehicle size and type that is different from the
61513 standard vehicle size and type to:
61514 (A) submit a written request for a nonstandard vehicle to the division that contains the
61515 following:
61516 (I) the make and model of the vehicle requested, including acceptable alternate vehicle
61517 makes and models as applicable;
61518 (II) the reasons justifying the need for a nonstandard vehicle size or type;
61519 (III) the date of the request; and
61520 (IV) the name and signature of the person making the request; and
61521 (B) obtain the division's written approval for the nonstandard vehicle.
61522 (5) (a) (i) Each state agency and each higher education institution shall subscribe to the
61523 fuel dispensing services provided by the division.
61524 (ii) A state agency may not provide or subscribe to any other fuel dispensing services,
61525 systems, or products other than those provided by the division.
61526 (b) Counties, municipalities, school districts, local districts, special service districts,
61527 and federal agencies may subscribe to the fuel dispensing services provided by the division if:
61528 (i) the county or municipal legislative body, the school district, or the local district or
61529 special service district board recommends that the county, municipality, school district, local
61530 district, or special service district subscribe to the fuel dispensing services of the division; and
61531 (ii) the division approves participation in the program by that government unit.

61532 (6) The director, with the approval of the executive director, may delegate functions to
61533 institutions of higher education, by contract or other means authorized by law, if:
61534 (a) the agency or institution of higher education has requested the authority;
61535 (b) in the judgment of the director, the state agency or institution has the necessary
61536 resources and skills to perform the delegated responsibilities; and
61537 (c) the delegation of authority is in the best interest of the state and the function
61538 delegated is accomplished according to provisions contained in law or rule.
61539 Section 1207. Section **63A-9-801** is amended to read:
61540 **63A-9-801. State surplus property program -- Definitions -- Administration.**
61541 (1) As used in this section:
61542 (a) "Agency" means:
61543 (i) the Utah Departments of Administrative Services, Agriculture, Alcoholic Beverage
61544 Control, Commerce, Community and Culture, Corrections, Workforce Services, Health,
61545 Human Resource Management, Human Services, Insurance, Natural Resources, Public Safety,
61546 Technology Services, and Transportation and the Labor Commission;
61547 (ii) the Utah Offices of the Auditor, Attorney General, Court Administrator, Crime
61548 Victim Reparations, Rehabilitation, and Treasurer;
61549 (iii) the Public Service Commission and State Tax Commission;
61550 (iv) the State Boards of Education, Pardons and Parole, and Regents;
61551 (v) the Career Service Review Board;
61552 (vi) other state agencies designated by the governor;
61553 (vii) the legislative branch, the judicial branch, and the State Board of Regents; and
61554 (viii) an institution of higher education, its president, and its board of trustees for
61555 purposes of Section 63A-9-802.
61556 (b) "Division" means the Division of Fleet Operations.
61557 (c) "Information technology equipment" means any equipment that is designed to
61558 electronically manipulate, store, or transfer any form of data.
61559 (d) "Inventory property" means property in the possession of the division that is
61560 available for purchase by an agency or the public.
61561 (e) "Judicial district" means the geographic districts established by Section 78-1-2.1.
61562 (f) (i) "Surplus property" means property purchased by, seized by, or donated to, an

61563 agency that the agency wishes to dispose of.
61564 (ii) "Surplus property" does not mean real property.
61565 (g) "Transfer" means transfer of surplus property without cash consideration.
61566 (2) (a) The division shall make rules establishing a state surplus property program that
61567 meets the requirements of this chapter by following the procedures and requirements of [~~Title~~
61568 ~~63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
61569 (b) Those rules shall include:
61570 (i) a requirement prohibiting the transfer of surplus property from one agency to
61571 another agency without written approval from the division;
61572 (ii) procedures and requirements governing division administration requirements that
61573 an agency must follow;
61574 (iii) requirements governing purchase priorities;
61575 (iv) requirements governing accounting, reimbursement, and payment procedures;
61576 (v) procedures for collecting bad debts;
61577 (vi) requirements and procedures for disposing of firearms;
61578 (vii) the elements of the rates or other charges assessed by the division for services and
61579 handling;
61580 (viii) procedures governing the timing and location of public sales of inventory
61581 property; and
61582 (ix) procedures governing the transfer of information technology equipment by state
61583 agencies directly to public schools.
61584 (c) The division shall report all transfers of information technology equipment by state
61585 agencies to public schools to the Utah Technology Commission and to the Legislative Interim
61586 Education Committee at the end of each fiscal year.
61587 (3) In creating and administering the program, the division shall:
61588 (a) when conditions, inventory, and demand permit:
61589 (i) establish facilities to store inventory property at geographically dispersed locations
61590 throughout the state; and
61591 (ii) hold public sales of property at geographically dispersed locations throughout the
61592 state;
61593 (b) establish, after consultation with the agency requesting the sale of surplus property,

61594 the price at which the surplus property shall be sold; and
61595 (c) transfer proceeds arising from the sale of state surplus property to the agency
61596 requesting the sale in accordance with [~~Title 63, Chapter 38~~] Title 63J, Chapter 1, Budgetary
61597 Procedures Act, less an amount established by the division by rule to pay the costs of
61598 administering the surplus property program.
61599 (4) Unless specifically exempted from this chapter by explicit reference to this chapter,
61600 each state agency shall dispose of and acquire surplus property only by participating in the
61601 division's program.
61602 Section 1208. Section **63A-9-808** is amended to read:
61603 **63A-9-808. Personal handheld electronic device -- Rulemaking on giving priority**
61604 **to state and local agencies in purchasing surplus property -- Rulemaking on the sale or**
61605 **use of a personal handheld electronic device.**
61606 (1) As used in this section, "personal handheld electronic device":
61607 (a) means an electronic device that is designed for handheld use and permits the user to
61608 store or access information, the primary value of which is specific to the user of the device; and
61609 (b) includes a mobile phone, pocket personal computer, personal digital assistant,
61610 wireless, or similar device.
61611 (2) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
61612 Administrative Rulemaking Act, the division shall make rules:
61613 (a) giving state and local agencies priority to purchase surplus property for a 30-day
61614 period except for personal handheld electronic devices under Subsection (2)(b); and
61615 (b) allowing the sale of a personal handheld electronic device to a user who:
61616 (i) is provided the device as part of the user's employment; and
61617 (ii) subsequently makes a change in employment status including, departure,
61618 retirement, or transfer to another agency within state government.
61619 Section 1209. Section **63A-11-107** is amended to read:
61620 **63A-11-107. Records access.**
61621 (1) (a) Notwithstanding [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government
61622 Records Access and Management Act, and except as provided in Subsection (1)(b), all records
61623 of a contracted parental defense attorney are protected and may not be released or made public
61624 upon subpoena, search warrant, discovery proceedings, or otherwise.

61625 (b) All records of a contracted parental defense attorney are subject to legislative
61626 subpoena, under Title 36, Chapter 14, Legislative Subpoena Powers.
61627 (2) Records released in accordance with Subsection (1)(b) shall be maintained as
61628 confidential by the Legislature. The professional legislative staff may, however, include
61629 summary data and nonidentifying information in its audits and reports to the Legislature.
61630 Section 1210. Section **63A-11-202** is amended to read:
61631 **63A-11-202. Contracted parental defense attorney.**
61632 (1) With respect to child welfare cases, a contracted parental defense attorney shall:
61633 (a) adequately prepare for and attend all court hearings, including initial and continued
61634 shelter hearings and mediations;
61635 (b) fully advise the client of the nature of the proceedings and of the client's rights,
61636 communicate to the client any offers of settlement or compromise, and advise the client
61637 regarding the reasonably foreseeable consequences of any course of action in the proceedings;
61638 (c) be reasonably available to consult with the client outside of court proceedings;
61639 (d) where attendance of a parental defense attorney is reasonably needed, attend
61640 meetings regarding the client's case with representatives of one or more of the Division of
61641 Child and Family Services, the Office of the Attorney General, and the Office of the Guardian
61642 Ad Litem;
61643 (e) represent the interest of the client at all stages of the proceedings before the trial
61644 court;
61645 (f) participate in the training courses and otherwise maintain the standards described in
61646 Subsection (3).
61647 (2) If the office enters into a contract with an attorney under Section 63A-11-105, the
61648 contract shall require that each attorney in the firm who will provide representation of parents
61649 in child welfare cases under the contract perform the duties described in Subsection (1).
61650 (3) (a) Except as otherwise provided in Subsection (3)(b), a contracted parental defense
61651 attorney shall meet the standards developed by the director which may include:
61652 (i) completion of a basic training course provided by the office;
61653 (ii) experience in child welfare cases; and
61654 (iii) participation each calendar year in continuing legal education courses providing no
61655 fewer than eight hours of instruction in child welfare law.

61656 (b) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
61657 Administrative Rulemaking Act, the director may, by rule, exempt from the requirements of
61658 Subsection (3)(a) an attorney who has equivalent training or adequate experience.
61659 (4) Payment for the representation, costs, and expenses of the contracted parental
61660 defense attorney shall be made from the Child Welfare Parental Defense Fund as provided in
61661 Section 63A-11-203.
61662 Section 1211. Section **63A-11-204** is amended to read:
61663 **63A-11-204. Agreements for coverage by the Child Welfare Parental Defense**
61664 **Fund -- Eligibility -- County and state obligations -- Termination -- Revocation.**
61665 (1) A county legislative body and the office may annually enter into a written
61666 agreement for the office to provide parental defense attorney services in the county out of the
61667 Child Welfare Parental Defense Fund.
61668 (2) An agreement described in Subsection (1) shall provide that the county shall pay
61669 into the fund an amount defined by a formula established in rule by the office.
61670 (3) (a) After the first year of operation of the fund, any county that elects to initiate
61671 participation in the fund, or reestablish participation in the fund after participation was
61672 terminated, shall be required to make an equity payment, in addition to the assessment
61673 provided in Subsection (2).
61674 (b) The amount of the equity payment described in Subsection (3)(a) shall be
61675 determined by the office pursuant to rules established by the office under [~~Title 63, Chapter~~
61676 ~~46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
61677 (4) The agreement shall provide for revocation of the agreement for failure to pay
61678 assessments on the due date established by rule.
61679 (5) Any county that elects to withdraw from participation in the fund, or whose
61680 participation in the fund is revoked due to failure to pay its assessments when due, shall forfeit
61681 any right to any previously paid assessments by the county or coverage from the fund.
61682 Section 1212. Section **63A-12-101**, which is renumbered from Section 63-2-901 is
61683 renumbered and amended to read:
61684 **Part 1. Archives and Records Service**
61685 **[~~63-2-901~~]. 63A-12-101. Division of Archives and Records Service created --**
61686 **Duties.**

61687 (1) There is created the Division of Archives and Records Service within the
61688 Department of Administrative Services.
61689 (2) The state archives shall:
61690 (a) administer the state's archives and records management programs, including storage
61691 of records, central microphotography programs, and quality control;
61692 (b) apply fair, efficient, and economical management methods to the collection,
61693 creation, use, maintenance, retention, preservation, disclosure, and disposal of records and
61694 documents;
61695 (c) establish standards, procedures, and techniques for the effective management and
61696 physical care of records;
61697 (d) conduct surveys of office operations and recommend improvements in current
61698 records management practices, including the use of space, equipment, automation, and supplies
61699 used in creating, maintaining, storing, and servicing records;
61700 (e) establish standards for the preparation of schedules providing for the retention of
61701 records of continuing value and for the prompt and orderly disposal of state records no longer
61702 possessing sufficient administrative, historical, legal, or fiscal value to warrant further
61703 retention;
61704 (f) establish, maintain, and operate centralized microphotography lab facilities and
61705 quality control for the state;
61706 (g) provide staff and support services to the records committee;
61707 (h) develop training programs to assist records officers and other interested officers and
61708 employees of governmental entities to administer this [~~chapter~~] part and Title 63G, Chapter 2,
61709 Government Records Access and Management Act;
61710 (i) provide access to public records deposited in the archives;
61711 (j) administer and maintain the Utah Public Notice Website established under Section
61712 63F-1-701;
61713 (k) provide assistance to any governmental entity in administering this [~~chapter~~] part
61714 and Title 63G, Chapter 2, Government Records Access and Management Act; and
61715 (l) prepare forms for use by all governmental entities for a person requesting access to
61716 a record.
61717 (3) The state archives may:

61718 (a) establish a report and directives management program; and
61719 (b) establish a forms management program.
61720 (4) The executive director of the Department of Administrative Services may direct the
61721 state archives to administer other functions or services consistent with this [~~chapter~~] part and
61722 Title 63G, Chapter 2, Government Records Access and Management Act.
61723 Section 1213. Section **63A-12-102**, which is renumbered from Section 63-2-902 is
61724 renumbered and amended to read:
61725 **[~~63-2-902~~]. 63A-12-102. State archivist -- Duties.**
61726 (1) With the approval of the governor, the executive director of the Department of
61727 Administrative Services shall appoint the state archivist to serve as director of the state
61728 archives. The state archivist shall be qualified by archival training, education, and experience.
61729 (2) The state archivist is charged with custody of the following:
61730 (a) the enrolled copy of the Utah constitution;
61731 (b) the acts and resolutions passed by the Legislature;
61732 (c) all records kept or deposited with the state archivist as provided by law;
61733 (d) the journals of the Legislature and all bills, resolutions, memorials, petitions, and
61734 claims introduced in the Senate or the House of Representatives;
61735 (e) Indian war records; and
61736 (f) oaths of office of all state officials.
61737 (3) (a) The state archivist is the official custodian of all noncurrent records of
61738 permanent or historic value that are not required by law to remain in the custody of the
61739 originating governmental entity.
61740 (b) Upon the termination of any governmental entity, its records shall be transferred to
61741 the state archives.
61742 Section 1214. Section **63A-12-103**, which is renumbered from Section 63-2-903 is
61743 renumbered and amended to read:
61744 **[~~63-2-903~~]. 63A-12-103. Duties of governmental entities.**
61745 The chief administrative officer of each governmental entity shall:
61746 (1) establish and maintain an active, continuing program for the economical and
61747 efficient management of the governmental entity's records as provided by this [~~chapter~~] part
61748 and Title 63G, Chapter 2, Government Records Access and Management Act;

61749 (2) appoint one or more records officers who will be trained to work with the state
61750 archives in the care, maintenance, scheduling, disposal, classification, designation, access, and
61751 preservation of records;
61752 (3) ensure that officers and employees of the governmental entity that receive or
61753 process records requests receive required training on the procedures and requirements of this
61754 [~~chapter~~] part and Title 63G, Chapter 2, Government Records Access and Management Act;
61755 (4) make and maintain adequate and proper documentation of the organization,
61756 functions, policies, decisions, procedures, and essential transactions of the governmental entity
61757 designed to furnish information to protect the legal and financial rights of persons directly
61758 affected by the entity's activities;
61759 (5) submit to the state archivist proposed schedules of records for final approval by the
61760 records committee;
61761 (6) cooperate with the state archivist in conducting surveys made by the state archivist;
61762 (7) comply with rules issued by the Department of Administrative Services as provided
61763 by Section [~~63-2-904~~] 63A-12-104;
61764 (8) report to the state archives the designation of record series that it maintains;
61765 (9) report to the state archives the classification of each record series that is classified;
61766 and
61767 (10) establish and report to the state archives retention schedules for objects that the
61768 governmental entity determines are not defined as a record under Section [~~63-2-103~~]
61769 63G-2-103, but that have historical or evidentiary value.
61770 Section 1215. Section **63A-12-104**, which is renumbered from Section 63-2-904 is
61771 renumbered and amended to read:
61772 **[~~63-2-904~~]. 63A-12-104. Rulemaking authority.**
61773 (1) The executive director of the Department of Administrative Services, with the
61774 recommendation of the state archivist, may make rules as provided by [~~Title 63, Chapter 46a~~]
61775 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement provisions of this
61776 [~~chapter~~] part and Title 63G, Chapter 2, Government Records Access and Management Act
61777 dealing with procedures for the collection, storage, designation, classification, access, and
61778 management of records.
61779 (2) A governmental entity that includes divisions, boards, departments, committees,

61780 commissions, or other subparts that fall within the definition of a governmental entity under
61781 this chapter, may, by rule, specify at which level the requirements specified in this chapter shall
61782 be undertaken.
61783 Section 1216. Section **63A-12-105**, which is renumbered from Section 63-2-905 is
61784 renumbered and amended to read:
61785 **[~~63-2-905~~]. 63A-12-105. Records declared property of the state -- Disposition.**
61786 (1) All records created or maintained by a governmental entity of the state are the
61787 property of the state and shall not be mutilated, destroyed, or otherwise damaged or disposed
61788 of, in whole or part, except as provided in this [~~chapter~~] part and Title 63G, Chapter 2,
61789 Government Records Access and Management Act.
61790 (2) (a) Except as provided in Subsection (b), all records created or maintained by a
61791 political subdivision of the state are the property of the state and shall not be mutilated,
61792 destroyed, or otherwise damaged or disposed of, in whole or in part, except as provided in this
61793 [~~chapter~~] part and Title 63G, Chapter 2, Government Records Access and Management Act.
61794 (b) Records which constitute a valuable intellectual property shall be the property of
61795 the political subdivision.
61796 (c) The state archives may, upon request from a political subdivision, take custody of
61797 any record series of the political subdivision. A political subdivision which no longer wishes
61798 to maintain custody of a record which must be retained under the political subdivision's
61799 retention schedule or the state archive's retention schedule shall transfer it to the state archives
61800 for safekeeping and management.
61801 (3) It is unlawful for a governmental entity or political subdivision to intentionally
61802 mutilate, destroy, or otherwise damage or dispose of a record series knowing that such
61803 mutilation, destruction, or damage is in contravention of the political subdivision's or the state
61804 archive's properly adopted retention schedule.
61805 Section 1217. Section **63A-12-106**, which is renumbered from Section 63-2-906 is
61806 renumbered and amended to read:
61807 **[~~63-2-906~~]. 63A-12-106. Certified and microphotographed copies.**
61808 (1) Upon demand, the state archives shall furnish certified copies of a record in its
61809 exclusive custody that is classified public or that is otherwise determined to be public under
61810 this chapter by the originating governmental entity, the records committee, or a court of law.

61811 When certified by the state archivist under the seal of the state archives, the copy has the same
61812 legal force and effect as if certified by the originating governmental entity.
61813 (2) The state archives may microphotograph records when it determines that
61814 microphotography is an efficient and economical way to care, maintain, and preserve the
61815 record. A transcript, exemplification, or certified copy of a microphotograph has the same
61816 legal force and effect as the original. Upon review and approval of the microphotographed film
61817 by the state archivist, the source documents may be destroyed.
61818 (3) The state archives may allow another governmental entity to microphotograph
61819 records in accordance with standards set by the state archives.
61820 Section 1218. Section **63A-12-107**, which is renumbered from Section 63-2-907 is
61821 renumbered and amended to read:
61822 **[~~63-2-907~~]. 63A-12-107. Right to replevin.**
61823 To secure the safety and preservation of records, the state archivist or [~~his~~] the state
61824 archivist's representative may examine all records. On behalf of the state archivist, the attorney
61825 general may replevin any records that are not adequately safeguarded.
61826 Section 1219. Section **63A-12-108**, which is renumbered from Section 63-2-908 is
61827 renumbered and amended to read:
61828 **[~~63-2-908~~]. 63A-12-108. Inspection and summary of record series.**
61829 The state archives shall provide for public inspection of the title and a summary
61830 description of each record series.
61831 Section 1220. Section **63B-1a-401** is amended to read:
61832 **63B-1a-401. Status of bond records -- Compliance with Registered Public**
61833 **Obligations Act.**
61834 (1) The records of ownership, registration, transfer, and exchange of the bonds, and of
61835 persons to whom payment with respect to the obligations are made, are private records as
61836 provided in Section [~~63-2-302~~] 63G-2-302 or protected records as provided in Section
61837 [~~63-2-304~~] 63G-2-305.
61838 (2) The bonds and any evidences of participation interest in the bonds may be issued,
61839 executed, authenticated, registered, transferred, exchanged, and otherwise made to comply with
61840 Title 15, Chapter 7, Registered Public Obligations Act.
61841 Section 1221. Section **63B-1b-101**, which is renumbered from Section 63-65-1 is

61842 renumbered and amended to read:

61843 **CHAPTER 1b. STATE FINANCING CONSOLIDATION ACT**

61844 **Part 1. General Provisions**

61845 **[~~63-65-1~~]. 63B-1b-101. Title.**

61846 This chapter [~~shall be~~] is known as the "State Financing Consolidation Act."

61847 Section 1222. Section **63B-1b-102**, which is renumbered from Section 63-65-2 is

61848 renumbered and amended to read:

61849 **[~~63-65-2~~]. 63B-1b-102. Definitions.**

61850 As used in this chapter:

61851 (1) "Agency bonds" means any bond, note, contract, or other evidence of indebtedness

61852 representing loans or grants made by an authorizing agency.

61853 (2) "Authorized official" means the state treasurer or other person authorized by a bond

61854 document to perform the required action.

61855 (3) "Authorizing agency" means the board, person, or unit with legal responsibility for

61856 administering and managing revolving loan funds.

61857 (4) "Bond document" means:

61858 (a) a resolution of the commission; or

61859 (b) an indenture or other similar document authorized by the commission that

61860 authorizes and secures outstanding revenue bonds from time to time.

61861 (5) "Commission" means the State Bonding Commission created in Section

61862 63B-1-201.

61863 (6) "Revenue bonds" means any special fund revenue bonds issued under this chapter.

61864 (7) "Revolving Loan Funds" means:

61865 (a) the Water Resources Conservation and Development Fund, created in Section

61866 73-10-24;

61867 (b) the Water Resources Construction Fund, created in Section 73-10-8;

61868 (c) the Water Resources Cities Water Loan Fund, created in Section 73-10-22;

61869 (d) the Clean Fuel Conversion Funds, created in Title 19, Chapter 1, Part 4, Clean

61870 Fuels and Vehicle Technology Program Act;

61871 (e) the Water Development Security Fund and its subaccounts created in Section

61872 73-10c-5;

61873 (f) the Agriculture Resource Development Fund, created in Section 4-18-6;
61874 (g) the Utah Rural Rehabilitation Fund, created in Section 4-19-4;
61875 (h) the Permanent Community Impact Fund, created in Section 9-4-303;
61876 (i) the Petroleum Storage Tank Loan Fund, created in Section 19-6-405.3; and
61877 (j) the Transportation Infrastructure Loan Fund, created in Section 72-2-202.
61878 Section 1223. Section **63B-1b-201**, which is renumbered from Section 63-65-3 is
61879 renumbered and amended to read:
61880 **Part 2. Officers in State Treasurer's Office**
61881 **[~~63-65-3~~]. 63B-1b-201. Investment officer -- Powers and duties.**
61882 (1) There is created within the Office of the State Treasurer an investment banking
61883 officer to advise, counsel, and render technical assistance to authorizing agencies in the
61884 management of state loan and grant programs.
61885 (2) This officer shall:
61886 (a) work cooperatively with the staff and boards of authorizing agencies as an advisor
61887 on technical financial aspects concerning loan and grant programs authorized by law;
61888 (b) coordinate procedures for the closing of and assist authorizing agencies in closing
61889 all loans and grants of funds or other subsidy agreements;
61890 (c) analyze, in conjunction with the appropriate authorizing agency, the financial
61891 feasibility and economic and capital efficiency of projects of applicants to authorizing agencies
61892 for loans and grants, review financing options, and make recommendations to each authorizing
61893 agency regarding terms of loans or grants and levels of state subsidy in accordance with the
61894 financial feasibility of the project and the efficiency of available state capital;
61895 (d) coordinate and consolidate, to the extent possible, all financial and legal analysis of
61896 financing plans and closings of loans and grants made by each authorizing agency; and
61897 (e) provide an annual report of [~~his~~] the officer's activities to the state treasurer, the
61898 governor, the Division of Finance, and the boards of each authorizing agency.
61899 (3) The analysis under Subsection (2)(c) shall include consideration of the following
61900 criteria:
61901 (a) a demonstration of need based on the applicant's overall financial profile, including
61902 overlapping debt, tax levies, user rates, fees, charges, assessments, and other revenue and
61903 obligations existing within the community as a whole;

61904 (b) the ability of the applicant to obtain financing from other, preferably private,
61905 sources on terms and conditions reasonably affordable;
61906 (c) the availability and advisability of financing methods such as loans, grants, interest
61907 buy down arrangements, bond insurance, loan or bond guarantees, or any other appropriate
61908 method;
61909 (d) the economic and efficiency of capital advantages enuring to the authorizing agency
61910 if the financing plan is adopted;
61911 (e) a demonstration of local public support for the financing plan; and
61912 (f) availability of other funds and financing methods under law.
61913 (4) Each authorizing agency shall consult with and cooperate with the officer and shall
61914 consider [~~his~~] the officer's recommendations before proceeding to fund a project, but the final
61915 decision as to the appropriate financing plan shall rest with the board of the authorizing agency
61916 according to their legal authority existing at the time.
61917 Section 1224. Section **63B-1b-202**, which is renumbered from Section 63-65-4 is
61918 renumbered and amended to read:
61919 **[~~63-65-4~~]. 63B-1b-202. Custodial officer -- Powers and duties.**
61920 (1) (a) There is created within the Division of Finance an officer responsible for the
61921 care, custody, safekeeping, collection, and accounting of all bonds, notes, contracts, trust
61922 documents, and other evidences of indebtedness:
61923 (i) owned or administered by the state or any of its agencies; and
61924 (ii) except as provided in Subsection (1)(b), relating to revolving loan funds.
61925 (b) Notwithstanding Subsection (1)(a), the officer described in Subsection (1)(a) is not
61926 responsible for the care, custody, safekeeping, collection, and accounting of a bond, note,
61927 contract, trust document, or other evidence of indebtedness relating to the:
61928 (i) Agriculture Resource Development Fund, created in Section 4-18-6;
61929 (ii) Utah Rural Rehabilitation Fund, created in Section 4-19-4;
61930 (iii) Petroleum Storage Tank Loan Fund, created in Section 19-6-405.3;
61931 (iv) Olene Walker Housing Loan Fund, created in Section 9-4-702;
61932 (v) Business Development for Disadvantaged Rural Communities Restricted Account,
61933 created in Section [~~63-38f-2003~~] 63M-1-2003; and
61934 (vi) Brownfields Fund, created in Section 19-8-120.

61935 (2) (a) Each authorizing agency shall deliver to this officer for the officer's care,
61936 custody, safekeeping, collection, and accounting all bonds, notes, contracts, trust documents,
61937 and other evidences of indebtedness:
61938 (i) owned or administered by the state or any of its agencies; and
61939 (ii) except as provided in Subsection (1)(b), relating to revolving loan funds.
61940 (b) This officer shall:
61941 (i) establish systems, programs, and facilities for the care, custody, safekeeping,
61942 collection, and accounting for the bonds, notes, contracts, trust documents, and other evidences
61943 of indebtedness submitted to the officer under this Subsection (2); and
61944 (ii) shall make available updated reports to each authorizing agency as to the status of
61945 loans under their authority.
61946 (3) The officer described in Section [~~63-65-3~~] 63B-1b-201 shall deliver to the officer
61947 described in Subsection (1)(a) for the care, custody, safekeeping, collection, and accounting by
61948 the officer described in Subsection (1)(a) of all bonds, notes, contracts, trust documents, and
61949 other evidences of indebtedness closed as provided in Subsection [~~63-65-3~~] 63B-1b-201(2)(b).
61950 Section 1225. Section **63B-1b-301**, which is renumbered from Section 63-65-5 is
61951 renumbered and amended to read:
61952 **Part 3. Transfer or Liquidation of Bonds**
61953 **[~~63-65-5~~]. 63B-1b-301. State treasurer may sell, assign, or liquidate agency**
61954 **bonds -- Marketing plan required.**
61955 (1) One or more authorizing agencies may from time to time request the state treasurer
61956 to sell, assign, or liquidate agency bonds on behalf of the authorizing agencies as provided in
61957 Section [~~63-65-6~~] 63B-1b-302.
61958 (2) (a) Agency bonds shall be sold, assigned, transferred, or liquidated by the state
61959 treasurer pursuant to a marketing plan provided by the state treasurer under Section [~~63-65-6~~]
61960 63B-1b-302.
61961 (b) The governor or the governor's designee and the appropriate authorizing agency
61962 shall approve the marketing plan, in writing.
61963 Section 1226. Section **63B-1b-302**, which is renumbered from Section 63-65-6 is
61964 renumbered and amended to read:
61965 **[~~63-65-6~~]. 63B-1b-302. Marketing plan and related agreements -- Use of**

61966 **proceeds of liquidation of agency bonds -- Report to Division of Finance -- Special funds**
61967 **-- Limitation on liability.**
61968 (1) (a) Before the liquidation of any agency bonds pursuant to the request of an
61969 authorizing agency as provided in Section [~~63-65-5~~] 63B-1b-301, the state treasurer shall
61970 provide a written marketing plan to the governor or the governor's designee and the appropriate
61971 authorizing agency or agencies for written approval.
61972 (b) The marketing plan may provide for:
61973 (i) the terms and conditions under which the agency bonds may be sold, assigned, or
61974 liquidated by the state treasurer;
61975 (ii) the particular agency bonds to be sold, assigned, or liquidated, or a maximum par
61976 amount of agency bonds to be sold, assigned, or liquidated;
61977 (iii) the price or a range of prices of the agency bonds to be sold, assigned, or
61978 liquidated, which may be at, above, or below par, as the state treasurer determines in the
61979 marketing plan;
61980 (iv) the terms and conditions of agreements entered into by the state treasurer on behalf
61981 of the state with financial and other institutions for financial advisory services, trustee services,
61982 insurance, letters of credit, reimbursement agreements, tender agreements, put agreements,
61983 repurchase agreements, and indexing and tender agent agreements to facilitate the marketing
61984 plan or to secure or provide liquidity to support any agreement, obligation, or contract entered
61985 into by the state treasurer on behalf of the state in connection with the sale, assignment, or
61986 liquidation of the agency bonds and any repurchase, remarketing, or other liquidation of the
61987 agency bonds and any insurance, repurchase, remarketing, tender, put, letter of credit, or
61988 agreement, obligation, or contract entered in connection with them, including payment of fees,
61989 charges, or other amounts coming due under agreements entered into with financial or other
61990 institutions by the state treasurer, from the proceeds of any sale, assignment, or other
61991 liquidation of agency bonds, and from any investment earnings on such proceeds, and no other
61992 state money may be used for this purpose;
61993 (v) the application of the proceeds received from the sale, assignment, or liquidation of
61994 agency bonds, and any investment earnings on them; and
61995 (vi) all other details relating to the sale, assignment, or liquidation of agency bonds and
61996 any related, attached, or accompanying insurance, tender, put, repurchase, remarketing, letter of

61997 credit, or other agreement, obligation, or contract deemed necessary or appropriate by the state
61998 treasurer.
61999 (c) The state treasurer, on behalf of the state, may enter into the agreements
62000 contemplated in the marketing plan.
62001 (2) (a) After the payment of, or provision for payment of, the fees, charges, or other
62002 amounts pursuant to Subsection (1), the state treasurer shall deliver the proceeds of the sale,
62003 assignment, or other liquidation of agency bonds under this section to the appropriate
62004 authorizing agency to be applied as authorized by the law creating or authorizing the loan or
62005 grant program of the authorizing agency.
62006 (b) (i) The marketing plan may provide that if any agreement, obligation, or contract
62007 entered into by the state treasurer on behalf of the state with respect to the sale, repurchase,
62008 remarketing, tender, put, assignment, or other liquidation of the agency bonds remains
62009 outstanding under the marketing plan, the proceeds, and investment earnings on them, may be
62010 pledged, escrowed, held in trust, or otherwise held in reserve by the state treasurer to secure
62011 these agreements, obligations, or contracts of the state treasurer entered into on behalf of the
62012 state.
62013 (ii) Any obligations of the state treasurer entered into on behalf of the state under
62014 Subsection (2)(b)(i) shall be limited solely to those proceeds and the investment earnings on
62015 them.
62016 (c) No holder or beneficiary of any put, tender, repurchase, remarketing, or other
62017 similar rights under such agreements, obligations, or contracts of the state treasurer entered into
62018 on behalf of the state has any rights against the state, the state treasurer or any state agency, or
62019 funds of the state, the state treasurer, or any state agency, other than those expressly set forth in
62020 the agreement or contract embodying those rights, consistent with the marketing plan and the
62021 limitation set forth in this Subsection (2).
62022 (3) (a) (i) The state treasurer may establish more than one marketing plan under this
62023 section.
62024 (ii) Agency bonds may be combined in any combination and sold, pledged, assigned, or
62025 otherwise liquidated in any amounts, at any time, and from time to time as provided in the
62026 applicable marketing plan.
62027 (b) The state treasurer may, by order, set forth the sale price, form, manner of

62028 execution, payment, manner of sale, assignment, or other liquidation, and all details of
62029 agreements or contracts entered into in connection with them, including the application of any
62030 proceeds and the investment earnings on them, consistent with the marketing plan and this
62031 section.
62032 (c) The state treasurer shall make a verified return to the Division of Finance
62033 immediately upon completion of each transaction of:
62034 (i) the amount of agency bonds involved;
62035 (ii) the amounts received in each transaction entered into under this section; and
62036 (iii) a brief description of any pledge or other restriction on the proceeds of the
62037 transaction or the investment earnings on the proceeds.
62038 (4) The state treasurer may:
62039 (a) create any funds necessary to carry out the purposes of this section;
62040 (b) invest all money held in those funds in accordance with Title 51, Chapter 7, State
62041 Money Management Act, and in accordance with any agreement of the state, pursuant to the
62042 marketing plan, with respect to the investment and application of the money; and
62043 (c) invest money held in the funds in obligations of any state, territory, or possession of
62044 the United States, or of any of the political subdivisions of any state, territory, or possession of
62045 the United States, or of the District of Columbia, described in Section 103, Internal Revenue
62046 Code of 1986.
62047 (5) The limitations contained in this section with respect to the liability of the state or
62048 its agencies may not be construed to limit or alter the obligations of political subdivisions on
62049 the bonds in the hands of the holders of them in any manner.
62050 Section 1227. Section **63B-1b-401**, which is renumbered from Section 63-65-7 is
62051 renumbered and amended to read:
62052 **Part 4. Issuance of Bonds**
62053 **[~~63-65-7~~]. 63B-1b-401. Pledge of agency bonds to pay revenue bonds --**
62054 **Contents of financing agreements -- Use of monies received by authorizing agencies.**
62055 (1) With the approval of the relevant authorizing agency, the State Bonding
62056 Commission may pledge, assign, or otherwise transfer any agency bonds, any monies payable
62057 on or with respect to them, any legally available monies or other security administered by an
62058 authorizing agency, or any combination of bonds, monies, or other security to provide for the

62059 payment of revenue bonds issued under Section [~~63-65-8~~] 63B-1b-402 and the payment of any
62060 amounts due under agreements and contracts described in Subsection [~~63-65-8~~]
62061 63B-1b-402(9).
62062 (2) (a) Before issuing revenue bonds under Section [~~63-65-8~~] 63B-1b-402, the
62063 commission shall enter into a financing agreement with the appropriate authorizing agency or
62064 agencies.
62065 (b) This agreement shall specify:
62066 (i) any agency bonds, monies, or other security to be pledged by the commission to
62067 provide for the payment of the revenue bonds;
62068 (ii) the amount to be paid to the order of the authorizing agency or agencies for the
62069 agency bonds, monies, or other security; and
62070 (iii) other matters that the commission considers necessary or appropriate.
62071 (3) The amounts received by each authorizing agency from the proceeds of the revenue
62072 bonds, together with all amounts paid to the authorizing agencies pursuant to Subsection
62073 [~~63-65-8~~] 63B-1b-402(10), shall be applied by the authorizing agency as authorized by the law
62074 creating or authorizing the loan or grant program of the authorizing agency.
62075 Section 1228. Section **63B-1b-402**, which is renumbered from Section 63-65-8 is
62076 renumbered and amended to read:
62077 **[~~63-65-8~~]. 63B-1b-402. Commission may authorize revenue bonds -- Contents**
62078 **of bond document -- Special and reserve funds -- Limitation on liability -- Restoration of**
62079 **monies in reserve funds -- Payment of bonds and other technical requirements --**
62080 **Refunding -- Report to Division of Finance.**
62081 (1) (a) In order to provide authorizing agencies with an alternative method of
62082 liquidating agency bonds and, by doing so, providing authorizing agencies with additional
62083 funds to further the purposes of authorizing agencies, the commission may authorize the
62084 issuance of revenue bonds from time to time by the state.
62085 (b) These revenue bonds shall be payable solely from a special fund established by the
62086 state treasurer as provided in Subsection (4).
62087 (c) Revenue bonds may be sold at public or private sale and may be issued in one or
62088 more series.
62089 (2) Revenue bonds may be authorized, issued, and sold by the commission on behalf of

62090 the state at a time or times and in a manner set forth in a bond document that provides for:
62091 (a) the terms and conditions of sale, including price, whether at, below or above face
62092 value;
62093 (b) interest rates, including a variable rate;
62094 (c) authorized denomination;
62095 (d) maturity dates;
62096 (e) form;
62097 (f) manner of execution;
62098 (g) manner of authentication;
62099 (h) place and medium of payment;
62100 (i) redemption terms;
62101 (j) authorized signatures of public officials; and
62102 (k) other provisions and details considered necessary or appropriate.
62103 (3) To the extent set forth in the resolution, the proceeds of revenue bonds may be used
62104 for the purposes set forth in Subsection (1) and to:
62105 (a) provide for any necessary or desirable reserve fund as provided for in Subsection
62106 (5); and
62107 (b) pay fees, charges, and other amounts related to the issuance and sale of the revenue
62108 bonds.
62109 (4) (a) As provided in the bond document, the principal of, premium, if any, and
62110 interest on, any issue of revenue bonds is payable solely from and secured by one or more
62111 special funds consisting of:
62112 (i) the pledge and assignment of any agency bonds, including all amounts payable on or
62113 with respect to them, and other monies and security, as provided for in an agreement entered
62114 into under Subsection [~~63-65-7~~] 63B-1b-401(2);
62115 (ii) amounts on deposit in the reserve fund, if any, established under Subsection (5);
62116 (iii) amounts available pursuant to any security device or credit enhancement device
62117 that the commission authorizes for the purpose of improving the marketability of the revenue
62118 bonds; and
62119 (iv) other amounts available and pledged by the commission to secure payment of that
62120 issue of revenue bonds.

62121 (b) Owners of revenue bonds do not have recourse against the general funds or general
62122 credit of the state or its political subdivisions or agencies, but this limitation does not limit or
62123 alter the obligations of political subdivisions on agency bonds in any manner.
62124 (c) Revenue bonds do not constitute nor give rise to a general obligation or liability of,
62125 or constitute a charge or lien against, the general credit or taxing power of the state or its
62126 political subdivisions or agencies, including any authorizing agency.
62127 (d) Revenue bonds shall contain on their face a statement that:
62128 (i) the revenue bonds are payable solely from the sources set forth in this Subsection
62129 (4) and specified in the bond document with respect to the revenue bonds;
62130 (ii) neither the state nor any political subdivision of the state is obligated to pay the
62131 revenue bonds; and
62132 (iii) neither the faith and credit nor the taxing power of the state or any of its political
62133 subdivisions is pledged to the payment of principal or redemption price of, or premium, if any,
62134 or interest on the revenue bonds.
62135 (e) Revenue bonds do not constitute debt of the state within the meaning of Utah
62136 Constitution Article XIII, Sec. 5 (3) or Article XIV, Sec. 1.
62137 (5) (a) The commission may establish a reserve fund with respect to any issue of
62138 revenue bonds.
62139 (b) If a reserve fund is established, the bond document relating to that issue of revenue
62140 bonds shall specify:
62141 (i) the minimum amount that is required to be on deposit in the reserve fund;
62142 (ii) the amount of sale proceeds from the sale of that issue of revenue bonds that shall
62143 be deposited in the reserve fund; and
62144 (iii) the manner in which any deficiency in the reserve fund shall be replenished.
62145 (c) (i) On or before the first day of December of each year, the state treasurer shall
62146 certify to the governor and the director of the Division of Finance the amount, if any, that may
62147 be required to restore all reserve funds established to the minimum amount specified by the
62148 state treasurer with respect to each reserve fund.
62149 (ii) The governor may request an appropriation from the Legislature equal to the
62150 certified amount in order to restore each reserve fund to the specified minimum amount.
62151 (6) (a) (i) The commission may provide in the bond document that any signature of a

62152 public official authorized to sign revenue bonds may be by the facsimile signature of that
62153 official imprinted, engraved, stamped, or otherwise placed on the revenue bonds.
62154 (ii) If all signatures of public officials on the revenue bonds are facsimile signatures,
62155 the bond document shall provide for a manual authenticating signature on the revenue bonds by
62156 or on behalf of a designated authenticating agent.
62157 (iii) If an official ceases to hold office before delivery of the revenue bonds signed by
62158 that official, the signature or facsimile signature of the official is valid and sufficient for all
62159 purposes.
62160 (b) A facsimile of the seal of the state may be imprinted, engraved, stamped, or
62161 otherwise placed on the revenue bonds.
62162 (7) (a) The commission may provide in the bond document for the replacement of lost,
62163 destroyed, stolen, or mutilated revenue bonds or for the exchange of revenue bonds after
62164 issuance for revenue bonds of smaller or larger denominations.
62165 (b) Revenue bonds in changed denominations shall:
62166 (i) be exchanged for the original revenue bonds in the aggregate principal amounts and
62167 in a manner that prevents the duplication of interest; and
62168 (ii) bear interest at the same rate, be of the same series, mature on the same date, and
62169 be as nearly as practicable in the same form as the original revenue bonds.
62170 (8) (a) (i) Revenue bonds may be registered as to both principal and interest or may be
62171 in a book entry form under which the right to principal and interest may be transferred only
62172 through a book entry.
62173 (ii) The commission may provide for the services and payment for the services of one
62174 or more financial institutions, other entities or persons, or nominees, within or outside the state,
62175 for:
62176 (A) authentication;
62177 (B) registration;
62178 (C) transfer, including record, bookkeeping, or book entry functions;
62179 (D) exchange; and
62180 (E) payment.
62181 (b) The records of ownership, registration, transfer, and exchange of the revenue
62182 bonds, and of persons to whom payment with respect to them is made, are classified as private

62183 or protected as defined in [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records
62184 Access and Management Act.
62185 (c) The revenue bonds and any evidences of participation interests in the revenue bonds
62186 may be issued, executed, authenticated, registered, transferred, exchanged, and otherwise made
62187 to comply with Title 15, Chapter 7, Registered Public Obligations Act, or any other act of the
62188 Legislature relating to the registration of obligations enacted to meet the requirements of
62189 Section 149 (a), Internal Revenue Code of 1986, or any comparable predecessor or successor
62190 provision, and applicable regulations.
62191 (9) (a) The commission may authorize the execution and delivery of whatever
62192 agreements and contracts that the commission considers necessary and appropriate in
62193 connection with the issuance of revenue bonds.
62194 (b) These agreements and contracts may include agreements and contracts with
62195 financial and other institutions for financial advisory services, trustee services, insurance,
62196 letters of credit, reimbursement agreements, tender agreements, put agreements, repurchase
62197 agreements, and indexing and tender agent agreements to:
62198 (i) facilitate the sale of the revenue bonds; or
62199 (ii) secure or provide liquidity to support any agreement, obligation, or contract entered
62200 into by an authorized officer on behalf of the state in connection with:
62201 (A) the issuance and sale of the revenue bonds;
62202 (B) any repurchase, remarketing, or other pledge of the revenue bonds; and
62203 (C) any insurance, repurchase, remarketing, tender, put, letter of credit, or agreement,
62204 obligation, or contract entered into in connection with them, including payment of fees,
62205 charges, or other amounts coming due under agreements entered into with financial or other
62206 institutions on behalf of the state.
62207 (10) When all revenue bonds of an issue have been paid, or provision for their payment
62208 has been made, there shall be transferred to the appropriate authorizing agency or agencies, in
62209 the amounts and in the manner that the commission considers fair and equitable, and to the
62210 extent not required to secure payment of the revenue bonds and related fees, charges, and other
62211 amounts:
62212 (a) all amounts remaining on deposit in any reserve fund established with respect to the
62213 issue of revenue bonds; and

62214 (b) all other amounts and all agency bonds held by the commission and any trustee and
62215 pledged to the payment of the revenue bonds.
62216 (11) (a) The state treasurer or the commission may create any funds and accounts
62217 necessary to carry out the purposes of this section.
62218 (b) (i) The state treasurer shall administer and maintain those funds and accounts.
62219 (ii) The state treasurer may invest all monies held in those funds and accounts in
62220 accordance with Title 51, Chapter 7, State Money Management Act, and in accordance with the
62221 bond document or any other agreement entered into on behalf of the state as authorized by the
62222 bond document.
62223 (iii) The commission may not approve the bond document or other agreement with
62224 respect to the investment and application of these monies unless the state treasurer has
62225 affirmatively approved any investment provisions contained in the bond document or other
62226 agreement.
62227 (c) All income from the monies invested in a fund or account created under this
62228 Subsection (11) shall accrue to the benefit of the fund or account and shall be used for the
62229 purpose for which the fund or account was established.
62230 (12) (a) The commission may authorize the issuance of refunding revenue bonds of the
62231 state in accordance with Title 11, Chapter 27, Utah Refunding Bond Act, for the purpose of
62232 refunding any revenue bonds.
62233 (b) The state is considered a "public body" and the commission its "governing body"
62234 for purposes of that act.
62235 (13) (a) Revenue bonds may not be issued under this section until an authorized
62236 official finds and certifies that all conditions precedent to the issuance of the revenue bond
62237 have been satisfied.
62238 (b) A recital on any revenue bond of a finding and certification conclusively establishes
62239 the completion and satisfaction of all conditions of this section.
62240 (14) Revenue bonds, interest paid on revenue bonds, and any income from revenue
62241 bonds is not taxable within this state for any purpose, except for the corporate franchise tax.
62242 (15) (a) Revenue bonds are legal investments for all state trust funds, insurance
62243 companies, banks, trust companies, and the State School Fund.
62244 (b) Revenue bonds may also be used as collateral to secure legal obligations.

62245 (16) Immediately upon the issuance of each issue of revenue bonds, an authorized
62246 official shall make a verified return to the Division of Finance of:
62247 (a) the aggregate principal amount of revenue bonds issued;
62248 (b) the amount of proceeds of sale of revenue bonds received by the state;
62249 (c) the amount paid to the authorizing agency or agencies for the agency bonds;
62250 (d) the total amount of all fees and expenses relating to the issuance of the revenue
62251 bonds;
62252 (e) the amount of sale proceeds of the revenue bonds used to pay fees and expenses;
62253 and
62254 (f) the amount of sale proceeds of the revenue bonds deposited in the reserve fund
62255 established with respect to the issue of revenue bonds, if any.
62256 Section 1229. Section **63B-1b-501**, which is renumbered from Section 63-65-8.1 is
62257 renumbered and amended to read:
62258 **Part 5. Tax Status**
62259 **[~~63-65-8.1~~]. 63B-1b-501. Tax status -- Exemption.**
62260 The revenue bonds issued under this chapter, any interest paid on the revenue bonds,
62261 and any income from the bonds is not taxable in Utah for any purpose, except for the corporate
62262 franchise tax.
62263 Section 1230. Section **63B-1b-601**, which is renumbered from Section 63-65-8.2 is
62264 renumbered and amended to read:
62265 **Part 6. Notice Requirements**
62266 **[~~63-65-8.2~~]. 63B-1b-601. Publication of resolution or notice -- Limitation on**
62267 **actions to contest legality.**
62268 (1) The commission may either:
62269 (a) publish once in a newspaper having general circulation in Utah any resolution
62270 adopted by it; or
62271 (b) in lieu of publishing the entire resolution, publish a notice of revenue bonds to be
62272 issued, titled as such, containing:
62273 (i) the purpose of the revenue bond issue;
62274 (ii) the maximum principal amount that may be issued;
62275 (iii) the maximum number of years over which the revenue bonds may mature;

62276 (iv) the maximum interest rate that the revenue bonds may bear, if any;
62277 (v) the maximum discount from par, expressed as a percentage of principal amount, at
62278 which the revenue bonds may be sold; and
62279 (vi) a statement that a copy of the resolution or other bond document may be examined
62280 at the office of the state treasurer during regular business hours for at least 30 days after the
62281 publication of the notice.
62282 (2) For 30 days after the date of publication, any interested person may contest:
62283 (a) the legality of the resolution or other bond document;
62284 (b) any of the revenue bonds authorized under it; or
62285 (c) any of the provisions made for the repayment of the revenue bonds.
62286 (3) After 30 days, a person may not, for any cause, contest:
62287 (a) the legality of the resolution or other bond document;
62288 (b) any of the revenue bonds authorized under the resolution or other bond document;
62289 or
62290 (c) any of the provisions made for the security and repayment of the revenue bonds.
62291 Section 1231. Section **63B-1b-701**, which is renumbered from Section 63-65-9 is
62292 renumbered and amended to read:
62293 **Part 7. Payment of Expenses**
62294 **[~~63-65-9~~]. 63B-1b-701. Payment of expenses.**
62295 (1) All expenses incurred by the state under this chapter may be paid:
62296 (a) in the case of expenses incurred under Section [~~63-65-6~~] 63B-1b-302, from the
62297 proceeds of the liquidation of agency bonds; and
62298 (b) in the case of expenses incurred under Section [~~63-65-8~~] 63B-1b-402, from the
62299 proceeds of sale of revenue bonds.
62300 (2) (a) Any expenses incurred by the state under this chapter that are not paid from the
62301 proceeds of the liquidation of agency bonds or the issuance of state revenue bonds shall be paid
62302 from the revolving funds of the authorizing agencies.
62303 (b) These expenses are not a charge to or an appropriation from the General Fund.
62304 Section 1232. Section **63B-2-102** is amended to read:
62305 **63B-2-102. Maximum amount -- Projects authorized.**
62306 (1) The total amount of bonds issued under this part may not exceed $80,000,000.

62307 (2) (a) Proceeds from the issuance of bonds shall be provided to the division to provide
62308 funds to pay all or part of the cost of acquiring and constructing the projects listed in this
62309 Subsection (2).
62310 (b) These costs may include the cost of acquiring land, interests in land, easements and
62311 rights-of-way, improving sites, and acquiring, constructing, equipping, and furnishing facilities
62312 and all structures, roads, parking facilities, utilities, and improvements necessary, incidental, or
62313 convenient to the facilities, interest estimated to accrue on these bonds during the period to be
62314 covered by construction of the projects plus a period of six months after the end of the
62315 construction period and all related engineering, architectural, and legal fees.
62316 (c) For the division, proceeds shall be provided for the following:
62317 CAPITAL IMPROVEMENTS
62318 1 Alterations, Repairs, and Improvements $8,413,900
62319 TOTAL IMPROVEMENTS $8,413,900
62320 CAPITAL FACILITIES CONSTRUCTION

				ESTIMATED OPERATIONS AND MAINTENANCE COSTS
62321				
62322				
62323				
62324	PROJECT PRIORITY	PROJECT DESCRIPTION	AMOUNT FUNDED	
62325				
62326	1	Corrections - Northern Utah	$2,729,700	$158,000
62327		Community Corrections Center Phase II		
62328	2	University of Utah	$10,200,000	$881,600
62329		Marriot Library Phase II		
62330	3	Ogden Courts Building Phase II	$12,096,000	$340,000
62331	4	Utah National Guard -	$397,800	$70,500
62332		Southeast Utah Armory Phase II		
62333	5	Southern Utah University	$7,004,400	$427,000
62334		Library Phase II		
62335	6	Utah Valley Special Events	$11,845,300	$536,900
62336		Center Phase II		
62337	7	Salt Lake Community College	$1,300,000	$0

	- Land		
8	Tax Commission Building	$14,224,000	$812,000
9	Dixie College Business Building	$2,823,300	$187,800
10	Salt Lake Community College	$4,009,500	$257,600
	South City 3rd Floor and Boiler		
11	Public Education -	$3,456,100	$124,800
	Deaf and Blind Classrooms		
	TOTAL CONSTRUCTION	$70,086,100	
	TOTAL IMPROVEMENTS AND CONSTRUCTION	$78,500,000	

(d) For purposes of this section, operations and maintenance costs:

(i) are estimates only;

(ii) may include any operations and maintenance costs already funded in existing agency budgets; and

(iii) are not commitments by this Legislature or future Legislatures to fund those operations and maintenance costs.

(3) (a) The amounts funded as listed in Subsection (2) are estimates only and do not constitute a limitation on the amount that may be expended for any project.

(b) The board may revise these estimates and redistribute the amount estimated for a project among the projects authorized.

(c) The commission, by resolution and in consultation with the board, may delete one or more projects from this list if the inclusion of that project or those projects in the list could be construed to violate state law or federal law or regulation.

(4) (a) The division may enter into agreements related to these projects before the receipt of proceeds of bonds issued under this chapter.

(b) The division shall make those expenditures from unexpended and unencumbered building funds already appropriated to the Capital Projects Fund.

(c) The division shall reimburse the Capital Projects Fund upon receipt of the proceeds of bonds issued under this chapter.

(d) The commission may, by resolution, make any statement of intent relating to that reimbursement that is necessary or desirable to comply with federal tax law.

62369 (5) (a) For those projects for which only partial funding is provided in Subsection (2),
62370 it is the intent of the Legislature that the balance necessary to complete the projects be
62371 addressed by future Legislatures, either through appropriations or through the issuance or sale
62372 of bonds.
62373 (b) For those phased projects, the division may enter into contracts for amounts not to
62374 exceed the anticipated full project funding but may not allow work to be performed on those
62375 contracts in excess of the funding already authorized by the Legislature.
62376 (c) Those contracts shall contain a provision for termination of the contract for the
62377 convenience of the state as required by Section [~~63-56-601~~] 63G-6-601.
62378 (d) It is also the intent of the Legislature that this authorization to the division does not
62379 bind future Legislatures to fund projects initiated from this authorization.
62380 Section 1233. Section **63B-2-105** is amended to read:
62381 **63B-2-105. Terms and conditions of sale -- Plan of financing -- Signatures --**
62382 **Replacement -- Registration -- Federal rebate.**
62383 (1) In the issuance of bonds, the commission may determine by resolution:
62384 (a) the manner of sale, including public or private sale;
62385 (b) the terms and conditions of sale, including price, whether at, below, or above face
62386 value;
62387 (c) denominations;
62388 (d) form;
62389 (e) manner of execution;
62390 (f) manner of authentication;
62391 (g) place and medium of purchase;
62392 (h) redemption terms; and
62393 (i) other provisions and details it considers appropriate.
62394 (2) The commission may by resolution adopt a plan of financing, which may include
62395 terms and conditions of arrangements entered into by the commission on behalf of the state
62396 with financial and other institutions for letters of credit, standby letters of credit,
62397 reimbursement agreements, and remarketing, indexing, and tender agent agreements to secure
62398 the bonds, including payment from any legally available source of fees, charges, or other
62399 amounts coming due under the agreements entered into by the commission.

62400 (3) (a) Any signature of a public official authorized by resolution of the commission to
62401 sign the bonds may be a facsimile signature of that official imprinted, engraved, stamped, or
62402 otherwise placed on the bonds.
62403 (b) If all signatures of public officials on the bonds are facsimile signatures, provision
62404 shall be made for a manual authenticating signature on the bonds by or on behalf of a
62405 designated authentication agent.
62406 (c) If an official ceases to hold office before delivery of the bonds signed by that
62407 official, the signature or facsimile signature of the official is nevertheless valid for all purposes.
62408 (d) A facsimile of the state seal may be imprinted, engraved, stamped, or otherwise
62409 placed on the bonds.
62410 (4) (a) The commission may enact resolutions providing for the replacement of lost,
62411 destroyed, or mutilated bonds, or for the exchange of bonds after issuance for bonds of smaller
62412 or larger denominations.
62413 (b) Bonds in changed denominations shall:
62414 (i) be exchanged for the original bonds in like aggregate principal amounts and in a
62415 manner that prevents the duplication of interest; and
62416 (ii) bear interest at the same rate, mature on the same date, and be as nearly as
62417 practicable in the form of the original bonds.
62418 (5) (a) Bonds may be registered as to both principal and interest or may be in a book
62419 entry form under which the right to principal and interest may be transferred only through a
62420 book entry.
62421 (b) The commission may provide for the services and payment for the services of one
62422 or more financial institutions or other entities or persons, or nominees, within or outside the
62423 state, for the authentication, registration, transfer, including record, bookkeeping, or book entry
62424 functions, exchange, and payment of the bonds.
62425 (c) The records of ownership, registration, transfer, and exchange of the bonds, and of
62426 persons to whom payment with respect to the obligations is made, are private records as
62427 provided in Section [~~63-2-302~~] 63G-2-302 or protected records as provided in Section
62428 [~~63-2-304~~] 63G-2-305.
62429 (d) The bonds and any evidences of participation interest in the bonds may be issued,
62430 executed, authenticated, registered, transferred, exchanged, and otherwise made to comply with

62431 Title 15, Chapter 7, Registered Public Obligations Act, or any other act of the Legislature
62432 relating to the registration of obligations enacted to meet the requirements of Section 149 of the
62433 Internal Revenue Code of 1986, as amended, or any successor to it, and applicable regulations.
62434 (6) The commission may:
62435 (a) by resolution, provide for payment to the United States of whatever amounts are
62436 necessary to comply with Section 148 (f) of the Internal Revenue Code of 1986, as amended;
62437 and
62438 (b) enter into agreements with financial and other institutions and attorneys to provide
62439 for:
62440 (i) the calculation, holding, and payment of those amounts; and
62441 (ii) payment from any legally available source of fees, charges, or other amounts
62442 coming due under any agreements entered into by the commission.
62443 Section 1234. Section **63B-2-205** is amended to read:
62444 **63B-2-205. Terms and conditions of sale -- Plan of financing -- Signatures --**
62445 **Replacement -- Registration -- Federal rebate.**
62446 (1) In the issuance of bonds, the commission may determine by resolution:
62447 (a) the manner of sale, including public or private sale;
62448 (b) the terms and conditions of sale, including price, whether at, below, or above face
62449 value;
62450 (c) denominations;
62451 (d) form;
62452 (e) manner of execution;
62453 (f) manner of authentication;
62454 (g) place and medium of purchase;
62455 (h) redemption terms; and
62456 (i) other provisions and details it considers appropriate.
62457 (2) The commission may by resolution adopt a plan of financing which may include
62458 terms and conditions of arrangements entered into by the commission on behalf of the state
62459 with financial and other institutions for letters of credit, standby letters of credit,
62460 reimbursement agreements, and remarketing, indexing, and tender agent agreements to secure
62461 the bonds, including payment from any legally available source of fees, charges, or other

62462 amounts coming due under the agreements entered into by the commission.
62463 (3) (a) Any signature of a public official authorized by resolution of the commission to
62464 sign the bonds may be a facsimile signature of that official imprinted, engraved, stamped, or
62465 otherwise placed on the bonds.
62466 (b) If all signatures of public officials on the bonds are facsimile signatures, provision
62467 shall be made for a manual authenticating signature on the bonds by or on behalf of a
62468 designated authentication agent.
62469 (c) If an official ceases to hold office before delivery of the bonds signed by that
62470 official, the signature or facsimile signature of the official is nevertheless valid for all purposes.
62471 (d) A facsimile of the state seal may be imprinted, engraved, stamped, or otherwise
62472 placed on the bonds.
62473 (4) (a) The commission may enact resolutions providing for the replacement of lost,
62474 destroyed, or mutilated bonds, or for the exchange of bonds after issuance for bonds of smaller
62475 or larger denominations.
62476 (b) Bonds in changed denominations shall:
62477 (i) be exchanged for the original bonds in like aggregate principal amounts and in a
62478 manner that prevents the duplication of interest; and
62479 (ii) bear interest at the same rate, mature on the same date, and be as nearly as
62480 practicable in the form of the original bonds.
62481 (5) (a) Bonds may be registered as to both principal and interest or may be in a book
62482 entry form under which the right to principal and interest may be transferred only through a
62483 book entry.
62484 (b) The commission may provide for the services and payment for the services of one
62485 or more financial institutions or other entities or persons, or nominees, within or outside the
62486 state, for the authentication, registration, transfer, including record, bookkeeping, or book entry
62487 functions, exchange, and payment of the bonds.
62488 (c) The records of ownership, registration, transfer, and exchange of the bonds, and of
62489 persons to whom payment with respect to the obligations is made, are private records as
62490 provided in Section [~~63-2-302~~] 63G-2-302, or protected records as provided in Section
62491 [~~63-2-304~~] 63G-2-305.
62492 (d) The bonds and any evidences of participation interest in the bonds may be issued,

62493 executed, authenticated, registered, transferred, exchanged, and otherwise made to comply with
62494 Title 15, Chapter 7, Registered Public Obligations Act, or any other act of the Legislature
62495 relating to the registration of obligations enacted to meet the requirements of Section 149 of the
62496 Internal Revenue Code of 1986, as amended, or any successor to it, and applicable regulations.
62497 (6) The commission may:
62498 (a) by resolution, provide for payment to the United States of whatever amounts are
62499 necessary to comply with Section 148 (f) of the Internal Revenue Code of 1986, as amended;
62500 and
62501 (b) enter into agreements with financial and other institutions and attorneys to provide
62502 for:
62503 (i) the calculation, holding, and payment of those amounts; and
62504 (ii) payment from any legally available source of fees, charges, or other amounts
62505 coming due under any agreements entered into by the commission.
62506 Section 1235. Section **63B-2-301** is amended to read:
62507 **63B-2-301. Legislative intent -- Additional projects.**
62508 It is the intent of the Legislature that:
62509 (1) The Department of Employment Security use monies in the special administrative
62510 fund to plan, design, and construct a Davis County facility under the supervision of the director
62511 of the Division of Facilities Construction and Management unless supervisory authority is
62512 delegated by him as authorized by Section 63A-5-206.
62513 (2) The University of Utah may use donated funds to plan, design, and construct the
62514 Nora Eccles Harrison addition under the supervision of the director of the Division of Facilities
62515 Construction and Management unless supervisory authority is delegated by him as authorized
62516 by Section 63A-5-206.
62517 (3) The University of Utah may use hospital funds to plan, design, and construct the
62518 West Patient Services Building under the supervision of the director of the Division of
62519 Facilities Construction and Management unless supervisory authority is delegated by him as
62520 authorized by Section 63A-5-206.
62521 (4) The University of Utah may use federal funds to plan, design, and construct the
62522 Computational Science Building under the supervision of the director of the Division of
62523 Facilities Construction and Management unless supervisory authority is delegated by him as

62524 authorized by Section 63A-5-206.
62525 (5) The Board of Regents may issue revenue bonds to provide:
62526 (a) $6,700,000 to plan, design, and construct single student housing at Utah State
62527 University under the supervision of the director of the Division of Facilities Construction and
62528 Management unless supervisory authority is delegated by him as authorized by Section
62529 63A-5-206; and
62530 (b) additional monies necessary to:
62531 (i) pay costs incident to the issuance and sale of the bonds;
62532 (ii) pay interest on the bonds that accrues during construction and acquisition of the
62533 project and for up to one year after construction is completed; and
62534 (iii) fund any reserve requirements for the bonds.
62535 (6) Utah State University may use federal funds to plan, design, and construct the
62536 Natural Resources Lab addition under the supervision of the director of the Division of
62537 Facilities Construction and Management unless supervisory authority is delegated by him as
62538 authorized by Section 63A-5-206.
62539 (7) Utah State University may use funds derived from property sales to plan, design,
62540 and construct emergency relocation facilities for the Farmington Botanical Gardens under the
62541 supervision of the director of the Division of Facilities Construction and Management unless
62542 supervisory authority is delegated by him as authorized by Section 63A-5-206.
62543 (8) Utah State University may use institutional funds to plan, design, and construct an
62544 institutional residence for the president under the supervision of the director of the Division of
62545 Facilities Construction and Management unless supervisory authority is delegated by him as
62546 authorized by Section 63A-5-206.
62547 (9) Weber State University may use discretionary funds to construct a remodel and
62548 expansion of the stores building and mail service facilities under the supervision of the director
62549 of the Division of Facilities Construction and Management unless supervisory authority is
62550 delegated by him as authorized by Section 63A-5-206.
62551 (10) Weber State University may use fees and auxiliary revenue to plan, design, and
62552 construct a remodel and expansion of the Shepherd Student Union Building under the
62553 supervision of the director of the Division of Facilities Construction and Management unless
62554 supervisory authority is delegated by him as authorized by Section 63A-5-206.

62555 (11) Southern Utah University may use donated funds to plan, design, and construct an
62556 alumni house under the supervision of the director of the Division of Facilities Construction
62557 and Management unless supervisory authority is delegated by him as authorized by Section
62558 63A-5-206.
62559 (12) The College of Eastern Utah may use auxiliary revenues and other fees to:
62560 (a) make lease or other payments;
62561 (b) redeem revenue bonds or repay loans issued on behalf of the college; and
62562 (c) plan, design, and construct a 200 person residence hall under the supervision of the
62563 director of the Division of Facilities Construction and Management unless supervisory
62564 authority is delegated by him as authorized by Section 63A-5-206.
62565 (13) The Sevier Valley Applied Technology Center may use private and Community
62566 Impact Board funds, if approved, to plan, design, and construct a performing arts/multi-use
62567 facility under the supervision of the director of the Division of Facilities Construction and
62568 Management unless supervisory authority is delegated by him as authorized by Section
62569 63A-5-206.
62570 (14) Ogden City and Weber County may have offices and related space for their
62571 attorneys included in the Ogden Courts building if the city and county are able to provide
62572 upfront funding to cover all costs associated with the design and construction of that space. In
62573 addition, the city and county shall cover their proportionate share of all operations and
62574 maintenance costs of their facility, including future major repairs to the building.
62575 (15) If the Legislature authorizes the Division of Facilities Construction and
62576 Management to enter into a lease purchase agreement for the Department of Human Services
62577 facility at 1385 South State Street in Salt Lake City or for the State Board of Education facility
62578 and adjacent space in Salt Lake City, or for both of those facilities, the State Building
62579 Ownership Authority, at the reasonable rates and amounts it may determine, and with technical
62580 assistance from the state treasurer, the director of the Division of Finance, and the director of
62581 the Governor's Office of Planning and Budget, may seek out the most cost effective lease
62582 purchase plans available to the state and may, pursuant to [~~Title 63, Chapter 9a, State Building~~
62583 ~~Ownership Act~~] Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act,
62584 certificate out interests in, or obligations of the authority pertaining to:
62585 (a) the lease purchase obligation; or

62586 (b) lease rental payments under the lease purchase obligation.
62587 (16) Salt Lake Community College may use donated funds to plan, design, and
62588 construct an amphitheater under the supervision of the director of the Division of Facilities
62589 Construction and Management unless supervisory authority is delegated by him as authorized
62590 by Section 63A-5-206.
62591 (17) For the Tax Commission building, that:
62592 (a) All costs associated with the construction and furnishing of the Tax Commission
62593 building that are incurred before the issuance of the 1993 general obligation bonds be
62594 reimbursed by bond proceeds.
62595 (b) The maximum amount of cost that may be reimbursed from the 1993 general
62596 obligation bond proceeds for the Tax Commission building and furnishings may not exceed
62597 $14,230,000.
62598 (c) This intent statement for Subsection (17) constitutes a declaration of official intent
62599 under Section 1.103-18 of the U.S. Treasury Regulations.
62600 Section 1236. Section **63B-3-102** is amended to read:
62601 **63B-3-102. Maximum amount -- Projects authorized.**
62602 (1) The total amount of bonds issued under this part may not exceed $64,600,000.
62603 (2) (a) Proceeds from the issuance of bonds shall be provided to the division to provide
62604 funds to pay all or part of the cost of acquiring and constructing the projects listed in this
62605 Subsection (2).
62606 (b) These costs may include the cost of acquiring land, interests in land, easements and
62607 rights-of-way, improving sites, and acquiring, constructing, equipping, and furnishing facilities
62608 and all structures, roads, parking facilities, utilities, and improvements necessary, incidental, or
62609 convenient to the facilities, interest estimated to accrue on these bonds during the period to be
62610 covered by construction of the projects plus a period of six months after the end of the
62611 construction period and all related engineering, architectural, and legal fees.
62612 (c) For the division, proceeds shall be provided for the following:
62613 CAPITAL IMPROVEMENTS
62614 1 Alterations, Repairs, and Improvements $5,000,000
62615 TOTAL IMPROVEMENTS $5,000,000
62616 CAPITAL AND ECONOMIC DEVELOPMENT

PROJECT PRIORITY	PROJECT DESCRIPTION	AMOUNT FUNDED	ESTIMATED OPERATIONS AND MAINTENANCE COSTS
1	University of Utah Marriott Library Phase III (Final)	$13,811,500	$881,600
2	Bridgerland Applied Technology Center Utah State University Space	$2,400,000	$0
3	Weber State University - Heat Plant	$2,332,100	$9,600
4	Department of Human Services - Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services	$4,180,000	$400,000
5	Snow College - Administrative Services/Student Center	$3,885,100	$224,500
6	Ogden Weber Applied Technology Center - Metal Trades Building Design and Equipment Purchase	$750,000	$0
7	Department of Corrections B-Block Remodel	$1,237,100	$72,000
8	Utah State University - Old Main Phase III Design	$550,000	$0
9	Department of Corrections - 144 bed Uintah Expansion	$6,700,000	$168,800
10	Southern Utah University Administrative Services/Student Center	$5,630,400	$314,200
11	Anasazi Museum	$760,200	$8,500
12	Hill Air Force Base -	$9,500,000	$0

	Easements Purchase		
13	Signetics Building Remodel	$2,000,000	$0
14	Antelope Island Visitors Center	$750,000	$30,000
15	State Fair Park - Master Study	$150,000	$0
16	Utah National Guard - Draper Land	$380,800	$0
17	Davis Applied Technology Center - Design	$325,000	$0
18	Palisade State Park - Land and Park Development	$800,000	$0
19	Department of Human Services - Cedar City Land	$80,000	$0
20	Department of Human Services - Clearfield Land	$163,400	$0
21	Electronic technology, equipment, and hardware	$2,500,000	$0

TOTAL CAPITAL AND ECONOMIC DEVELOPMENT $58,885,600

TOTAL IMPROVEMENTS AND CAPITAL AND ECONOMIC DEVELOPMENT $63,885,600

(d) For purposes of this section, operations and maintenance costs:

(i) are estimates only;

(ii) may include any operations and maintenance costs already funded in existing agency budgets; and

(iii) are not commitments by this Legislature or future Legislatures to fund those operations and maintenance costs.

(3) (a) The amounts funded as listed in Subsection (2) are estimates only and do not constitute a limitation on the amount that may be expended for any project.

(b) The board may revise these estimates and redistribute the amount estimated for a project among the projects authorized.

(c) The commission, by resolution and in consultation with the board, may delete one or more projects from this list if the inclusion of that project or those projects in the list could

62679 be construed to violate state law or federal law or regulation.
62680 (4) (a) The division may enter into agreements related to these projects before the
62681 receipt of proceeds of bonds issued under this chapter.
62682 (b) The division shall make those expenditures from unexpended and unencumbered
62683 building funds already appropriated to the Capital Projects Fund.
62684 (c) The division shall reimburse the Capital Projects Fund upon receipt of the proceeds
62685 of bonds issued under this chapter.
62686 (d) The commission may, by resolution, make any statement of intent relating to that
62687 reimbursement that is necessary or desirable to comply with federal tax law.
62688 (5) (a) For those projects for which only partial funding is provided in Subsection (2),
62689 it is the intent of the Legislature that the balance necessary to complete the projects be
62690 addressed by future Legislatures, either through appropriations or through the issuance or sale
62691 of bonds.
62692 (b) For those phased projects, the division may enter into contracts for amounts not to
62693 exceed the anticipated full project funding but may not allow work to be performed on those
62694 contracts in excess of the funding already authorized by the Legislature.
62695 (c) Those contracts shall contain a provision for termination of the contract for the
62696 convenience of the state as required by Section [~~63-56-601~~] 63G-6-601.
62697 (d) It is also the intent of the Legislature that this authorization to the division does not
62698 bind future Legislatures to fund projects initiated from this authorization.
62699 Section 1237. Section **63B-3-105** is amended to read:
62700 **63B-3-105. Terms and conditions of sale -- Plan of financing -- Signatures --**
62701 **Replacement -- Registration -- Federal rebate.**
62702 (1) In the issuance of bonds, the commission may determine by resolution:
62703 (a) the manner of sale, including public or private sale;
62704 (b) the terms and conditions of sale, including price, whether at, below, or above face
62705 value;
62706 (c) denominations;
62707 (d) form;
62708 (e) manner of execution;
62709 (f) manner of authentication;

62710 (g) place and medium of purchase;
62711 (h) redemption terms; and
62712 (i) other provisions and details it considers appropriate.
62713 (2) The commission may by resolution adopt a plan of financing, which may include
62714 terms and conditions of arrangements entered into by the commission on behalf of the state
62715 with financial and other institutions for letters of credit, standby letters of credit,
62716 reimbursement agreements, and remarketing, indexing, and tender agent agreements to secure
62717 the bonds, including payment from any legally available source of fees, charges, or other
62718 amounts coming due under the agreements entered into by the commission.
62719 (3) (a) Any signature of a public official authorized by resolution of the commission to
62720 sign the bonds may be a facsimile signature of that official imprinted, engraved, stamped, or
62721 otherwise placed on the bonds.
62722 (b) If all signatures of public officials on the bonds are facsimile signatures, provision
62723 shall be made for a manual authenticating signature on the bonds by or on behalf of a
62724 designated authentication agent.
62725 (c) If an official ceases to hold office before delivery of the bonds signed by that
62726 official, the signature or facsimile signature of the official is nevertheless valid for all purposes.
62727 (d) A facsimile of the state seal may be imprinted, engraved, stamped, or otherwise
62728 placed on the bonds.
62729 (4) (a) The commission may enact resolutions providing for the replacement of lost,
62730 destroyed, or mutilated bonds, or for the exchange of bonds after issuance for bonds of smaller
62731 or larger denominations.
62732 (b) Bonds in changed denominations shall:
62733 (i) be exchanged for the original bonds in like aggregate principal amounts and in a
62734 manner that prevents the duplication of interest; and
62735 (ii) bear interest at the same rate, mature on the same date, and be as nearly as
62736 practicable in the form of the original bonds.
62737 (5) (a) Bonds may be registered as to both principal and interest or may be in a book
62738 entry form under which the right to principal and interest may be transferred only through a
62739 book entry.
62740 (b) The commission may provide for the services and payment for the services of one

62741 or more financial institutions or other entities or persons, or nominees, within or outside the
62742 state, for the authentication, registration, transfer, including record, bookkeeping, or book entry
62743 functions, exchange, and payment of the bonds.
62744 (c) The records of ownership, registration, transfer, and exchange of the bonds, and of
62745 persons to whom payment with respect to the obligations is made, are private records as
62746 provided in Section [~~63-2-302~~] 63G-2-302 or protected records as provided in Section
62747 [~~63-2-304~~] 63G-2-305.
62748 (d) The bonds and any evidences of participation interest in the bonds may be issued,
62749 executed, authenticated, registered, transferred, exchanged, and otherwise made to comply with
62750 Title 15, Chapter 7, Registered Public Obligations Act, or any other act of the Legislature
62751 relating to the registration of obligations enacted to meet the requirements of Section 149 of the
62752 Internal Revenue Code of 1986, as amended, or any successor to it, and applicable regulations.
62753 (6) The commission may:
62754 (a) by resolution, provide for payment to the United States of whatever amounts are
62755 necessary to comply with Section 148 (f) of the Internal Revenue Code of 1986, as amended;
62756 and
62757 (b) enter into agreements with financial and other institutions and attorneys to provide
62758 for:
62759 (i) the calculation, holding, and payment of those amounts; and
62760 (ii) payment from any legally available source of fees, charges, or other amounts
62761 coming due under any agreements entered into by the commission.
62762 Section 1238. Section **63B-3-205** is amended to read:
62763 **63B-3-205. Terms and conditions of sale -- Plan of financing -- Signatures --**
62764 **Replacement -- Registration -- Federal rebate.**
62765 (1) In the issuance of bonds, the commission may determine by resolution:
62766 (a) the manner of sale, including public or private sale;
62767 (b) the terms and conditions of sale, including price, whether at, below, or above face
62768 value;
62769 (c) denominations;
62770 (d) form;
62771 (e) manner of execution;

62772 (f) manner of authentication;
62773 (g) place and medium of purchase;
62774 (h) redemption terms; and
62775 (i) other provisions and details it considers appropriate.
62776 (2) The commission may by resolution adopt a plan of financing which may include
62777 terms and conditions of arrangements entered into by the commission on behalf of the state
62778 with financial and other institutions for letters of credit, standby letters of credit,
62779 reimbursement agreements, and remarketing, indexing, and tender agent agreements to secure
62780 the bonds, including payment from any legally available source of fees, charges, or other
62781 amounts coming due under the agreements entered into by the commission.
62782 (3) (a) Any signature of a public official authorized by resolution of the commission to
62783 sign the bonds may be a facsimile signature of that official imprinted, engraved, stamped, or
62784 otherwise placed on the bonds.
62785 (b) If all signatures of public officials on the bonds are facsimile signatures, provision
62786 shall be made for a manual authenticating signature on the bonds by or on behalf of a
62787 designated authentication agent.
62788 (c) If an official ceases to hold office before delivery of the bonds signed by that
62789 official, the signature or facsimile signature of the official is nevertheless valid for all purposes.
62790 (d) A facsimile of the state seal may be imprinted, engraved, stamped, or otherwise
62791 placed on the bonds.
62792 (4) (a) The commission may enact resolutions providing for the replacement of lost,
62793 destroyed, or mutilated bonds, or for the exchange of bonds after issuance for bonds of smaller
62794 or larger denominations.
62795 (b) Bonds in changed denominations shall:
62796 (i) be exchanged for the original bonds in like aggregate principal amounts and in a
62797 manner that prevents the duplication of interest; and
62798 (ii) bear interest at the same rate, mature on the same date, and be as nearly as
62799 practicable in the form of the original bonds.
62800 (5) (a) Bonds may be registered as to both principal and interest or may be in a book
62801 entry form under which the right to principal and interest may be transferred only through a
62802 book entry.

62803 (b) The commission may provide for the services and payment for the services of one
62804 or more financial institutions or other entities or persons, or nominees, within or outside the
62805 state, for the authentication, registration, transfer, including record, bookkeeping, or book entry
62806 functions, exchange, and payment of the bonds.
62807 (c) The records of ownership, registration, transfer, and exchange of the bonds, and of
62808 persons to whom payment with respect to the obligations is made, are private records as
62809 provided in Section [~~63-2-302~~] 63G-2-302, or protected records as provided in Section
62810 [~~63-2-304~~] 63G-2-305.
62811 (d) The bonds and any evidences of participation interest in the bonds may be issued,
62812 executed, authenticated, registered, transferred, exchanged, and otherwise made to comply with
62813 Title 15, Chapter 7, Registered Public Obligations Act, or any other act of the Legislature
62814 relating to the registration of obligations enacted to meet the requirements of Section 149 of the
62815 Internal Revenue Code of 1986, as amended, or any successor to it, and applicable regulations.
62816 (6) The commission may:
62817 (a) by resolution, provide for payment to the United States of whatever amounts are
62818 necessary to comply with Section 148 (f) of the Internal Revenue Code of 1986, as amended;
62819 and
62820 (b) enter into agreements with financial and other institutions and attorneys to provide
62821 for:
62822 (i) the calculation, holding, and payment of those amounts; and
62823 (ii) payment from any legally available source of fees, charges, or other amounts
62824 coming due under any agreements entered into by the commission.
62825 Section 1239. Section **63B-3-301** is amended to read:
62826 **63B-3-301. Legislative intent -- Additional projects.**
62827 (1) It is the intent of the Legislature that, for any lease purchase agreement that the
62828 Legislature may authorize the Division of Facilities Construction and Management to enter into
62829 during its 1994 Annual General Session, the State Building Ownership Authority, at the
62830 reasonable rates and amounts it may determine, and with technical assistance from the state
62831 treasurer, the director of the Division of Finance, and the director of the Governor's Office of
62832 Planning and Budget, may seek out the most cost effective and prudent lease purchase plans
62833 available to the state and may, pursuant to [~~Title 63, Chapter 9a, State Building Ownership~~

62834 ~~Act~~] Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, certificate out
62835 interests in, or obligations of the authority pertaining to:
62836 (a) the lease purchase obligation; or
62837 (b) lease rental payments under the lease purchase obligation.
62838 (2) It is the intent of the Legislature that the Department of Transportation dispose of
62839 surplus real properties and use the proceeds from those properties to acquire or construct
62840 through the Division of Facilities Construction and Management a new District Two Complex.
62841 (3) It is the intent of the Legislature that the State Building Board allocate funds from
62842 the Capital Improvement appropriation and donations to cover costs associated with the
62843 upgrade of the Governor's Residence that go beyond the restoration costs which can be covered
62844 by insurance proceeds.
62845 (4) (a) It is the intent of the Legislature to authorize the State Building Ownership
62846 Authority under authority of [~~Title 63, Chapter 9a, State Building Ownership Act~~] Title 63B,
62847 Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or
62848 enter into or arrange for a lease purchase agreement in which participation interests may be
62849 created, to provide up to $10,600,000 for the construction of a Natural Resources Building in
62850 Salt Lake City, together with additional amounts necessary to:
62851 (i) pay costs of issuance;
62852 (ii) pay capitalized interest; and
62853 (iii) fund any debt service reserve requirements.
62854 (b) It is the intent of the Legislature that the authority seek out the most cost effective
62855 and prudent lease purchase plan available with technical assistance from the state treasurer, the
62856 director of the Division of Finance, and the director of the Governor's Office of Planning and
62857 Budget.
62858 (c) It is the intent of the Legislature that the operating budget for the Department of
62859 Natural Resources not be increased to fund these lease payments.
62860 (5) (a) It is the intent of the Legislature to authorize the State Building Ownership
62861 Authority under authority of [~~Title 63, Chapter 9a, State Building Ownership Act~~] Title 63B,
62862 Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or
62863 enter into or arrange for a lease purchase agreement in which participation interests may be
62864 created, to provide up to $8,300,000 for the acquisition of the office buildings currently

62865 occupied by the Department of Environmental Quality and approximately 19 acres of
62866 additional vacant land at the Airport East Business Park in Salt Lake City, together with
62867 additional amounts necessary to:
62868 (i) pay costs of issuance;
62869 (ii) pay capitalized interest; and
62870 (iii) fund any debt service reserve requirements.
62871 (b) It is the intent of the Legislature that the authority seek out the most cost effective
62872 and prudent lease purchase plan available with technical assistance from the state treasurer, the
62873 director of the Division of Finance, and the director of the Governor's Office of Planning and
62874 Budget.
62875 (6) (a) It is the intent of the Legislature to authorize the State Building Ownership
62876 Authority under authority of [~~Title 63, Chapter 9a, State Building Ownership Act~~] Title 63B,
62877 Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or
62878 enter into or arrange for a lease purchase agreement in which participation interests may be
62879 created, to provide up to $9,000,000 for the acquisition or construction of up to two field
62880 offices for the Department of Human Services in the southwestern portion of Salt Lake County,
62881 together with additional amounts necessary to:
62882 (i) pay costs of issuance;
62883 (ii) pay capitalized interest; and
62884 (iii) fund any debt service reserve requirements.
62885 (b) It is the intent of the Legislature that the authority seek out the most cost effective
62886 and prudent lease purchase plan available with technical assistance from the state treasurer, the
62887 director of the Division of Finance, and the director of the Governor's Office of Planning and
62888 Budget.
62889 (7) (a) It is the intent of the Legislature to authorize the State Building Ownership
62890 Authority under authority of [~~Title 63, Chapter 9a, State Building Ownership Act~~] Title 63B,
62891 Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or
62892 enter into or arrange for lease purchase agreements in which participation interests may be
62893 created, to provide up to $5,000,000 for the acquisition or construction of up to 13 stores for
62894 the Department of Alcoholic Beverage Control, together with additional amounts necessary to:
62895 (i) pay costs of issuance;

62896 (ii) pay capitalized interest; and
62897 (iii) fund any debt service reserve requirements.
62898 (b) It is the intent of the Legislature that the authority seek out the most cost effective
62899 and prudent lease purchase plan available with technical assistance from the state treasurer, the
62900 director of the Division of Finance, and the director of the Governor's Office of Planning and
62901 Budget.
62902 (c) It is the intent of the Legislature that the operating budget for the Department of
62903 Alcoholic Beverage Control not be increased to fund these lease payments.
62904 (8) (a) It is the intent of the Legislature to authorize the State Building Ownership
62905 Authority under authority of [~~Title 63, Chapter 9a, State Building Ownership Act~~] Title 63B,
62906 Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or
62907 enter into or arrange for a lease purchase agreement in which participation interests may be
62908 created, to provide up to $6,800,000 for the construction of a Prerelease and Parole Center for
62909 the Department of Corrections, containing a minimum of 300 beds, together with additional
62910 amounts necessary to:
62911 (i) pay costs of issuance;
62912 (ii) pay capitalized interest; and
62913 (iii) fund any debt service reserve requirements.
62914 (b) It is the intent of the Legislature that the authority seek out the most cost effective
62915 and prudent lease purchase plan available with technical assistance from the state treasurer, the
62916 director of the Division of Finance, and the director of the Governor's Office of Planning and
62917 Budget.
62918 (9) If S.B. 275, 1994 General Session, which authorizes funding for a Courts Complex
62919 in Salt Lake City, becomes law, it is the intent of the Legislature that:
62920 (a) the Legislative Management Committee, the Interim Appropriation Subcommittees
62921 for General Government and Capital Facilities and Executive Offices, Courts, and Corrections,
62922 the Office of the Legislative Fiscal Analyst, the Governor's Office of Planning and Budget, and
62923 the State Building Board participate in a review of the proposed facility design for the Courts
62924 Complex no later than December 1994; and
62925 (b) although this review will not affect the funding authorization issued by the 1994
62926 Legislature, it is expected that Division of Facilities Construction and Management will give

62927 proper attention to concerns raised in these reviews and make appropriate design changes
62928 pursuant to the review.
62929 (10) It is the intent of the Legislature that:
62930 (a) the Division of Facilities Construction and Management, in cooperation with the
62931 Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services,
62932 develop a flexible use prototype facility for the Division of Youth Corrections renamed in 2003
62933 to the Division of Juvenile Justice Services;
62934 (b) the development process use existing prototype proposals unless it can be
62935 quantifiably demonstrated that the proposals cannot be used;
62936 (c) the facility is designed so that with minor modifications, it can accommodate
62937 detention, observation and assessment, transition, and secure programs as needed at specific
62938 geographical locations;
62939 (d) (i) funding as provided in the fiscal year 1995 bond authorization for the Division
62940 of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services is used to
62941 design and construct one facility and design the other;
62942 (ii) the Division of Youth Corrections renamed in 2003 to the Division of Juvenile
62943 Justice Services shall:
62944 (A) determine the location for the facility for which design and construction are fully
62945 funded; and
62946 (B) in conjunction with the Division of Facilities Construction and Management,
62947 determine the best methodology for design and construction of the fully funded facility;
62948 (e) the Division of Facilities Construction and Management submit the prototype as
62949 soon as possible to the Capital Facilities and Administrative Services Appropriation
62950 Subcommittee and Executive Offices, Criminal Justice, and Legislature Appropriation
62951 Subcommittee for review;
62952 (f) the Division of Facilities Construction and Management issue a Request for
62953 Proposal for one of the facilities, with that facility designed and constructed entirely by the
62954 winning firm;
62955 (g) the other facility be designed and constructed under the existing Division of
62956 Facilities Construction and Management process;
62957 (h) that both facilities follow the program needs and specifications as identified by

62958 Division of Facilities Construction and Management and the Division of Youth Corrections
62959 renamed in 2003 to the Division of Juvenile Justice Services in the prototype; and
62960 (i) the fully funded facility should be ready for occupancy by September 1, 1995.
62961 (11) It is the intent of the Legislature that the fiscal year 1995 funding for the State Fair
62962 Park Master Study be used by the Division of Facilities Construction and Management to
62963 develop a master plan for the State Fair Park that:
62964 (a) identifies capital facilities needs, capital improvement needs, building
62965 configuration, and other long term needs and uses of the State Fair Park and its buildings; and
62966 (b) establishes priorities for development, estimated costs, and projected timetables.
62967 (12) It is the intent of the Legislature that:
62968 (a) the Division of Facilities Construction and Management, in cooperation with the
62969 Division of Parks and Recreation and surrounding counties, develop a master plan and general
62970 program for the phased development of Antelope Island;
62971 (b) the master plan:
62972 (i) establish priorities for development;
62973 (ii) include estimated costs and projected time tables; and
62974 (iii) include recommendations for funding methods and the allocation of
62975 responsibilities between the parties; and
62976 (c) the results of the effort be reported to the Natural Resources Appropriations
62977 Subcommittee and Capital Facilities and Administrative Services Appropriation
62978 Subcommittee.
62979 (13) It is the intent of the Legislature to authorize the University of Utah to use:
62980 (a) bond reserves to plan, design, and construct the Kingsbury Hall renovation under
62981 the supervision of the director of the Division of Facilities Construction and Management
62982 unless supervisory authority is delegated by the director; and
62983 (b) donated and other nonappropriated funds to plan, design, and construct the Biology
62984 Research Building under the supervision of the director of the Division of Facilities
62985 Construction and Management unless supervisory authority is delegated by the director.
62986 (14) It is the intent of the Legislature to authorize Utah State University to use:
62987 (a) federal and other funds to plan, design, and construct the Bee Lab under the
62988 supervision of the director of the Division of Facilities Construction and Management unless

62989 supervisory authority is delegated by the director;
62990 (b) donated and other nonappropriated funds to plan, design, and construct an Athletic
62991 Facility addition and renovation under the supervision of the director of the Division of
62992 Facilities Construction and Management unless supervisory authority is delegated by the
62993 director;
62994 (c) donated and other nonappropriated funds to plan, design, and construct a renovation
62995 to the Nutrition and Food Science Building under the supervision of the director of the
62996 Division of Facilities Construction and Management unless supervisory authority is delegated
62997 by the director; and
62998 (d) federal and private funds to plan, design, and construct the Millville Research
62999 Facility under the supervision of the director of the Division of Facilities Construction and
63000 Management unless supervisory authority is delegated by the director.
63001 (15) It is the intent of the Legislature to authorize Salt Lake Community College to use:
63002 (a) institutional funds to plan, design, and construct a remodel to the Auto Trades
63003 Office and Learning Center under the supervision of the director of the Division of Facilities
63004 Construction and Management unless supervisory authority is delegated by the director;
63005 (b) institutional funds to plan, design, and construct the relocation and expansion of a
63006 temporary maintenance compound under the supervision of the director of the Division of
63007 Facilities Construction and Management unless supervisory authority is delegated by the
63008 director; and
63009 (c) institutional funds to plan, design, and construct the Alder Amphitheater under the
63010 supervision of the director of the Division of Facilities Construction and Management unless
63011 supervisory authority is delegated by the director.
63012 (16) It is the intent of the Legislature to authorize Southern Utah University to use:
63013 (a) federal funds to plan, design, and construct a Community Services Building under
63014 the supervision of the director of the Division of Facilities Construction and Management
63015 unless supervisory authority is delegated by the director; and
63016 (b) donated and other nonappropriated funds to plan, design, and construct a stadium
63017 expansion under the supervision of the director of the Division of Facilities Construction and
63018 Management unless supervisory authority is delegated by the director.
63019 (17) It is the intent of the Legislature to authorize the Department of Corrections to use

63020 donated funds to plan, design, and construct a Prison Chapel at the Central Utah Correctional
63021 Facility in Gunnison under the supervision of the director of the Division of Facilities
63022 Construction and Management unless supervisory authority is delegated by the director.
63023 (18) If the Utah National Guard does not relocate in the Signetics Building, it is the
63024 intent of the Legislature to authorize the Guard to use federal funds and funds from Provo City
63025 to plan and design an Armory in Provo, Utah, under the supervision of the director of the
63026 Division of Facilities Construction and Management unless supervisory authority is delegated
63027 by the director.
63028 (19) It is the intent of the Legislature that the Utah Department of Transportation use
63029 $250,000 of the fiscal year 1995 highway appropriation to fund an environmental study in
63030 Ogden, Utah of the 2600 North Corridor between Washington Boulevard and I-15.
63031 (20) It is the intent of the Legislature that the Ogden-Weber Applied Technology
63032 Center use the monies appropriated for fiscal year 1995 to design the Metal Trades Building
63033 and purchase equipment for use in that building that could be used in metal trades or other
63034 programs in other Applied Technology Centers.
63035 (21) It is the intent of the Legislature that the Bridgerland Applied Technology Center
63036 and the Ogden-Weber Applied Technology Center projects as designed in fiscal year 1995 be
63037 considered as the highest priority projects for construction funding in fiscal year 1996.
63038 (22) It is the intent of the Legislature that:
63039 (a) the Division of Facilities Construction and Management complete physical space
63040 utilization standards by June 30, 1995, for the use of technology education activities;
63041 (b) these standards are to be developed with and approved by the State Office of
63042 Education, the Board of Regents, and the Utah State Building Board;
63043 (c) these physical standards be used as the basis for:
63044 (i) determining utilization of any technology space based on number of stations capable
63045 and occupied for any given hour of operation; and
63046 (ii) requests for any new space or remodeling;
63047 (d) the fiscal year 1995 projects at the Bridgerland Applied Technology Center and the
63048 Ogden-Weber Applied Technology Center are exempt from this process; and
63049 (e) the design of the Davis Applied Technology Center take into account the utilization
63050 formulas established by the Division of Facilities Construction and Management.

63051 (23) It is the intent of the Legislature that Utah Valley State College may use the
63052 monies from the bond allocated to the remodel of the Signetics building to relocate its technical
63053 education programs at other designated sites or facilities under the supervision of the director
63054 of the Division of Facilities Construction and Management unless supervisory authority is
63055 delegated by the director.
63056 (24) It is the intent of the Legislature that the monies provided for the fiscal year 1995
63057 project for the Bridgerland Applied Technology Center be used to design and construct the
63058 space associated with Utah State University and design the technology center portion of the
63059 project.
63060 (25) It is the intent of the Legislature that the governor provide periodic reports on the
63061 expenditure of the funds provided for electronic technology, equipment, and hardware to the
63062 Information Technology Commission, the Capital Facilities and Administrative Services
63063 Appropriation Subcommittee, and the Legislative Management Committee.
63064 Section 1240. Section **63B-4-102** is amended to read:
63065 **63B-4-102. Maximum amount -- Projects authorized.**
63066 (1) The total amount of bonds issued under this part may not exceed $45,300,000.
63067 (2) (a) Proceeds from the issuance of bonds shall be provided to the division to provide
63068 funds to pay all or part of the cost of acquiring and constructing the projects listed in this
63069 Subsection (2).
63070 (b) These costs may include the cost of acquiring land, interests in land, easements and
63071 rights-of-way, improving sites, and acquiring, constructing, equipping, and furnishing facilities
63072 and all structures, roads, parking facilities, utilities, and improvements necessary, incidental, or
63073 convenient to the facilities, interest estimated to accrue on these bonds during the period to be
63074 covered by construction of the projects plus a period of six months after the end of the
63075 construction period, and all related engineering, architectural, and legal fees.
63076 (c) For the division, proceeds shall be provided for the following:
63077 CAPITAL IMPROVEMENTS
63078 Alterations, Repairs, and Improvements $7,200,000
63079 TOTAL IMPROVEMENTS $7,200,000
63080 CAPITAL AND ECONOMIC DEVELOPMENT
63081 PROJECT AMOUNT ESTIMATED

DESCRIPTION	FUNDED	OPERATIONS AND MAINTENANCE COSTS
Corrections - Uinta IVA	$11,300,000	$212,800
Utah County Youth Correctional Facility	$6,650,000	$245,000
Ogden Weber Applied Technology Center - Metal Trades	$5,161,000	$176,000
Project Reserve Fund	$3,500,000	None
Weber State University - Browning Center Remodel	$3,300,000	None
Heber Wells Building Remodel	$2,000,000	None
Higher Education Davis County - Land Purchase	$1,600,000	None
National Guard -- Provo Armory	$1,500,000	$128,000
Department of Natural Resources - Pioneer Trails Visitor Center	$900,000	$65,000
Higher Education Design Projects	$800,000	Varies depending upon projects selected
Salt Lake Community College - South Valley Planning	$300,000	None
Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services - Logan Land Purchase	$120,000	None
TOTAL CAPITAL AND ECONOMIC DEVELOPMENT		$37,131,000
TOTAL IMPROVEMENTS AND CAPITAL AND ECONOMIC DEVELOPMENT		$44,331,000

(d) For purposes of this section, operations and maintenance costs:

(i) are estimates only;

63113 (ii) may include any operations and maintenance costs already funded in existing
63114 agency budgets; and
63115 (iii) are not commitments by this Legislature or future Legislatures to fund those
63116 operations and maintenance costs.
63117 (3) (a) The amounts funded as listed in Subsection (2) are estimates only and do not
63118 constitute a limitation on the amount that may be expended for any project.
63119 (b) The board may revise these estimates and redistribute the amount estimated for a
63120 project among the projects authorized.
63121 (c) The commission, by resolution and in consultation with the board, may delete one
63122 or more projects from this list if the inclusion of that project or those projects in the list could
63123 be construed to violate state law or federal law or regulation.
63124 (4) (a) The division may enter into agreements related to these projects before the
63125 receipt of proceeds of bonds issued under this chapter.
63126 (b) The division shall make those expenditures from unexpended and unencumbered
63127 building funds already appropriated to the Capital Projects Fund.
63128 (c) The division shall reimburse the Capital Projects Fund upon receipt of the proceeds
63129 of bonds issued under this chapter.
63130 (d) The commission may, by resolution, make any statement of intent relating to that
63131 reimbursement that is necessary or desirable to comply with federal tax law.
63132 (5) (a) For those projects for which only partial funding is provided in Subsection (2),
63133 it is the intent of the Legislature that the balance necessary to complete the projects be
63134 addressed by future Legislatures, either through appropriations or through the issuance or sale
63135 of bonds.
63136 (b) For those phased projects, the division may enter into contracts for amounts not to
63137 exceed the anticipated full project funding but may not allow work to be performed on those
63138 contracts in excess of the funding already authorized by the Legislature.
63139 (c) Those contracts shall contain a provision for termination of the contract for the
63140 convenience of the state as required by Section [~~63-56-601~~] 63G-6-601.
63141 (d) It is also the intent of the Legislature that this authorization to the division does not
63142 bind future Legislatures to fund projects initiated from this authorization.
63143 Section 1241. Section **63B-4-105** is amended to read:

63144 **63B-4-105. Terms and conditions of sale -- Plan of financing -- Signatures --**
63145 **Replacement -- Registration -- Federal rebate.**
63146 (1) In the issuance of bonds, the commission may determine by resolution:
63147 (a) the manner of sale, including public or private sale;
63148 (b) the terms and conditions of sale, including price, whether at, below, or above face
63149 value;
63150 (c) denominations;
63151 (d) form;
63152 (e) manner of execution;
63153 (f) manner of authentication;
63154 (g) place and medium of purchase;
63155 (h) redemption terms; and
63156 (i) other provisions and details it considers appropriate.
63157 (2) The commission may by resolution adopt a plan of financing, which may include
63158 terms and conditions of arrangements entered into by the commission on behalf of the state
63159 with financial and other institutions for letters of credit, standby letters of credit,
63160 reimbursement agreements, and remarketing, indexing, and tender agent agreements to secure
63161 the bonds, including payment from any legally available source of fees, charges, or other
63162 amounts coming due under the agreements entered into by the commission.
63163 (3) (a) Any signature of a public official authorized by resolution of the commission to
63164 sign the bonds may be a facsimile signature of that official imprinted, engraved, stamped, or
63165 otherwise placed on the bonds.
63166 (b) If all signatures of public officials on the bonds are facsimile signatures, provision
63167 shall be made for a manual authenticating signature on the bonds by or on behalf of a
63168 designated authentication agent.
63169 (c) If an official ceases to hold office before delivery of the bonds signed by that
63170 official, the signature or facsimile signature of the official is nevertheless valid for all purposes.
63171 (d) A facsimile of the state seal may be imprinted, engraved, stamped, or otherwise
63172 placed on the bonds.
63173 (4) (a) The commission may enact resolutions providing for the replacement of lost,
63174 destroyed, or mutilated bonds, or for the exchange of bonds after issuance for bonds of smaller

63175 or larger denominations.
63176 (b) Bonds in changed denominations shall:
63177 (i) be exchanged for the original bonds in like aggregate principal amounts and in a
63178 manner that prevents the duplication of interest; and
63179 (ii) bear interest at the same rate, mature on the same date, and be as nearly as
63180 practicable in the form of the original bonds.
63181 (5) (a) Bonds may be registered as to both principal and interest or may be in a book
63182 entry form under which the right to principal and interest may be transferred only through a
63183 book entry.
63184 (b) The commission may provide for the services and payment for the services of one
63185 or more financial institutions or other entities or persons, or nominees, within or outside the
63186 state, for the authentication, registration, transfer, including record, bookkeeping, or book entry
63187 functions, exchange, and payment of the bonds.
63188 (c) The records of ownership, registration, transfer, and exchange of the bonds, and of
63189 persons to whom payment with respect to the obligations is made, are private records as
63190 provided in Section [~~63-2-302~~] 63G-2-302 or protected records as provided in Section
63191 [~~63-2-304~~] 63G-2-305.
63192 (d) The bonds and any evidences of participation interest in the bonds may be issued,
63193 executed, authenticated, registered, transferred, exchanged, and otherwise made to comply with
63194 Title 15, Chapter 7, Registered Public Obligations Act, or any other act of the Legislature
63195 relating to the registration of obligations enacted to meet the requirements of Section 149 of the
63196 Internal Revenue Code of 1986, as amended, or any successor to it, and applicable regulations.
63197 (6) The commission may:
63198 (a) by resolution, provide for payment to the United States of whatever amounts are
63199 necessary to comply with Section 148 (f) of the Internal Revenue Code of 1986, as amended;
63200 and
63201 (b) enter into agreements with financial and other institutions and attorneys to provide
63202 for:
63203 (i) the calculation, holding, and payment of those amounts; and
63204 (ii) payment from any legally available source of fees, charges, or other amounts
63205 coming due under any agreements entered into by the commission.

63206 Section 1242. Section **63B-4-201** is amended to read:
63207 **63B-4-201. Legislative intent statements -- Capital facilities.**
63208 (1) (a) It is the intent of the Legislature that the University of Utah use institutional and
63209 other funds to plan, design, and construct two campus child care centers under the supervision
63210 of the director of the Division of Facilities Construction and Management unless supervisory
63211 authority is delegated by the director.
63212 (b) The university shall work with Salt Lake City and the surrounding neighborhood to
63213 ensure site compatibility for future recreational development by the city.
63214 (2) It is the intent of the Legislature that the University of Utah use institutional funds
63215 to plan, design, and construct:
63216 (a) the Union Parking structure under the supervision of the director of the Division of
63217 Facilities Construction and Management unless supervisory authority is delegated by the
63218 director;
63219 (b) the stadium renovation under the supervision of the director of the Division of
63220 Facilities Construction and Management unless supervisory authority is delegated by the
63221 director;
63222 (c) the Huntsman Cancer Institute under the supervision of the director of the Division
63223 of Facilities Construction and Management unless supervisory authority is delegated by the
63224 director;
63225 (d) the Business Case Method Building under the supervision of the director of the
63226 Division of Facilities Construction and Management unless supervisory authority is delegated
63227 by the director; and
63228 (e) the Fine Arts Museum expansion under the supervision of the director of the
63229 Division of Facilities Construction and Management unless supervisory authority is delegated
63230 by the director.
63231 (3) It is the intent of the Legislature that Utah State University use institutional funds to
63232 plan, design, and construct:
63233 (a) a student health services facility under the supervision of the director of the
63234 Division of Facilities Construction and Management unless supervisory authority is delegated
63235 by the director;
63236 (b) a women's softball field under the supervision of the director of the Division of

63237 Facilities Construction and Management unless supervisory authority is delegated by the
63238 director;
63239 (c) an addition to the Nutrition and Food Services Building under the supervision of
63240 the director of the Division of Facilities Construction and Management unless supervisory
63241 authority is delegated by the director; and
63242 (d) a Human Resource Research Center under the supervision of the director of the
63243 Division of Facilities Construction and Management unless supervisory authority is delegated
63244 by the director.
63245 (4) It is the intent of the Legislature that Weber State University use institutional funds
63246 to plan, design, and construct:
63247 (a) a track renovation under the supervision of the director of the Division of Facilities
63248 Construction and Management unless supervisory authority is delegated by the director; and
63249 (b) the Dee Events Center offices under the supervision of the director of the Division
63250 of Facilities Construction and Management unless supervisory authority is delegated by the
63251 director.
63252 (5) It is the intent of the Legislature that Southern Utah University use:
63253 (a) institutional funds to plan, design, and construct an institutional residence under the
63254 supervision of the director of the Division of Facilities Construction and Management unless
63255 supervisory authority is delegated by the director; and
63256 (b) project revenues and other funds to plan, design, and construct the Shakespearean
63257 Festival support facilities under the supervision of the director of the Division of Facilities
63258 Construction and Management unless supervisory authority is delegated by the director.
63259 (6) It is the intent of the Legislature that Dixie College use institutional funds to plan,
63260 design, and construct an institutional residence under the supervision of the director of the
63261 Division of Facilities Construction and Management unless supervisory authority is delegated
63262 by the director.
63263 (7) It is the intent of the Legislature that the Division of Forestry, Fire and State Lands
63264 use federal and other funds to plan, design, and construct a wetlands enhancement facility
63265 under the supervision of the director of the Division of Facilities Construction and
63266 Management unless supervisory authority is delegated by the director.
63267 (8) (a) As provided in Subsection 63A-5-209(2), the funds appropriated to the Project

63268 Reserve Fund may only be used for the award of contracts in excess of the construction budget
63269 if these funds are required to meet the intent of the project.
63270 (b) It is the intent of the Legislature that:
63271 (i) up to $2,000,000 of the amount may be used to award the construction contract for
63272 the Ogden Court Building; and
63273 (ii) the need for any funds remaining as of December 31, 1995 be reviewed by the 1996
63274 Legislature.
63275 (9) (a) It is the intent of the Legislature that the State Building Ownership Authority,
63276 under authority of [~~Title 63, Chapter 9a, State Building Ownership Act~~] Title 63B, Chapter 1,
63277 Part 3, State Building Ownership Authority Act, issue or execute obligations or enter into or
63278 arrange for a lease purchase agreement in which participation interests may be created to
63279 provide up to $539,700 for the purchase and demolition of the Keyston property and
63280 construction of parking facilities adjacent to the State Office of Education Building in Salt
63281 Lake City, with additional amounts necessary to:
63282 (i) pay costs of issuance;
63283 (ii) pay capitalized interest; and
63284 (iii) fund any debt service reserve requirements.
63285 (b) It is the intent of the Legislature that the authority seek out the most cost effective
63286 and prudent lease purchase plan available with technical assistance from the state treasurer, the
63287 director of the Division of Finance, and the director of the Governor's Office of Planning and
63288 Budget.
63289 (10) (a) It is the intent of the Legislature that the monies appropriated for Phase One of
63290 the Remodeling/Life Safety Upgrades of the Browning Fine Arts Center at Weber State
63291 University is to include design of full code compliance, life safety, space necessary to maintain
63292 required programs, and seismic upgrades.
63293 (b) The design shall identify the full scope and cost of Phase Two of the remodeling for
63294 funding consideration in the fiscal year 1997 budget cycle.
63295 (11) It is the intent of the Legislature that:
63296 (a) the fiscal year 1996 appropriation for the Davis County Higher Education land
63297 purchase includes up to $250,000 for planning purposes;
63298 (b) the Division of Facilities Construction and Management, the Board of Regents, and

63299 the assigned institution of higher education work jointly to ensure the following elements are
63300 part of the planning process:
63301 (i) projections of student enrollment and programmatic needs for the next ten years;
63302 (ii) review and make recommendations for better use of existing space, current
63303 technologies, public/private partnerships, and other alternatives as a means to reduce the need
63304 for new facilities and still accommodate the projected student needs; and
63305 (iii) use of a master plan that includes issues of utilities, access, traffic circulation,
63306 drainage, rights of way, future developments, and other infrastructure items considered
63307 appropriate; and
63308 (c) every effort is used to minimize expenditures for this part until a definitive decision
63309 has been made by BRACC relative to Hill Air Force Base.
63310 (12) (a) It is the intent of the Legislature that the State Building Ownership Authority,
63311 under authority of [~~Title 63, Chapter 9a, State Building Ownership Act~~] Title 63B, Chapter 1,
63312 Part 3, State Building Ownership Authority Act, issue or execute obligations or enter into or
63313 arrange for a lease purchase agreement in which participation interests may be created, to
63314 provide up to $7,400,000 for the acquisition and improvement of the Human Services Building
63315 located at 120 North 200 West, Salt Lake City, Utah, with associated parking for the
63316 Department of Human Services together with additional amounts necessary to:
63317 (i) pay costs of issuance;
63318 (ii) pay capitalized interest; and
63319 (iii) fund any debt service reserve requirements.
63320 (b) It is the intent of the Legislature that the authority seek out the most cost effective
63321 and prudent lease purchase plan available with technical assistance from the state treasurer, the
63322 director of the Division of Finance, and the director of the Governor's Office of Planning and
63323 Budget.
63324 (13) (a) It is the intent of the Legislature that the State Building Ownership Authority,
63325 under authority of [~~Title 63, Chapter 9a, State Building Ownership Act~~] Title 63B, Chapter 1,
63326 Part 3, State Building Ownership Authority Act, issue or execute obligations or enter into or
63327 arrange for a lease purchase agreement in which participation interests may be created to
63328 provide up to $63,218,600 for the construction of a Salt Lake Courts Complex together with
63329 additional amounts necessary to:

63330 (i) pay costs of issuance;
63331 (ii) pay capitalized interest; and
63332 (iii) fund any debt service reserve requirements.
63333 (b) It is the intent of the Legislature that the authority seek out the most cost effective
63334 and prudent lease purchase plan available with technical assistance from the state treasurer, the
63335 director of the Division of Finance, and the director of the Governor's Office of Planning and
63336 Budget.
63337 (c) It is the intent of the Legislature that the Division of Facilities Construction and
63338 Management lease land to the State Building Ownership Authority for the construction of a
63339 Salt Lake Courts Complex.
63340 (14) It is the intent of the Legislature that:
63341 (a) the Board of Regents use the higher education design project monies to design no
63342 more than two higher education projects from among the following projects:
63343 (i) College of Eastern Utah - Student Center;
63344 (ii) Snow College - Noyes Building;
63345 (iii) University of Utah - Gardner Hall;
63346 (iv) Utah State University - Widtsoe Hall; or
63347 (v) Southern Utah University - Physical Education Building; and
63348 (b) the higher education institutions that receive approval from the Board of Regents to
63349 design projects under this chapter design those projects under the supervision of the director of
63350 the Division of Facilities Construction and Management unless supervisory authority is
63351 delegated by the director.
63352 (15) It is the intent of the Legislature that:
63353 (a) the Board of Regents may authorize the University of Utah to use institutional
63354 funds and donated funds to design Gardner Hall; and
63355 (b) if authorized by the Board of Regents, the University of Utah may use institutional
63356 funds and donated funds to design Gardner Hall under the supervision of the director of the
63357 Division of Facilities Construction and Management unless supervisory authority is delegated
63358 by the director.
63359 (16) It is the intent of the Legislature that the Division of Facilities Construction and
63360 Management use up to $250,000 of the capital improvement monies to fund the site

63361 improvements required at the San Juan campus of the College of Eastern Utah.
63362 Section 1243. Section **63B-4-301** is amended to read:
63363 **63B-4-301. Bonds for golf course at Wasatch Mountain State Park.**
63364 (1) The State Building Ownership Authority under authority of Title 63, Chapter 9a,
63365 State Building Ownership Authority Act, may issue or execute obligations, or enter into or
63366 arrange for a lease purchase agreement in which participation interests may be created, to
63367 provide up to $2,500,000 for a new nine-hole golf course at Wasatch Mountain State Park for
63368 the Division of Parks and Recreation, together with additional amounts necessary to:
63369 (a) pay costs of issuance;
63370 (b) pay capitalized interest; and
63371 (c) fund any debt service reserve requirements.
63372 (2) (a) The State Building Ownership Authority shall work cooperatively with the
63373 Division of Parks and Recreation to seek out the most cost effective and prudent lease purchase
63374 plan available.
63375 (b) The state treasurer, the director of the Division of Finance, and the director of the
63376 Governor's Office of Planning and Budget shall provide technical assistance to accomplish the
63377 purpose specified in Subsection (2)(a).
63378 Section 1244. Section **63B-5-102** is amended to read:
63379 **63B-5-102. Maximum amount -- Projects authorized.**
63380 (1) The total amount of bonds issued under this part may not exceed $32,000,000.
63381 (2) (a) Proceeds from the issuance of bonds shall be provided to the division to provide
63382 funds to pay all or part of the cost of acquiring and constructing the projects listed in this
63383 Subsection (2).
63384 (b) These costs may include the cost of acquiring land, interests in land, easements and
63385 rights-of-way, improving sites, and acquiring, constructing, equipping, and furnishing facilities
63386 and all structures, roads, parking facilities, utilities, and improvements necessary, incidental, or
63387 convenient to the facilities, interest estimated to accrue on these bonds during the period to be
63388 covered by construction of the projects plus a period of six months after the end of the
63389 construction period, and all related engineering, architectural, and legal fees.
63390 (c) For the division, proceeds shall be provided for the following:
63391 CAPITAL IMPROVEMENTS

63392 Alterations, Repairs, and Improvements $7,600,000
63393 TOTAL IMPROVEMENTS $7,600,000
63394 CAPITAL AND ECONOMIC DEVELOPMENT

PROJECT DESCRIPTION	AMOUNT FUNDED	ESTIMATED OPERATIONS AND MAINTENANCE COSTS
Corrections - Gunnison (192 Beds)	$13,970,000	$210,000
University of Utah -- Gardner Hall	$7,361,000	$203,900
Weber State University Davis Campus -- Land Purchase	$771,000	None
Department of Workforce Services Cedar City -- Land Purchase	$148,000	None
College of Eastern Utah Durrant School -- Land Purchase	$400,000	None
State Hospital - Forensic Design (200 beds)	$750,000	$575,000
TOTAL CAPITAL AND ECONOMIC DEVELOPMENT	$23,400,000	
TOTAL IMPROVEMENTS AND CAPITAL AND ECONOMIC DEVELOPMENT	$31,000,000	

(d) For purposes of this section, operations and maintenance costs:
(i) are estimates only;
(ii) may include any operations and maintenance costs already funded in existing agency budgets; and
(iii) are not commitments by this Legislature or future Legislatures to fund those operations and maintenance costs.
(3) (a) The amounts funded as listed in Subsection (2) are estimates only and do not constitute a limitation on the amount that may be expended for any project.
(b) The board may revise these estimates and redistribute the amount estimated for a project among the projects authorized.
(c) The commission, by resolution and in consultation with the board, may delete one or more projects from this list if the inclusion of that project or those projects in the list could

63423 be construed to violate state law or federal law or regulation.
63424 (4) (a) The division may enter into agreements related to these projects before the
63425 receipt of proceeds of bonds issued under this chapter.
63426 (b) The division shall make those expenditures from unexpended and unencumbered
63427 building funds already appropriated to the Capital Projects Fund.
63428 (c) The division shall reimburse the Capital Projects Fund upon receipt of the proceeds
63429 of bonds issued under this chapter.
63430 (d) The commission may, by resolution, make any statement of intent relating to that
63431 reimbursement that is necessary or desirable to comply with federal tax law.
63432 (5) (a) For those projects for which only partial funding is provided in Subsection (2),
63433 it is the intent of the Legislature that the balance necessary to complete the projects be
63434 addressed by future Legislatures, either through appropriations or through the issuance or sale
63435 of bonds.
63436 (b) For those phased projects, the division may enter into contracts for amounts not to
63437 exceed the anticipated full project funding but may not allow work to be performed on those
63438 contracts in excess of the funding already authorized by the Legislature.
63439 (c) Those contracts shall contain a provision for termination of the contract for the
63440 convenience of the state as required by Section [~~63-56-601~~] 63G-6-601.
63441 (d) It is also the intent of the Legislature that this authorization to the division does not
63442 bind future Legislatures to fund projects initiated from this authorization.
63443 Section 1245. Section **63B-5-105** is amended to read:
63444 **63B-5-105. Terms and conditions of sale -- Plan of financing -- Signatures --**
63445 **Replacement -- Registration -- Federal rebate.**
63446 (1) In the issuance of bonds, the commission may determine by resolution:
63447 (a) the manner of sale, including public or private sale;
63448 (b) the terms and conditions of sale, including price, whether at, below, or above face
63449 value;
63450 (c) denominations;
63451 (d) form;
63452 (e) manner of execution;
63453 (f) manner of authentication;

63454 (g) place and medium of purchase;
63455 (h) redemption terms; and
63456 (i) other provisions and details it considers appropriate.
63457 (2) The commission may by resolution adopt a plan of financing, which may include
63458 terms and conditions of arrangements entered into by the commission on behalf of the state
63459 with financial and other institutions for letters of credit, standby letters of credit,
63460 reimbursement agreements, and remarketing, indexing, and tender agent agreements to secure
63461 the bonds, including payment from any legally available source of fees, charges, or other
63462 amounts coming due under the agreements entered into by the commission.
63463 (3) (a) Any signature of a public official authorized by resolution of the commission to
63464 sign the bonds may be a facsimile signature of that official imprinted, engraved, stamped, or
63465 otherwise placed on the bonds.
63466 (b) If all signatures of public officials on the bonds are facsimile signatures, provision
63467 shall be made for a manual authenticating signature on the bonds by or on behalf of a
63468 designated authentication agent.
63469 (c) If an official ceases to hold office before delivery of the bonds signed by that
63470 official, the signature or facsimile signature of the official is nevertheless valid for all purposes.
63471 (d) A facsimile of the state seal may be imprinted, engraved, stamped, or otherwise
63472 placed on the bonds.
63473 (4) (a) The commission may enact resolutions providing for the replacement of lost,
63474 destroyed, or mutilated bonds, or for the exchange of bonds after issuance for bonds of smaller
63475 or larger denominations.
63476 (b) Bonds in changed denominations shall:
63477 (i) be exchanged for the original bonds in like aggregate principal amounts and in a
63478 manner that prevents the duplication of interest; and
63479 (ii) bear interest at the same rate, mature on the same date, and be as nearly as
63480 practicable in the form of the original bonds.
63481 (5) (a) Bonds may be registered as to both principal and interest or may be in a book
63482 entry form under which the right to principal and interest may be transferred only through a
63483 book entry.
63484 (b) The commission may provide for the services and payment for the services of one

63485 or more financial institutions or other entities or persons, or nominees, within or outside the
63486 state, for the authentication, registration, transfer, including record, bookkeeping, or book entry
63487 functions, exchange, and payment of the bonds.
63488 (c) The records of ownership, registration, transfer, and exchange of the bonds, and of
63489 persons to whom payment with respect to the obligations are made, are private records as
63490 provided in Section [~~63-2-302~~] 63G-2-302 or protected records as provided in Section
63491 [~~63-2-304~~] 63G-2-305.
63492 (d) The bonds and any evidences of participation interest in the bonds may be issued,
63493 executed, authenticated, registered, transferred, exchanged, and otherwise made to comply with
63494 Title 15, Chapter 7, Registered Public Obligations Act, or any other act of the Legislature
63495 relating to the registration of obligations enacted to meet the requirements of Section 149 of the
63496 Internal Revenue Code of 1986, as amended, or any successor to it, and applicable regulations.
63497 (6) The commission may:
63498 (a) by resolution, provide for payment to the United States of whatever amounts are
63499 necessary to comply with Section 148 (f) of the Internal Revenue Code of 1986, as amended;
63500 and
63501 (b) enter into agreements with financial and other institutions and attorneys to provide
63502 for:
63503 (i) the calculation, holding, and payment of those amounts; and
63504 (ii) payment from any legally available source of fees, charges, or other amounts
63505 coming due under any agreements entered into by the commission.
63506 Section 1246. Section **63B-6-102** is amended to read:
63507 **63B-6-102. Maximum amount -- Projects authorized.**
63508 (1) The total amount of bonds issued under this part may not exceed $57,000,000.
63509 (2) (a) Proceeds from the issuance of bonds shall be provided to the division to provide
63510 funds to pay all or part of the cost of acquiring and constructing the projects listed in this
63511 Subsection (2).
63512 (b) These costs may include the cost of acquiring land, interests in land, easements and
63513 rights-of-way, improving sites, and acquiring, constructing, equipping, and furnishing facilities
63514 and all structures, roads, parking facilities, utilities, and improvements necessary, incidental, or
63515 convenient to the facilities, interest estimated to accrue on these bonds during the period to be

63516 covered by construction of the projects plus a period of six months after the end of the
63517 construction period, and all related engineering, architectural, and legal fees.
63518 (c) For the division, proceeds shall be provided for the following:
63519 CAPITAL AND ECONOMIC DEVELOPMENT

63520		ESTIMATED
63521		OPERATIONS
63522	AMOUNT	AND
63523 PROJECT DESCRIPTION	FUNDED	MAINTENANCE
63524 Youth Corrections - Carbon / Emery (18 beds)	$2,298,100	$70,000
63525 State Hospital - 100 bed Forensic Facility	$13,800,700	$320,600
63526 Utah State University - Widtsoe Hall	$23,986,700	$750,200
63527 Davis Applied Technology Center	$6,344,900	$144,000
63528 - Medical/Health Tech Addition		
63529 Southern Utah University -- Physical	$1,100,000	$456,100
63530 Education Building (Design)		
63531 Salt Lake Community College -- High	$1,165,000	$718,500
63532 Technology Building, 90th So. Campus (Design)		
63533 Department of Natural Resources - Antelope	$3,600,000	None
63534 Island Road		
63535 Youth Corrections	$1,500,000	None
63536 - Region 1 72 Secured Bed Facility		
63537 Department of Natural Resources - Dead Horse	$1,350,000	$5,700
63538 Point Visitors Center		
63539 TOTAL CAPITAL AND ECONOMIC	$55,145,400	
63540 DEVELOPMENT		

63541 (d) For purposes of this section, operations and maintenance costs:
63542 (i) are estimates only;
63543 (ii) may include any operations and maintenance costs already funded in existing
63544 agency budgets; and
63545 (iii) are not commitments by this Legislature or future Legislatures to fund those
63546 operations and maintenance costs.

63547 (3) (a) The amounts funded as listed in Subsection (2) are estimates only and do not
63548 constitute a limitation on the amount that may be expended for any project.
63549 (b) The board may revise these estimates and redistribute the amount estimated for a
63550 project among the projects authorized.
63551 (c) The commission, by resolution and in consultation with the board, may delete one
63552 or more projects from this list if the inclusion of that project or those projects in the list could
63553 be construed to violate state law or federal law or regulation.
63554 (4) (a) The division may enter into agreements related to these projects before the
63555 receipt of proceeds of bonds issued under this chapter.
63556 (b) The division shall make those expenditures from unexpended and unencumbered
63557 building funds already appropriated to the Capital Projects Fund.
63558 (c) The division shall reimburse the Capital Projects Fund upon receipt of the proceeds
63559 of bonds issued under this chapter.
63560 (d) The commission may, by resolution, make any statement of intent relating to that
63561 reimbursement that is necessary or desirable to comply with federal tax law.
63562 (5) (a) For those projects for which only partial funding is provided in Subsection (2),
63563 it is the intent of the Legislature that the balance necessary to complete the projects be
63564 addressed by future Legislatures, either through appropriations or through the issuance or sale
63565 of bonds.
63566 (b) For those phased projects, the division may enter into contracts for amounts not to
63567 exceed the anticipated full project funding but may not allow work to be performed on those
63568 contracts in excess of the funding already authorized by the Legislature.
63569 (c) Those contracts shall contain a provision for termination of the contract for the
63570 convenience of the state as required by Section [~~63-56-601~~] 63G-6-601.
63571 (d) It is also the intent of the Legislature that this authorization to the division does not
63572 bind future Legislatures to fund projects initiated from this authorization.
63573 Section 1247. Section **63B-6-105** is amended to read:
63574 **63B-6-105. Terms and conditions of sale -- Plan of financing -- Signatures --**
63575 **Replacement -- Registration -- Federal rebate.**
63576 (1) In the issuance of bonds, the commission may determine by resolution:
63577 (a) the manner of sale, including public or private sale;

63578 (b) the terms and conditions of sale, including price, whether at, below, or above face
63579 value;
63580 (c) denominations;
63581 (d) form;
63582 (e) manner of execution;
63583 (f) manner of authentication;
63584 (g) place and medium of purchase;
63585 (h) redemption terms; and
63586 (i) other provisions and details it considers appropriate.
63587 (2) The commission may by resolution adopt a plan of financing, which may include
63588 terms and conditions of arrangements entered into by the commission on behalf of the state
63589 with financial and other institutions for letters of credit, standby letters of credit,
63590 reimbursement agreements, and remarketing, indexing, and tender agent agreements to secure
63591 the bonds, including payment from any legally available source of fees, charges, or other
63592 amounts coming due under the agreements entered into by the commission.
63593 (3) (a) Any signature of a public official authorized by resolution of the commission to
63594 sign the bonds may be a facsimile signature of that official imprinted, engraved, stamped, or
63595 otherwise placed on the bonds.
63596 (b) If all signatures of public officials on the bonds are facsimile signatures, provision
63597 shall be made for a manual authenticating signature on the bonds by or on behalf of a
63598 designated authentication agent.
63599 (c) If an official ceases to hold office before delivery of the bonds signed by that
63600 official, the signature or facsimile signature of the official is nevertheless valid for all purposes.
63601 (d) A facsimile of the state seal may be imprinted, engraved, stamped, or otherwise
63602 placed on the bonds.
63603 (4) (a) The commission may enact resolutions providing for the replacement of lost,
63604 destroyed, or mutilated bonds, or for the exchange of bonds after issuance for bonds of smaller
63605 or larger denominations.
63606 (b) Bonds in changed denominations shall:
63607 (i) be exchanged for the original bonds in like aggregate principal amounts and in a
63608 manner that prevents the duplication of interest; and

63609 (ii) bear interest at the same rate, mature on the same date, and be as nearly as
63610 practicable in the form of the original bonds.
63611 (5) (a) Bonds may be registered as to both principal and interest or may be in a book
63612 entry form under which the right to principal and interest may be transferred only through a
63613 book entry.
63614 (b) The commission may provide for the services and payment for the services of one
63615 or more financial institutions or other entities or persons, or nominees, within or outside the
63616 state, for the authentication, registration, transfer, including record, bookkeeping, or book entry
63617 functions, exchange, and payment of the bonds.
63618 (c) The records of ownership, registration, transfer, and exchange of the bonds, and of
63619 persons to whom payment with respect to the obligations are made, are private records as
63620 provided in Section [~~63-2-302~~] 63G-2-302 or protected records as provided in Section
63621 [~~63-2-304~~] 63G-2-305.
63622 (d) The bonds and any evidences of participation interest in the bonds may be issued,
63623 executed, authenticated, registered, transferred, exchanged, and otherwise made to comply with
63624 Title 15, Chapter 7, Registered Public Obligations Act, or any other act of the Legislature
63625 relating to the registration of obligations enacted to meet the requirements of Section 149 of the
63626 Internal Revenue Code of 1986, as amended, or any successor to it, and applicable regulations.
63627 (6) The commission may:
63628 (a) by resolution, provide for payment to the United States of whatever amounts are
63629 necessary to comply with Section 148 (f) of the Internal Revenue Code of 1986, as amended;
63630 and
63631 (b) enter into agreements with financial and other institutions and attorneys to provide
63632 for:
63633 (i) the calculation, holding, and payment of those amounts; and
63634 (ii) payment from any legally available source of fees, charges, or other amounts
63635 coming due under any agreements entered into by the commission.
63636 Section 1248. Section **63B-6-205** is amended to read:
63637 **63B-6-205. Terms and conditions of sale -- Plan of financing -- Signatures --**
63638 **Replacement -- Registration -- Federal rebate.**
63639 (1) In the issuance of bonds, the commission may determine by resolution:

63640 (a) the manner of sale, including public or private sale;
63641 (b) the terms and conditions of sale, including price, whether at, below, or above face
63642 value;
63643 (c) denominations;
63644 (d) form;
63645 (e) manner of execution;
63646 (f) manner of authentication;
63647 (g) place and medium of purchase;
63648 (h) redemption terms; and
63649 (i) other provisions and details it considers appropriate.
63650 (2) The commission may, by resolution, adopt a plan of financing, which may include
63651 terms and conditions of arrangements entered into by the commission on behalf of the state
63652 with financial and other institutions for letters of credit, standby letters of credit,
63653 reimbursement agreements, and remarketing, indexing, and tender agent agreements to secure
63654 the bonds, including payment from any legally available source of fees, charges, or other
63655 amounts coming due under the agreements entered into by the commission.
63656 (3) (a) Any signature of a public official authorized by resolution of the commission to
63657 sign the bonds may be a facsimile signature of that official imprinted, engraved, stamped, or
63658 otherwise placed on the bonds.
63659 (b) If all signatures of public officials on the bonds are facsimile signatures, provision
63660 shall be made for a manual authenticating signature on the bonds by or on behalf of a
63661 designated authentication agent.
63662 (c) If an official ceases to hold office before delivery of the bonds signed by that
63663 official, the signature or facsimile signature of the official is nevertheless valid for all purposes.
63664 (d) A facsimile of the state seal may be imprinted, engraved, stamped, or otherwise
63665 placed on the bonds.
63666 (4) (a) The commission may enact resolutions providing for the replacement of lost,
63667 destroyed, or mutilated bonds, or for the exchange of bonds after issuance for bonds of smaller
63668 or larger denominations.
63669 (b) Bonds in changed denominations shall:
63670 (i) be exchanged for the original bonds in like aggregate principal amounts and in a

63671 manner that prevents the duplication of interest; and
63672 (ii) bear interest at the same rate, mature on the same date, and be as nearly as
63673 practicable in the form of the original bonds.
63674 (5) (a) Bonds may be registered as to both principal and interest or may be in a book
63675 entry form under which the right to principal and interest may be transferred only through a
63676 book entry.
63677 (b) The commission may provide for the services and payment for the services of one
63678 or more financial institutions or other entities or persons, or nominees, within or outside the
63679 state, for the authentication, registration, transfer, including record, bookkeeping, or book entry
63680 functions, exchange, and payment of the bonds.
63681 (c) The records of ownership, registration, transfer, and exchange of the bonds, and of
63682 persons to whom payment with respect to the obligations is made, are private records as
63683 provided in Section [~~63-2-302~~] 63G-2-302, or protected records as provided in Section
63684 [~~63-2-304~~] 63G-2-305.
63685 (d) The bonds and any evidences of participation interest in the bonds may be issued,
63686 executed, authenticated, registered, transferred, exchanged, and otherwise made to comply with
63687 Title 15, Chapter 7, Registered Public Obligations Act, or any other act of the Legislature
63688 relating to the registration of obligations enacted to meet the requirements of Section 149 of the
63689 Internal Revenue Code of 1986, as amended, or any successor to it, and applicable regulations.
63690 (6) The commission may:
63691 (a) by resolution, provide for payment to the United States of whatever amounts are
63692 necessary to comply with Section 148 (f) of the Internal Revenue Code of 1986, as amended;
63693 and
63694 (b) enter into agreements with financial and other institutions and attorneys to provide
63695 for:
63696 (i) the calculation, holding, and payment of those amounts; and
63697 (ii) payment from any legally available source of fees, charges, or other amounts
63698 coming due under any agreements entered into by the commission.
63699 Section 1249. Section **63B-6-402** is amended to read:
63700 **63B-6-402. Maximum amount -- Projects authorized.**
63701 (1) The total amount of bonds issued under this part may not exceed $9,000,000.

63702 (2) (a) Proceeds from the issuance of bonds shall be provided to the State Tax
63703 Commission to provide funds to pay all or part of the cost of the project described in this
63704 Subsection (2).
63705 (b) These costs may include:
63706 (i) the cost of acquisition, development, and conversion of computer hardware and
63707 software for motor vehicle fee systems and tax collection and accounting systems of the state;
63708 (ii) interest estimated to accrue on these bonds during the period to be covered by that
63709 development and conversion, plus a period of six months following the completion of the
63710 development and conversion; and
63711 (iii) all related engineering, consulting, and legal fees.
63712 (c) For the State Tax Commission, proceeds shall be provided for the following:

63713 PROJECT	AMOUNT
63714 DESCRIPTION	FUNDED
63715 UTAX SYSTEMS	$8,500,000
63716 ACQUISITION AND DEVELOPMENT	

63717 (3) The commission, by resolution may decline to issue bonds if the project could be
63718 construed to violate state law or federal law or regulation.
63719 (4) (a) For this project, for which only partial funding is provided in Subsection (2), it
63720 is the intent of the Legislature that the balance necessary to complete the project be addressed
63721 by future Legislatures, either through appropriations or through the issuance or sale of bonds.
63722 (b) The State Tax Commission may enter into contracts for amounts not to exceed the
63723 anticipated full project funding but may not allow work to be performed on those contracts in
63724 excess of the funding already authorized by the Legislature.
63725 (c) Those contracts shall contain a provision for termination of the contract for the
63726 convenience of the state as required by Section [~~63-56-601~~] 63G-6-601.
63727 (d) It is also the intent of the Legislature that this authorization to the State Tax
63728 Commission does not bind future Legislatures to fund projects initiated from this authorization.
63729 Section 1250. Section **63B-6-405** is amended to read:
63730 **63B-6-405. Terms and conditions of sale -- Plan of financing -- Signatures --**
63731 **Replacement -- Registration -- Federal rebate.**
63732 (1) In the issuance of bonds, the commission may determine by resolution:

63733 (a) the manner of sale, including public or private sale;
63734 (b) the terms and conditions of sale, including price, whether at, below, or above face
63735 value;
63736 (c) denominations;
63737 (d) form;
63738 (e) manner of execution;
63739 (f) manner of authentication;
63740 (g) place and medium of purchase;
63741 (h) redemption terms; and
63742 (i) other provisions and details it considers appropriate.
63743 (2) The commission may by resolution adopt a plan of financing, which may include
63744 terms and conditions of arrangements entered into by the commission on behalf of the state
63745 with financial and other institutions for letters of credit, standby letters of credit,
63746 reimbursement agreements, and remarketing, indexing, and tender agent agreements to secure
63747 the bonds, including payment from any legally available source of fees, charges, or other
63748 amounts coming due under the agreements entered into by the commission.
63749 (3) (a) Any signature of a public official authorized by resolution of the commission to
63750 sign the bonds may be a facsimile signature of that official imprinted, engraved, stamped, or
63751 otherwise placed on the bonds.
63752 (b) If all signatures of public officials on the bonds are facsimile signatures, provision
63753 shall be made for a manual authenticating signature on the bonds by or on behalf of a
63754 designated authentication agent.
63755 (c) If an official ceases to hold office before delivery of the bonds signed by that
63756 official, the signature or facsimile signature of the official is nevertheless valid for all purposes.
63757 (d) A facsimile of the state seal may be imprinted, engraved, stamped, or otherwise
63758 placed on the bonds.
63759 (4) (a) The commission may enact resolutions providing for the replacement of lost,
63760 destroyed, or mutilated bonds, or for the exchange of bonds after issuance for bonds of smaller
63761 or larger denominations.
63762 (b) Bonds in changed denominations shall:
63763 (i) be exchanged for the original bonds in like aggregate principal amounts and in a

63764 manner that prevents the duplication of interest; and
63765 (ii) bear interest at the same rate, mature on the same date, and be as nearly as
63766 practicable in the form of the original bonds.
63767 (5) (a) Bonds may be registered as to both principal and interest or may be in a book
63768 entry form under which the right to principal and interest may be transferred only through a
63769 book entry.
63770 (b) The commission may provide for the services and payment for the services of one
63771 or more financial institutions or other entities or persons, or nominees, within or outside the
63772 state, for the authentication, registration, transfer, including record, bookkeeping, or book entry
63773 functions, exchange, and payment of the bonds.
63774 (c) The records of ownership, registration, transfer, and exchange of the bonds, and of
63775 persons to whom payment with respect to the obligations are made, are private records as
63776 provided in Section [~~63-2-302~~] 63G-2-302 or protected records as provided in Section
63777 [~~63-2-304~~] 63G-2-305.
63778 (d) The bonds and any evidences of participation interest in the bonds may be issued,
63779 executed, authenticated, registered, transferred, exchanged, and otherwise made to comply with
63780 Title 15, Chapter 7, Registered Public Obligations Act, or any other act of the Legislature
63781 relating to the registration of obligations enacted to meet the requirements of Section 149 of the
63782 Internal Revenue Code of 1986, as amended, or any successor to it, and applicable regulations.
63783 (6) The commission may:
63784 (a) by resolution, provide for payment to the United States of whatever amounts are
63785 necessary to comply with Section 148 (f) of the Internal Revenue Code of 1986, as amended;
63786 and
63787 (b) enter into agreements with financial and other institutions and attorneys to provide
63788 for:
63789 (i) the calculation, holding, and payment of those amounts; and
63790 (ii) payment from any legally available source of fees, charges, or other amounts
63791 coming due under any agreements entered into by the commission.
63792 Section 1251. Section **63B-6-501** is amended to read:
63793 **63B-6-501. Revenue bond authorizations.**
63794 (1) (a) It is the intent of the Legislature that:

63795 (i) the State Board of Regents, on behalf of the University of Utah, issue, sell, and
63796 deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow
63797 money on the credit and income and revenues of the University of Utah, other than
63798 appropriations of the Legislature, to finance the cost of constructing, furnishing, and equipping
63799 a renovation and expansion of the Robert L. Rice Stadium; and
63800 (ii) Olympic funds, University funds, and activity revenues be used as the primary
63801 revenue sources for repayment of any obligation created under the authority of this Subsection
63802 (1).
63803 (b) The bonds or other evidences of indebtedness authorized may provide up to
63804 $50,000,000 together with other amounts necessary to pay costs of issuance, pay capitalized
63805 interest, and fund any debt service reserve requirements.
63806 (2) (a) The State Building Ownership Authority, under authority of Title 63, Chapter
63807 9a, State Building Ownership Authority Act, may issue or execute obligations or enter into or
63808 arrange for a lease purchase agreement in which participation interests may be created to
63809 provide up to $350,000 for the remodeling and completion of the Wasatch Mountain State Park
63810 Clubhouse for the Division of Parks and Recreation, together with additional amounts
63811 necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve
63812 requirements.
63813 (b) The State Building Ownership Authority shall work cooperatively with the
63814 Division of Parks and Recreation to seek out the most cost effective and prudent lease purchase
63815 plan available.
63816 (c) It is the intent of the Legislature that park revenues be used as the primary revenue
63817 sources for repayment of any obligation created under authority of this Subsection (2).
63818 (3) It is the intent of the Legislature that:
63819 (a) the State Building Ownership Authority, under the authority of [~~Title 63, Chapter~~
63820 ~~9a, State Building Ownership Act~~] Title 63B, Chapter 1, Part 3, State Building Ownership
63821 Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase
63822 agreement in which participation interests may be created, to provide up to $6,000,000 for the
63823 construction, or acquisition, or both, of liquor stores, together with additional amounts
63824 necessary to pay costs of issuance, pay capitalized interest, and fund any debt service
63825 requirements; and

63826 (b) liquor control funds be used as the primary revenue source for the repayment of any
63827 obligation created under authority of this Subsection (3).
63828 Section 1252. Section **63B-7-102** is amended to read:
63829 **63B-7-102. Maximum amount -- Projects authorized.**
63830 (1) The total amount of bonds issued under this part may not exceed $33,600,000.
63831 (2) (a) Proceeds from the issuance of bonds shall be provided to the division to provide
63832 funds to pay all or part of the cost of acquiring and constructing the projects listed in this
63833 Subsection (2).
63834 (b) These costs may include the cost of acquiring land, interests in land, easements and
63835 rights-of-way, improving sites, and acquiring, constructing, equipping, and furnishing facilities
63836 and all structures, roads, parking facilities, utilities, and improvements necessary, incidental, or
63837 convenient to the facilities, interest estimated to accrue on these bonds during the period to be
63838 covered by construction of the projects plus a period of six months after the end of the
63839 construction period, and all related engineering, architectural, and legal fees.
63840 (c) For the division, proceeds shall be provided for the following:

63841 PROJECT	AMOUNT	ESTIMATED
63842 DESCRIPTION	FUNDED	OPERATIONS AND
63843		MAINTENANCE
63844 Southern Utah University	$4,600,000	$0
63845 Land Purchase		
63846 Salt Lake Community College	$3,980,700	$507,900
63847 High Tech Center -		
63848 Jordan Campus		
63849 Children's Special Health Care	$755,400	$247,600
63850 Needs Clinic		
63851 Youth Corrections - 2 @ 32 beds	$419,500	$276,000
63852 (Vernal / Logan)		
63853 Corrections - Gunnison 288 bed	$8,425,600	$0
63854 and Lagoon Expansion		
63855 University of Utah -	$445,500	$101,700
63856 Cowles Building		

63857 Utah Valley State College -	$1,166,300	$391,000
63858 Technical Building		
63859 Sevier Valley Applied Technology	$3,014,300	$443,300
63860 Center - Shop Expansion		
63861 Division of Parks and Recreation	$1,000,000	$22,700
63862 Statewide Restrooms		
63863 Murray Highway Patrol Office	$2,300,000	$81,000
63864 Department of Workforce	$2,780,000	$128,100
63865 Services - Davis County		
63866 Employment Center		
63867 State Hospital - Rampton II	$1,600,000	$462,000
63868 Courts - 4th District	$1,368,000	$0
63869 Land - Provo		
63870 Dixie College - Land	$1,000,000	$0
63871 TOTAL CAPITAL AND	$32,855,300	
63872 ECONOMIC DEVELOPMENT		

63873 (d) For purposes of this section, operations and maintenance costs:
63874 (i) are estimates only;
63875 (ii) may include any operations and maintenance costs already funded in existing
63876 agency budgets; and
63877 (iii) are not commitments by this Legislature or future Legislatures to fund those
63878 operations and maintenance costs.
63879 (3) (a) The amounts funded as listed in Subsection (2) are estimates only and do not
63880 constitute a limitation on the amount that may be expended for any project.
63881 (b) The board may revise these estimates and redistribute the amount estimated for a
63882 project among the projects authorized.
63883 (c) The commission, by resolution and in consultation with the board, may delete one
63884 or more projects from this list if the inclusion of that project or those projects in the list could
63885 be construed to violate state law or federal law or regulation.
63886 (4) (a) The division may enter into agreements related to these projects before the
63887 receipt of proceeds of bonds issued under this chapter.

63888 (b) The division shall make those expenditures from unexpended and unencumbered
63889 building funds already appropriated to the Capital Projects Fund.
63890 (c) The division shall reimburse the Capital Projects Fund upon receipt of the proceeds
63891 of bonds issued under this chapter.
63892 (d) The commission may, by resolution, make any statement of intent relating to that
63893 reimbursement that is necessary or desirable to comply with federal tax law.
63894 (5) (a) For those projects for which only partial funding is provided in Subsection (2),
63895 it is the intent of the Legislature that the balance necessary to complete the projects be
63896 addressed by future Legislatures, either through appropriations or through the issuance or sale
63897 of bonds.
63898 (b) For those phased projects, the division may enter into contracts for amounts not to
63899 exceed the anticipated full project funding but may not allow work to be performed on those
63900 contracts in excess of the funding already authorized by the Legislature.
63901 (c) Those contracts shall contain a provision for termination of the contract for the
63902 convenience of the state as required by Section [~~63-56-601~~] 63G-6-601.
63903 (d) It is also the intent of the Legislature that this authorization to the division does not
63904 bind future Legislatures to fund projects initiated from this authorization.
63905 Section 1253. Section **63B-7-105** is amended to read:
63906 **63B-7-105. Terms and conditions of sale -- Plan of financing -- Signatures --**
63907 **Replacement -- Registration -- Federal rebate.**
63908 (1) In the issuance of bonds, the commission may determine by resolution:
63909 (a) the manner of sale, including public or private sale;
63910 (b) the terms and conditions of sale, including price, whether at, below, or above face
63911 value;
63912 (c) denominations;
63913 (d) form;
63914 (e) manner of execution;
63915 (f) manner of authentication;
63916 (g) place and medium of purchase;
63917 (h) redemption terms; and
63918 (i) other provisions and details it considers appropriate.

63919 (2) The commission may by resolution adopt a plan of financing, which may include
63920 terms and conditions of arrangements entered into by the commission on behalf of the state
63921 with financial and other institutions for letters of credit, standby letters of credit,
63922 reimbursement agreements, and remarketing, indexing, and tender agent agreements to secure
63923 the bonds, including payment from any legally available source of fees, charges, or other
63924 amounts coming due under the agreements entered into by the commission.
63925 (3) (a) Any signature of a public official authorized by resolution of the commission to
63926 sign the bonds may be a facsimile signature of that official imprinted, engraved, stamped, or
63927 otherwise placed on the bonds.
63928 (b) If all signatures of public officials on the bonds are facsimile signatures, provision
63929 shall be made for a manual authenticating signature on the bonds by or on behalf of a
63930 designated authentication agent.
63931 (c) If an official ceases to hold office before delivery of the bonds signed by that
63932 official, the signature or facsimile signature of the official is nevertheless valid for all purposes.
63933 (d) A facsimile of the state seal may be imprinted, engraved, stamped, or otherwise
63934 placed on the bonds.
63935 (4) (a) The commission may enact resolutions providing for the replacement of lost,
63936 destroyed, or mutilated bonds, or for the exchange of bonds after issuance for bonds of smaller
63937 or larger denominations.
63938 (b) Bonds in changed denominations shall:
63939 (i) be exchanged for the original bonds in like aggregate principal amounts and in a
63940 manner that prevents the duplication of interest; and
63941 (ii) bear interest at the same rate, mature on the same date, and be as nearly as
63942 practicable in the form of the original bonds.
63943 (5) (a) Bonds may be registered as to both principal and interest or may be in a book
63944 entry form under which the right to principal and interest may be transferred only through a
63945 book entry.
63946 (b) The commission may provide for the services and payment for the services of one
63947 or more financial institutions or other entities or persons, or nominees, within or outside the
63948 state, for the authentication, registration, transfer, including record, bookkeeping, or book entry
63949 functions, exchange, and payment of the bonds.

63950 (c) The records of ownership, registration, transfer, and exchange of the bonds, and of
63951 persons to whom payment with respect to the obligations are made, are private records as
63952 provided in Section [~~63-2-302~~] 63G-2-302 or protected records as provided in Section
63953 [~~63-2-304~~] 63G-2-305.
63954 (d) The bonds and any evidences of participation interest in the bonds may be issued,
63955 executed, authenticated, registered, transferred, exchanged, and otherwise made to comply with
63956 Title 15, Chapter 7, Registered Public Obligations Act, or any other act of the Legislature
63957 relating to the registration of obligations enacted to meet the requirements of Section 149 of the
63958 Internal Revenue Code of 1986, as amended, or any successor to it, and applicable regulations.
63959 (6) The commission may:
63960 (a) by resolution, provide for payment to the United States of whatever amounts are
63961 necessary to comply with Section 148 (f) of the Internal Revenue Code of 1986, as amended;
63962 and
63963 (b) enter into agreements with financial and other institutions and attorneys to provide
63964 for:
63965 (i) the calculation, holding, and payment of those amounts; and
63966 (ii) payment from any legally available source of fees, charges, or other amounts
63967 coming due under any agreements entered into by the commission.
63968 Section 1254. Section **63B-7-205** is amended to read:
63969 **63B-7-205. Terms and conditions of sale -- Plan of financing -- Signatures --**
63970 **Replacement -- Registration -- Federal rebate.**
63971 (1) In the issuance of bonds, the commission may determine by resolution:
63972 (a) the manner of sale, including public or private sale;
63973 (b) the terms and conditions of sale, including price, whether at, below, or above face
63974 value;
63975 (c) denominations;
63976 (d) form;
63977 (e) manner of execution;
63978 (f) manner of authentication;
63979 (g) place and medium of purchase;
63980 (h) redemption terms; and

63981 (i) other provisions and details it considers appropriate.
63982 (2) The commission may, by resolution, adopt a plan of financing, which may include
63983 terms and conditions of arrangements entered into by the commission on behalf of the state
63984 with financial and other institutions for letters of credit, standby letters of credit,
63985 reimbursement agreements, and remarketing, indexing, and tender agent agreements to secure
63986 the bonds, including payment from any legally available source of fees, charges, or other
63987 amounts coming due under the agreements entered into by the commission.
63988 (3) (a) Any signature of a public official authorized by resolution of the commission to
63989 sign the bonds may be a facsimile signature of that official imprinted, engraved, stamped, or
63990 otherwise placed on the bonds.
63991 (b) If all signatures of public officials on the bonds are facsimile signatures, provision
63992 shall be made for a manual authenticating signature on the bonds by or on behalf of a
63993 designated authentication agent.
63994 (c) If an official ceases to hold office before delivery of the bonds signed by that
63995 official, the signature or facsimile signature of the official is nevertheless valid for all purposes.
63996 (d) A facsimile of the state seal may be imprinted, engraved, stamped, or otherwise
63997 placed on the bonds.
63998 (4) (a) The commission may enact resolutions providing for the replacement of lost,
63999 destroyed, or mutilated bonds, or for the exchange of bonds after issuance for bonds of smaller
64000 or larger denominations.
64001 (b) Bonds in changed denominations shall:
64002 (i) be exchanged for the original bonds in like aggregate principal amounts and in a
64003 manner that prevents the duplication of interest; and
64004 (ii) bear interest at the same rate, mature on the same date, and be as nearly as
64005 practicable in the form of the original bonds.
64006 (5) (a) Bonds may be registered as to both principal and interest or may be in a book
64007 entry form under which the right to principal and interest may be transferred only through a
64008 book entry.
64009 (b) The commission may provide for the services and payment for the services of one
64010 or more financial institutions or other entities or persons, or nominees, within or outside the
64011 state, for the authentication, registration, transfer, including record, bookkeeping, or book entry

64012 functions, exchange, and payment of the bonds.
64013 (c) The records of ownership, registration, transfer, and exchange of the bonds, and of
64014 persons to whom payment with respect to the obligations is made, are private records as
64015 provided in Section [~~63-2-302~~] 63G-2-302, or protected records as provided in Section
64016 [~~63-2-304~~] 63G-2-305.
64017 (d) The bonds and any evidences of participation interest in the bonds may be issued,
64018 executed, authenticated, registered, transferred, exchanged, and otherwise made to comply with
64019 Title 15, Chapter 7, Registered Public Obligations Act, or any other act of the Legislature
64020 relating to the registration of obligations enacted to meet the requirements of Section 149 of the
64021 Internal Revenue Code of 1986, as amended, or any successor to it, and applicable regulations.
64022 (6) The commission may:
64023 (a) by resolution, provide for payment to the United States of whatever amounts are
64024 necessary to comply with Section 148 (f) of the Internal Revenue Code of 1986, as amended;
64025 and
64026 (b) enter into agreements with financial and other institutions and attorneys to provide
64027 for:
64028 (i) the calculation, holding, and payment of those amounts; and
64029 (ii) payment from any legally available source of fees, charges, or other amounts
64030 coming due under any agreements entered into by the commission.
64031 Section 1255. Section **63B-7-402** is amended to read:
64032 **63B-7-402. Maximum amount -- Projects authorized.**
64033 (1) The total amount of bonds issued under this part may not exceed $16,500,000.
64034 (2) (a) Proceeds from the issuance of bonds shall be provided to the State Tax
64035 Commission to provide funds to pay all or part of the cost of the project described in this
64036 Subsection (2).
64037 (b) These costs may include:
64038 (i) the cost of acquisition, development, and conversion of computer hardware and
64039 software for motor vehicle fee systems and tax collection and accounting systems of the state;
64040 (ii) interest estimated to accrue on these bonds during the period to be covered by that
64041 development and conversion, plus a period of six months following the completion of the
64042 development and conversion; and

64043 (iii) all related engineering, consulting, and legal fees.
64044 (c) For the State Tax Commission, proceeds shall be provided for the following:

64045 PROJECT	AMOUNT
64046 DESCRIPTION	FUNDED
64047 UTAX SYSTEMS	$15,650,000
64048 ACQUISITION AND DEVELOPMENT	

64049 (3) The commission, by resolution may decline to issue bonds if the project could be
64050 construed to violate state law or federal law or regulation.
64051 (4) (a) For this project, for which only partial funding is provided in Subsection (2), it
64052 is the intent of the Legislature that the balance necessary to complete the project be addressed
64053 by future Legislatures, either through appropriations or through the issuance or sale of bonds.
64054 (b) The State Tax Commission may enter into contracts for amounts not to exceed the
64055 anticipated full project funding but may not allow work to be performed on those contracts in
64056 excess of the funding already authorized by the Legislature.
64057 (c) Those contracts shall contain a provision for termination of the contract for the
64058 convenience of the state as required by Section [~~63-56-601~~] 63G-6-601.
64059 (d) It is also the intent of the Legislature that this authorization to the State Tax
64060 Commission does not bind future Legislatures to fund projects initiated from this authorization.
64061 Section 1256. Section **63B-7-405** is amended to read:
64062 **63B-7-405. Terms and conditions of sale -- Plan of financing -- Signatures --**
64063 **Replacement -- Registration -- Federal rebate.**
64064 (1) In the issuance of bonds, the commission may determine by resolution:
64065 (a) the manner of sale, including public or private sale;
64066 (b) the terms and conditions of sale, including price, whether at, below, or above face
64067 value;
64068 (c) denominations;
64069 (d) form;
64070 (e) manner of execution;
64071 (f) manner of authentication;
64072 (g) place and medium of purchase;
64073 (h) redemption terms; and

64074 (i) other provisions and details it considers appropriate.
64075 (2) The commission may by resolution adopt a plan of financing, which may include
64076 terms and conditions of arrangements entered into by the commission on behalf of the state
64077 with financial and other institutions for letters of credit, standby letters of credit,
64078 reimbursement agreements, and remarketing, indexing, and tender agent agreements to secure
64079 the bonds, including payment from any legally available source of fees, charges, or other
64080 amounts coming due under the agreements entered into by the commission.
64081 (3) (a) Any signature of a public official authorized by resolution of the commission to
64082 sign the bonds may be a facsimile signature of that official imprinted, engraved, stamped, or
64083 otherwise placed on the bonds.
64084 (b) If all signatures of public officials on the bonds are facsimile signatures, provision
64085 shall be made for a manual authenticating signature on the bonds by or on behalf of a
64086 designated authentication agent.
64087 (c) If an official ceases to hold office before delivery of the bonds signed by that
64088 official, the signature or facsimile signature of the official is nevertheless valid for all purposes.
64089 (d) A facsimile of the state seal may be imprinted, engraved, stamped, or otherwise
64090 placed on the bonds.
64091 (4) (a) The commission may enact resolutions providing for the replacement of lost,
64092 destroyed, or mutilated bonds, or for the exchange of bonds after issuance for bonds of smaller
64093 or larger denominations.
64094 (b) Bonds in changed denominations shall:
64095 (i) be exchanged for the original bonds in like aggregate principal amounts and in a
64096 manner that prevents the duplication of interest; and
64097 (ii) bear interest at the same rate, mature on the same date, and be as nearly as
64098 practicable in the form of the original bonds.
64099 (5) (a) Bonds may be registered as to both principal and interest or may be in a book
64100 entry form under which the right to principal and interest may be transferred only through a
64101 book entry.
64102 (b) The commission may provide for the services and payment for the services of one
64103 or more financial institutions or other entities or persons, or nominees, within or outside the
64104 state, for the authentication, registration, transfer, including record, bookkeeping, or book entry

64105 functions, exchange, and payment of the bonds.
64106 (c) The records of ownership, registration, transfer, and exchange of the bonds, and of
64107 persons to whom payment with respect to the obligations are made, are private records as
64108 provided in Section [~~63-2-302~~] 63G-2-302 or protected records as provided in Section
64109 [~~63-2-304~~] 63G-2-305.
64110 (d) The bonds and any evidences of participation interest in the bonds may be issued,
64111 executed, authenticated, registered, transferred, exchanged, and otherwise made to comply with
64112 Title 15, Chapter 7, Registered Public Obligations Act, or any other act of the Legislature
64113 relating to the registration of obligations enacted to meet the requirements of Section 149 of the
64114 Internal Revenue Code of 1986, as amended, or any successor to it, and applicable regulations.
64115 (6) The commission may:
64116 (a) by resolution, provide for payment to the United States of whatever amounts are
64117 necessary to comply with Section 148 (f) of the Internal Revenue Code of 1986, as amended;
64118 and
64119 (b) enter into agreements with financial and other institutions and attorneys to provide
64120 for:
64121 (i) the calculation, holding, and payment of those amounts; and
64122 (ii) payment from any legally available source of fees, charges, or other amounts
64123 coming due under any agreements entered into by the commission.
64124 Section 1257. Section **63B-7-501** is amended to read:
64125 **63B-7-501. Revenue bond authorizations.**
64126 (1) (a) It is the intent of the Legislature that the State Building Ownership Authority,
64127 under the authority of [~~Title 63, Chapter 9a, State Building Ownership Act~~] Title 63B, Chapter
64128 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter
64129 into or arrange for a lease purchase agreement in which participation interests may be created,
64130 to provide up to $1,568,600 for the construction of a Utah Correctional Industries Facility at
64131 the Central Utah Correctional Facility at Gunnison, together with additional amounts necessary
64132 to pay costs of issuance, pay capitalized interest, and fund any debt service requirements.
64133 (b) The State Building Ownership Authority shall work cooperatively with the
64134 Department of Corrections to seek out the most cost effective and prudent lease purchase plan
64135 available.

64136 (c) It is the intent of the Legislature that program revenues be used as the primary
64137 revenue source for repayment of any obligation created under authority of this Subsection (1).
64138 (2) It is the intent of the Legislature that:
64139 (a) the State Board of Regents, on behalf of the University of Utah, issue, sell, and
64140 deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow
64141 money on the credit, income, and revenues of the University of Utah, other than appropriations
64142 of the Legislature, to finance the cost of constructing, furnishing, and equipping student
64143 housing;
64144 (b) University funds and housing rental revenues be used as the primary revenue source
64145 for repayment of any obligation created under authority of this Subsection (2); and
64146 (c) the bonds or other evidences of indebtedness authorized by this Subsection (2) may
64147 provide up to $86,000,000 together with other amounts necessary to pay costs of issuance, pay
64148 capitalized interest, and fund any debt service reserve requirements.
64149 (3) It is the intent of the Legislature that:
64150 (a) the State Board of Regents on behalf of the University of Utah issue, sell, and
64151 deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow
64152 money on the credit, income, and revenues of the University of Utah, other than appropriations
64153 of the Legislature, to finance the cost of constructing, furnishing, and equipping a Health
64154 Sciences Parking Structure;
64155 (b) University funds and parking revenues be used as the primary revenue source for
64156 repayment of any obligation created under authority of this Subsection (3); and
64157 (c) the bonds or other evidences of indebtedness authorized by this Subsection (3) may
64158 provide up to $12,000,000, together with other amounts necessary to pay costs of issuance, pay
64159 capitalized interest, and fund any debt service reserve requirements.
64160 (4) It is the intent of the Legislature that:
64161 (a) the State Board of Regents, on behalf of the University of Utah, issue, sell, and
64162 deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow
64163 money on the credit and income and revenues of the University of Utah, other than
64164 appropriations of the Legislature, to finance the cost of constructing, furnishing, and equipping
64165 a Southwest Campus Parking Structure;
64166 (b) University funds and parking revenues be used as the primary revenue source for

64167 repayment of any obligation created under authority of this Subsection (4); and
64168 (c) the bonds or other evidences of indebtedness authorized by this Subsection (4) may
64169 provide up to $7,200,000, together with other amounts necessary to pay costs of issuance, pay
64170 capitalized interest, and fund any debt service reserve requirements.
64171 (5) It is the intent of the Legislature that:
64172 (a) the State Board of Regents, on behalf of the University of Utah, issue, sell, and
64173 deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow
64174 money on the credit and income and revenues of the University of Utah, other than
64175 appropriations of the Legislature, to finance the cost of constructing, furnishing, and equipping
64176 an expansion of the Eccles Broadcast Center;
64177 (b) University funds and service revenues be used as the primary revenue source for
64178 repayment of any obligation created under authority of this Subsection (5); and
64179 (c) the bonds or other evidences of indebtedness authorized by this Subsection (5) may
64180 provide up to $5,100,000, together with other amounts necessary to pay costs of issuance, pay
64181 capitalized interest, and fund any debt service reserve requirements.
64182 (6) It is the intent of the Legislature that:
64183 (a) the State Board of Regents, on behalf of the University of Utah, issue, sell, and
64184 deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow
64185 money on the credit and income and revenues of the University of Utah, other than
64186 appropriations of the Legislature, to finance the cost of constructing, furnishing, equipping, and
64187 remodeling facilities for perinatal services, adult critical care services, clinical training and
64188 support, and upgrade of the University Hospital Rehabilitation Unit, and for purchase of the
64189 University Neuropsychiatric Institute and Summit Health Center in Park West;
64190 (b) University Hospital revenues be used as the primary revenue source for repayment
64191 of any obligation created under authority of this Subsection (6); and
64192 (c) the bonds or other evidences of indebtedness authorized by this Subsection (6) may
64193 provide up to $23,300,000 together with other amounts necessary to pay costs of issuance, pay
64194 capitalized interest, and fund any debt service reserve requirements.
64195 (7) It is the intent of the Legislature that:
64196 (a) the State Board of Regents, on behalf of Weber State University, issue, sell, and
64197 deliver revenue bonds or other evidences of indebtedness of Weber State University to borrow

64198 money on the credit and income and revenues of Weber State University, other than
64199 appropriations of the Legislature, to finance the cost of constructing, furnishing, and equipping
64200 student housing;
64201 (b) University funds and housing rental revenues be used as the primary revenue source
64202 for repayment of any obligation created under authority of this Subsection (7); and
64203 (c) the bonds or other evidences of indebtedness authorized by this Subsection (7) may
64204 provide up to $19,000,000 together with other amounts necessary to pay costs of issuance, pay
64205 capitalized interest, and fund any debt service reserve requirements.
64206 (8) (a) It is the intent of the Legislature that the State Building Ownership Authority,
64207 under the authority of [~~Title 63, Chapter 9a, State Building Ownership Act~~] Title 63B, Chapter
64208 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter
64209 into or arrange for a lease purchase agreement in which participation interests may be created,
64210 to provide up to $1,100,000 for the construction of surplus property facilities for the Division
64211 of Fleet Operations, together with additional amounts necessary to pay costs of issuance, pay
64212 capitalized interest, and fund any debt service reserve requirements.
64213 (b) The State Building Ownership Authority shall work cooperatively with the
64214 Department of Administrative Services to seek out the most cost effective and prudent lease
64215 purchase plan available.
64216 (c) It is the intent of the Legislature that Internal Service Fund revenues be used as the
64217 primary revenue source for repayment of any obligation created under authority of this
64218 Subsection (8).
64219 (9) (a) Contingent upon the state of Utah receiving a perfected security interest in
64220 accordance with Senate Joint Resolution 14, 1998 Annual General Session, the State Building
64221 Ownership Authority, under authority of Title 63, Chapter 9a, State Building Ownership
64222 Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase
64223 agreement in which participation interests may be created, to provide up to $25,000,000 for the
64224 cost of constructing, furnishing, and equipping housing facilities at the University of Utah,
64225 together with additional amounts necessary to:
64226 (i) pay costs of issuance;
64227 (ii) pay capitalized interest; and
64228 (iii) fund any debt service reserve requirements.

64229 (b) The State Building Ownership Authority and the University of Utah may enter into
64230 real estate arrangements and security arrangements that are:
64231 (i) necessary to accomplish the purposes of this Subsection (9); and
64232 (ii) not inconsistent with the requirements of Senate Joint Resolution 14, 1998 Annual
64233 General Session.
64234 (10) In order to achieve a debt service savings, it is the intent of the Legislature that the
64235 State Building Ownership Authority, under authority of Title 63, Chapter 9a, State Building
64236 Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease
64237 purchase agreement in which participation interests may be created, to provide sufficient
64238 funding to exercise the state's option to purchase the Youth Corrections Facility in Salt Lake
64239 County currently financed by Salt Lake County.
64240 Section 1258. Section **63B-7-503** is amended to read:
64241 **63B-7-503. Highway revenue bond authorization.**
64242 It is the intent of the Legislature that:
64243 (1) the State Building Ownership Authority, under the authority of [~~Title 63, Chapter~~
64244 ~~9a, State Building Ownership Act~~] Title 63B, Chapter 1, Part 3, State Building Ownership
64245 Authority Act, may issue or execute obligations to provide up to $10,000,000 for the
64246 acquisition of real property or any interests in real property for state, county, or municipal
64247 transportation corridors as provided in Section 72-2-117; and
64248 (2) revenues of the Transportation Corridor Preservation Revolving Loan Fund be used
64249 as the primary revenue source for the repayment of any obligation created under authority of
64250 this section.
64251 Section 1259. Section **63B-8-102** is amended to read:
64252 **63B-8-102. Maximum amount -- Projects authorized.**
64253 (1) The total amount of bonds issued under this part may not exceed $48,500,000.
64254 (2) (a) Proceeds from the issuance of bonds shall be provided to the division to provide
64255 funds to pay all or part of the cost of acquiring and constructing the projects listed in this
64256 Subsection (2).
64257 (b) These costs may include the cost of acquiring land, interests in land, easements and
64258 rights-of-way, improving sites, and acquiring, constructing, equipping, and furnishing facilities
64259 and all structures, roads, parking facilities, utilities, and improvements necessary, incidental, or

64260 convenient to the facilities, interest estimated to accrue on these bonds during the period to be
64261 covered by construction of the projects plus a period of six months after the end of the
64262 construction period, and all related engineering, architectural, and legal fees.
64263 (c) For the division, proceeds shall be provided for the following:

PROJECT DESCRIPTION	AMOUNT FUNDED	ESTIMATED OPERATIONS AND MAINTENANCE
Southern Utah University - Physical Education Building	$2,493,200	$447,744
Utah Valley State College - Information Sciences Building	$29,000,000	$721,875
University of Utah - Cowles Building Renovation	$7,268,500	$140,217
Vernal District Court	$4,539,500	$149,989
Salt Lake Community College - Applied Education Center	$4,200,000	$281,784
TOTAL CAPITAL AND ECONOMIC DEVELOPMENT	$47,501,200	

64278 (d) For purposes of this section, operations and maintenance costs:
64279 (i) are estimates only;
64280 (ii) may include any operations and maintenance costs already funded in existing
64281 agency budgets; and
64282 (iii) are not commitments by this Legislature or future Legislatures to fund those
64283 operations and maintenance costs.
64284 (3) (a) The amounts funded as listed in Subsection (2) are estimates only and do not
64285 constitute a limitation on the amount that may be expended for any project.
64286 (b) The board may revise these estimates and redistribute the amount estimated for a
64287 project among the projects authorized.
64288 (c) The commission, by resolution and in consultation with the board, may delete one
64289 or more projects from this list if the inclusion of that project or those projects in the list could
64290 be construed to violate state law or federal law or regulation.

64291 (4) (a) The division may enter into agreements related to these projects before the
64292 receipt of proceeds of bonds issued under this chapter.
64293 (b) The division shall make those expenditures from unexpended and unencumbered
64294 building funds already appropriated to the Capital Projects Fund.
64295 (c) The division shall reimburse the Capital Projects Fund upon receipt of the proceeds
64296 of bonds issued under this chapter.
64297 (d) The commission may, by resolution, make any statement of intent relating to that
64298 reimbursement that is necessary or desirable to comply with federal tax law.
64299 (5) (a) For those projects for which only partial funding is provided in Subsection (2),
64300 it is the intent of the Legislature that the balance necessary to complete the projects be
64301 addressed by future Legislatures, either through appropriations or through the issuance or sale
64302 of bonds.
64303 (b) For those phased projects, the division may enter into contracts for amounts not to
64304 exceed the anticipated full project funding but may not allow work to be performed on those
64305 contracts in excess of the funding already authorized by the Legislature.
64306 (c) Those contracts shall contain a provision for termination of the contract for the
64307 convenience of the state as required by Section [~~63-56-601~~] 63G-6-601.
64308 (d) It is also the intent of the Legislature that this authorization to the division does not
64309 bind future Legislatures to fund projects initiated from this authorization.
64310 Section 1260. Section **63B-8-105** is amended to read:
64311 **63B-8-105. Terms and conditions of sale -- Plan of financing -- Signatures --**
64312 **Replacement -- Registration -- Federal rebate.**
64313 (1) In the issuance of bonds, the commission may determine by resolution:
64314 (a) the manner of sale, including public or private sale;
64315 (b) the terms and conditions of sale, including price, whether at, below, or above face
64316 value;
64317 (c) denominations;
64318 (d) form;
64319 (e) manner of execution;
64320 (f) manner of authentication;
64321 (g) place and medium of purchase;

64322 (h) redemption terms; and
64323 (i) other provisions and details it considers appropriate.
64324 (2) The commission may by resolution adopt a plan of financing, which may include
64325 terms and conditions of arrangements entered into by the commission on behalf of the state
64326 with financial and other institutions for letters of credit, standby letters of credit,
64327 reimbursement agreements, and remarketing, indexing, and tender agent agreements to secure
64328 the bonds, including payment from any legally available source of fees, charges, or other
64329 amounts coming due under the agreements entered into by the commission.
64330 (3) (a) Any signature of a public official authorized by resolution of the commission to
64331 sign the bonds may be a facsimile signature of that official imprinted, engraved, stamped, or
64332 otherwise placed on the bonds.
64333 (b) If all signatures of public officials on the bonds are facsimile signatures, provision
64334 shall be made for a manual authenticating signature on the bonds by or on behalf of a
64335 designated authentication agent.
64336 (c) If an official ceases to hold office before delivery of the bonds signed by that
64337 official, the signature or facsimile signature of the official is nevertheless valid for all purposes.
64338 (d) A facsimile of the state seal may be imprinted, engraved, stamped, or otherwise
64339 placed on the bonds.
64340 (4) (a) The commission may enact resolutions providing for the replacement of lost,
64341 destroyed, or mutilated bonds, or for the exchange of bonds after issuance for bonds of smaller
64342 or larger denominations.
64343 (b) Bonds in changed denominations shall:
64344 (i) be exchanged for the original bonds in like aggregate principal amounts and in a
64345 manner that prevents the duplication of interest; and
64346 (ii) bear interest at the same rate, mature on the same date, and be as nearly as
64347 practicable in the form of the original bonds.
64348 (5) (a) Bonds may be registered as to both principal and interest or may be in a book
64349 entry form under which the right to principal and interest may be transferred only through a
64350 book entry.
64351 (b) The commission may provide for the services and payment for the services of one
64352 or more financial institutions or other entities or persons, or nominees, within or outside the

64353 state, for the authentication, registration, transfer, including record, bookkeeping, or book entry
64354 functions, exchange, and payment of the bonds.
64355 (c) The records of ownership, registration, transfer, and exchange of the bonds, and of
64356 persons to whom payment with respect to the obligations are made, are private records as
64357 provided in Section [~~63-2-302~~] 63G-2-302 or protected records as provided in Section
64358 [~~63-2-304~~] 63G-2-305.
64359 (d) The bonds and any evidences of participation interest in the bonds may be issued,
64360 executed, authenticated, registered, transferred, exchanged, and otherwise made to comply with
64361 Title 15, Chapter 7, Registered Public Obligations Act, or any other act of the Legislature
64362 relating to the registration of obligations enacted to meet the requirements of Section 149 of the
64363 Internal Revenue Code of 1986, as amended, or any successor to it, and applicable regulations.
64364 (6) The commission may:
64365 (a) by resolution, provide for payment to the United States of whatever amounts are
64366 necessary to comply with Section 148 (f) of the Internal Revenue Code of 1986, as amended;
64367 and
64368 (b) enter into agreements with financial and other institutions and attorneys to provide
64369 for:
64370 (i) the calculation, holding, and payment of those amounts; and
64371 (ii) payment from any legally available source of fees, charges, or other amounts
64372 coming due under any agreements entered into by the commission.
64373 Section 1261. Section **63B-8-205** is amended to read:
64374 **63B-8-205. Terms and conditions of sale -- Plan of financing -- Signatures --**
64375 **Replacement -- Registration -- Federal rebate.**
64376 (1) In the issuance of bonds, the commission may determine by resolution:
64377 (a) the manner of sale, including public or private sale;
64378 (b) the terms and conditions of sale, including price, whether at, below, or above face
64379 value;
64380 (c) denominations;
64381 (d) form;
64382 (e) manner of execution;
64383 (f) manner of authentication;

64384 (g) place and medium of purchase;
64385 (h) redemption terms; and
64386 (i) other provisions and details it considers appropriate.
64387 (2) The commission may, by resolution, adopt a plan of financing, which may include
64388 terms and conditions of arrangements entered into by the commission on behalf of the state
64389 with financial and other institutions for letters of credit, standby letters of credit,
64390 reimbursement agreements, and remarketing, indexing, and tender agent agreements to secure
64391 the bonds, including payment from any legally available source of fees, charges, or other
64392 amounts coming due under the agreements entered into by the commission.
64393 (3) (a) Any signature of a public official authorized by resolution of the commission to
64394 sign the bonds may be a facsimile signature of that official imprinted, engraved, stamped, or
64395 otherwise placed on the bonds.
64396 (b) If all signatures of public officials on the bonds are facsimile signatures, provision
64397 shall be made for a manual authenticating signature on the bonds by or on behalf of a
64398 designated authentication agent.
64399 (c) If an official ceases to hold office before delivery of the bonds signed by that
64400 official, the signature or facsimile signature of the official is nevertheless valid for all purposes.
64401 (d) A facsimile of the state seal may be imprinted, engraved, stamped, or otherwise
64402 placed on the bonds.
64403 (4) (a) The commission may enact resolutions providing for the replacement of lost,
64404 destroyed, or mutilated bonds, or for the exchange of bonds after issuance for bonds of smaller
64405 or larger denominations.
64406 (b) Bonds in changed denominations shall:
64407 (i) be exchanged for the original bonds in like aggregate principal amounts and in a
64408 manner that prevents the duplication of interest; and
64409 (ii) bear interest at the same rate, mature on the same date, and be as nearly as
64410 practicable in the form of the original bonds.
64411 (5) (a) Bonds may be registered as to both principal and interest or may be in a book
64412 entry form under which the right to principal and interest may be transferred only through a
64413 book entry.
64414 (b) The commission may provide for the services and payment for the services of one

64415 or more financial institutions or other entities or persons, or nominees, within or outside the
64416 state, for the authentication, registration, transfer, including record, bookkeeping, or book entry
64417 functions, exchange, and payment of the bonds.
64418 (c) The records of ownership, registration, transfer, and exchange of the bonds, and of
64419 persons to whom payment with respect to the obligations is made, are private records as
64420 provided in Section [~~63-2-302~~] 63G-2-302, or protected records as provided in Section
64421 [~~63-2-304~~] 63G-2-305.
64422 (d) The bonds and any evidences of participation interest in the bonds may be issued,
64423 executed, authenticated, registered, transferred, exchanged, and otherwise made to comply with
64424 Title 15, Chapter 7, Registered Public Obligations Act, or any other act of the Legislature
64425 relating to the registration of obligations enacted to meet the requirements of Section 149 of the
64426 Internal Revenue Code of 1986, as amended, or any successor to it, and applicable regulations.
64427 (6) The commission may:
64428 (a) by resolution, provide for payment to the United States of whatever amounts are
64429 necessary to comply with Section 148 (f) of the Internal Revenue Code of 1986, as amended;
64430 and
64431 (b) enter into agreements with financial and other institutions and attorneys to provide
64432 for:
64433 (i) the calculation, holding, and payment of those amounts; and
64434 (ii) payment from any legally available source of fees, charges, or other amounts
64435 coming due under any agreements entered into by the commission.
64436 Section 1262. Section **63B-8-402** is amended to read:
64437 **63B-8-402. Maximum amount -- Projects authorized.**
64438 (1) The total amount of bonds issued under this part may not exceed $7,400,000.
64439 (2) (a) Proceeds from the issuance of bonds shall be provided to the division to provide
64440 funds to pay all or part of the cost of acquiring and constructing the project listed in this
64441 Subsection (2).
64442 (b) These costs may include the cost of acquiring land, interests in land, easements and
64443 rights-of-way, improving sites, and acquiring, constructing, equipping, and furnishing facilities
64444 and all structures, roads, parking facilities, utilities, and improvements necessary, incidental, or
64445 convenient to the facilities, interest estimated to accrue on these bonds during the period to be

64446 covered by construction of the projects plus a period of six months after the end of the
64447 construction period, and all related engineering, architectural, and legal fees.
64448 (c) For the division, proceeds shall be provided for the following:

PROJECT DESCRIPTION	AMOUNT FUNDED	ESTIMATED OPERATIONS AND MAINTENANCE
State Hospital - Rampton II	$7,000,000	$462,000

64453 (d) For purposes of this section, operations and maintenance costs:
64454 (i) are estimates only;
64455 (ii) may include any operations and maintenance costs already funded in existing
64456 agency budgets; and
64457 (iii) are not commitments by this Legislature or future Legislatures to fund those
64458 operations and maintenance costs.
64459 (3) (a) The amounts funded as listed in Subsection (2) are estimates only and do not
64460 constitute a limitation on the amount that may be expended for any project.
64461 (b) The board may revise these estimates and redistribute the amount estimated for a
64462 project among the projects authorized.
64463 (c) The commission, by resolution and in consultation with the board, may delete one
64464 or more projects from this list if the inclusion of that project or those projects in the list could
64465 be construed to violate state law or federal law or regulation.
64466 (4) (a) The division may enter into agreements related to these projects before the
64467 receipt of proceeds of bonds issued under this chapter.
64468 (b) The division shall make those expenditures from unexpended and unencumbered
64469 building funds already appropriated to the Capital Projects Fund.
64470 (c) The division shall reimburse the Capital Projects Fund upon receipt of the proceeds
64471 of bonds issued under this chapter.
64472 (d) The commission may, by resolution, make any statement of intent relating to that
64473 reimbursement that is necessary or desirable to comply with federal tax law.
64474 (5) (a) For those projects for which only partial funding is provided in Subsection (2),
64475 it is the intent of the Legislature that the balance necessary to complete the projects be
64476 addressed by future Legislatures, either through appropriations or through the issuance or sale

64477 of bonds.
64478 (b) For those phased projects, the division may enter into contracts for amounts not to
64479 exceed the anticipated full project funding but may not allow work to be performed on those
64480 contracts in excess of the funding already authorized by the Legislature.
64481 (c) Those contracts shall contain a provision for termination of the contract for the
64482 convenience of the state as required by Section [~~63-56-601~~] 63G-6-601.
64483 (d) It is also the intent of the Legislature that this authorization to the division does not
64484 bind future Legislatures to fund projects initiated from this authorization.
64485 Section 1263. Section **63B-8-405** is amended to read:
64486 **63B-8-405. Terms and conditions of sale -- Plan of financing -- Signatures --**
64487 **Replacement -- Registration -- Federal rebate.**
64488 (1) In the issuance of bonds, the commission may determine by resolution:
64489 (a) the manner of sale, including public or private sale;
64490 (b) the terms and conditions of sale, including price, whether at, below, or above face
64491 value;
64492 (c) denominations;
64493 (d) form;
64494 (e) manner of execution;
64495 (f) manner of authentication;
64496 (g) place and medium of purchase;
64497 (h) redemption terms; and
64498 (i) other provisions and details it considers appropriate.
64499 (2) The commission may by resolution adopt a plan of financing, which may include
64500 terms and conditions of arrangements entered into by the commission on behalf of the state
64501 with financial and other institutions for letters of credit, standby letters of credit,
64502 reimbursement agreements, and remarketing, indexing, and tender agent agreements to secure
64503 the bonds, including payment from any legally available source of fees, charges, or other
64504 amounts coming due under the agreements entered into by the commission.
64505 (3) (a) Any signature of a public official authorized by resolution of the commission to
64506 sign the bonds may be a facsimile signature of that official imprinted, engraved, stamped, or
64507 otherwise placed on the bonds.

64508 (b) If all signatures of public officials on the bonds are facsimile signatures, provision
64509 shall be made for a manual authenticating signature on the bonds by or on behalf of a
64510 designated authentication agent.
64511 (c) If an official ceases to hold office before delivery of the bonds signed by that
64512 official, the signature or facsimile signature of the official is nevertheless valid for all purposes.
64513 (d) A facsimile of the state seal may be imprinted, engraved, stamped, or otherwise
64514 placed on the bonds.
64515 (4) (a) The commission may enact resolutions providing for the replacement of lost,
64516 destroyed, or mutilated bonds, or for the exchange of bonds after issuance for bonds of smaller
64517 or larger denominations.
64518 (b) Bonds in changed denominations shall:
64519 (i) be exchanged for the original bonds in like aggregate principal amounts and in a
64520 manner that prevents the duplication of interest; and
64521 (ii) bear interest at the same rate, mature on the same date, and be as nearly as
64522 practicable in the form of the original bonds.
64523 (5) (a) Bonds may be registered as to both principal and interest or may be in a book
64524 entry form under which the right to principal and interest may be transferred only through a
64525 book entry.
64526 (b) The commission may provide for the services and payment for the services of one
64527 or more financial institutions or other entities or persons, or nominees, within or outside the
64528 state, for the authentication, registration, transfer, including record, bookkeeping, or book entry
64529 functions, exchange, and payment of the bonds.
64530 (c) The records of ownership, registration, transfer, and exchange of the bonds, and of
64531 persons to whom payment with respect to the obligations are made, are private records as
64532 provided in Section [~~63-2-302~~] 63G-2-302 or protected records as provided in Section
64533 [~~63-2-304~~] 63G-2-305.
64534 (d) The bonds and any evidences of participation interest in the bonds may be issued,
64535 executed, authenticated, registered, transferred, exchanged, and otherwise made to comply with
64536 Title 15, Chapter 7, Registered Public Obligations Act, or any other act of the Legislature
64537 relating to the registration of obligations enacted to meet the requirements of Section 149 of the
64538 Internal Revenue Code of 1986, as amended, or any successor to it, and applicable regulations.

64539 (6) The commission may:
64540 (a) by resolution, provide for payment to the United States of whatever amounts are
64541 necessary to comply with Section 148 (f) of the Internal Revenue Code of 1986, as amended;
64542 and
64543 (b) enter into agreements with financial and other institutions and attorneys to provide
64544 for:
64545 (i) the calculation, holding, and payment of those amounts; and
64546 (ii) payment from any legally available source of fees, charges, or other amounts
64547 coming due under any agreements entered into by the commission.
64548 Section 1264. Section **63B-8-501** is amended to read:
64549 **63B-8-501. Revenue bond authorizations.**
64550 (1) (a) It is the intent of the Legislature that the State Building Ownership Authority,
64551 under the authority of [~~Title 63, Chapter 9a, State Building Ownership Act~~] Title 63B, Chapter
64552 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter
64553 into or arrange for a lease purchase agreement in which participation interests may be created,
64554 to provide up to $2,510,000 for the acquisition of the Department of Human Services Office in
64555 Brigham City, together with additional amounts necessary to pay costs of issuance, pay
64556 capitalized interest, and fund any debt service reserve requirements.
64557 (b) It is the intent of the Legislature that amounts representing existing budgets for rent
64558 for the Department of Human Services be used as the primary revenue source for the
64559 Department of Human Services to pay the state for repayment of any obligation created under
64560 authority of this Subsection (1).
64561 (2) (a) It is the intent of the Legislature that the State Building Ownership Authority,
64562 under the authority of [~~Title 63, Chapter 9a, State Building Ownership Act~~] Title 63B, Chapter
64563 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter
64564 into or arrange for a lease purchase agreement in which participation interests may be created,
64565 to provide up to $6,518,000 for the construction of an office building to house the Department
64566 of Corrections and the Board of Pardons and Parole Administration, together with additional
64567 amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service
64568 reserve requirements.
64569 (b) It is the intent of the Legislature that amounts representing existing budgets for rent

64570 for the Department of Corrections and the Board of Pardons and Parole Administration be used
64571 as the primary revenue source for the Department of Corrections and the Board of Pardons and
64572 Parole Administration to pay the state for repayment of any obligation created under authority
64573 of this Subsection (2).
64574 Section 1265. Section **63B-9-102** is amended to read:
64575 **63B-9-102. State Building Ownership Authority revenue bond authorizations.**
64576 (1) It is the intent of the Legislature that the State Building Ownership Authority, under
64577 the authority of [~~Title 63, Chapter 9a, State Building Ownership Act~~] Title 63B, Chapter 1, Part
64578 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or
64579 arrange for a lease purchase agreement in which participation interests may be created, to
64580 provide up to $10,500,000 for the construction of a multipurpose building for the state fair
64581 park, together with additional amounts necessary to:
64582 (a) pay costs of issuance;
64583 (b) pay capitalized interest; and
64584 (c) fund any debt service reserve requirements.
64585 (2) The State Building Ownership Authority shall work cooperatively with the board of
64586 directors of the Utah State Fair Corporation to seek out the most effective and prudent lease
64587 purchase plan available.
64588 Section 1266. Section **63B-9-103** is amended to read:
64589 **63B-9-103. Other capital facility authorizations and intent language.**
64590 (1) It is the intent of the Legislature that:
64591 (a) Utah State University use institutional funds to plan, design, and construct a
64592 renovation and expansion of the Edith Bowen School under the direction of the director of the
64593 Division of Facilities Construction and Management unless supervisory authority has been
64594 delegated;
64595 (b) no state funds be used for any portion of this project; and
64596 (c) the university may request state funds for operations and maintenance to the extent
64597 that the university is able to demonstrate to the Board of Regents that the facility meets
64598 approved academic and training purposes under Board of Regents policy R710.
64599 (2) It is the intent of the Legislature that:
64600 (a) the University of Utah use institutional funds to plan, design, and construct a

64601 College of Science Math Center under the direction of the director of the Division of Facilities
64602 Construction and Management unless supervisory authority has been delegated;
64603 (b) no state funds be used for any portion of this project; and
64604 (c) the university may request state funds for operations and maintenance to the extent
64605 that the university is able to demonstrate to the Board of Regents that the facility meets
64606 approved academic and training purposes under Board of Regents policy R710.
64607 (3) It is the intent of the Legislature that:
64608 (a) the University of Utah use institutional funds to plan, design, and construct a
64609 Burbidge Athletics and Academics Building under the direction of the director of the Division
64610 of Facilities Construction and Management unless supervisory authority has been delegated;
64611 (b) no state funds be used for any portion of this project; and
64612 (c) the university may not request state funds for operations and maintenance.
64613 (4) It is the intent of the Legislature that:
64614 (a) the University of Utah use institutional funds to plan, design, and construct an
64615 expansion to the bookstore under the direction of the director of the Division of Facilities
64616 Construction and Management unless supervisory authority has been delegated;
64617 (b) no state funds be used for any portion of this project; and
64618 (c) the university may not request state funds for operations and maintenance.
64619 (5) It is the intent of the Legislature that:
64620 (a) the University of Utah use institutional funds to plan, design, and construct a Health
64621 Sciences/Basic Sciences Building under the direction of the director of the Division of
64622 Facilities Construction and Management unless supervisory authority has been delegated;
64623 (b) no state funds be used for any portion of this project; and
64624 (c) the university may request state funds for operations and maintenance to the extent
64625 that the university is able to demonstrate to the Board of Regents that the facility meets
64626 approved academic and training purposes under Board of Regents policy R710.
64627 (6) It is the intent of the Legislature that:
64628 (a) Weber State University use institutional funds to plan, design, and construct an
64629 expansion to the stadium under the direction of the director of the Division of Facilities
64630 Construction and Management unless supervisory authority has been delegated;
64631 (b) no state funds be used for any portion of this project; and

64632 (c) the university may not request state funds for operations and maintenance.
64633 (7) It is the intent of the Legislature that:
64634 (a) Utah Valley State College use institutional funds to plan, design, and construct a
64635 baseball stadium under the direction of the director of the Division of Facilities Construction
64636 and Management unless supervisory authority has been delegated;
64637 (b) no state funds be used for any portion of this project; and
64638 (c) the college may not request state funds for operations and maintenance.
64639 (8) It is the intent of the Legislature that:
64640 (a) Southern Utah University use institutional funds to plan, design, and construct a
64641 weight training room under the direction of the director of the Division of Facilities
64642 Construction and Management unless supervisory authority has been delegated;
64643 (b) no state funds be used for any portion of this project; and
64644 (c) the university may not request state funds for operations and maintenance.
64645 (9) It is the intent of the Legislature that:
64646 (a) Snow College may lease land at the Snow College Richfield campus to a private
64647 developer for the construction and operation of student housing;
64648 (b) the oversight and inspection of the construction comply with Section 63A-5-206;
64649 (c) no state funds be used for any portion of this project; and
64650 (d) the college may not request state funds for operations and maintenance.
64651 (10) It is the intent of the Legislature that:
64652 (a) Salt Lake Community College may lease land at the Jordan campus to Jordan
64653 School District for the construction and operation of an Applied Technology Education Center;
64654 (b) the oversight and inspection of the construction comply with Section 63A-5-206;
64655 (c) no state funds be used for any portion of this project; and
64656 (d) the college may not request state funds for operations and maintenance.
64657 (11) It is the intent of the Legislature that:
64658 (a) the Department of Transportation exchange its maintenance station at Kimball
64659 Junction for property located near Highway 40 in Summit County; and
64660 (b) the Department of Transportation use federal funds, rent paid by the Salt Lake
64661 Organizing Committee for the use of the maintenance station, and any net proceeds resulting
64662 from the exchange of property to construct a replacement facility under the direction of the

64663 director of the Division of Facilities Construction and Management unless supervisory
64664 authority has been delegated.
64665 (12) It is the intent of the Legislature that:
64666 (a) the Department of Transportation sell surplus property in Utah County;
64667 (b) the Department of Transportation use funds from that sale to remodel existing
64668 space and add an addition to the Region 3 Complex; and
64669 (c) the project cost not exceed the funds received through sale of property.
64670 (13) It is the intent of the Legislature that the Department of Workforce Services use
64671 proceeds from property sales to purchase additional property adjacent to its state-owned facility
64672 in Logan.
64673 (14) (a) It is the intent of the Legislature that, because only partial funding is provided
64674 for the Heat Plant/Infrastructure Project at Utah State University, the balance necessary to
64675 complete this project be addressed by future Legislatures, either through appropriations or
64676 through the issuance of bonds.
64677 (b) (i) In compliance with Section 63A-5-207, the division may enter into contracts for
64678 amounts not to exceed the anticipated full project funding but may not allow work to be
64679 performed on those contracts in excess of the funding already authorized by the Legislature.
64680 (ii) Those contracts shall contain a provision for termination of the contract for the
64681 convenience of the state as required by Section [~~63-56-601~~] 63G-6-601.
64682 (c) It is also the intent of the Legislature that this authorization to the division does not
64683 bind future Legislatures to fund the Heat Plant/Infrastructure Project at Utah State University.
64684 Section 1267. Section **63B-9-205** is amended to read:
64685 **63B-9-205. Terms and conditions of sale -- Plan of financing -- Signatures --**
64686 **Replacement -- Registration -- Federal rebate.**
64687 (1) In the issuance of bonds, the commission may determine by resolution:
64688 (a) the manner of sale, including public or private sale;
64689 (b) the terms and conditions of sale, including price, whether at, below, or above face
64690 value;
64691 (c) denominations;
64692 (d) form;
64693 (e) manner of execution;

64694 (f) manner of authentication;
64695 (g) place and medium of purchase;
64696 (h) redemption terms; and
64697 (i) other provisions and details it considers appropriate.
64698 (2) The commission may, by resolution, adopt a plan of financing, which may include
64699 terms and conditions of arrangements entered into by the commission on behalf of the state
64700 with financial and other institutions for letters of credit, standby letters of credit,
64701 reimbursement agreements, and remarketing, indexing, and tender agent agreements to secure
64702 the bonds, including payment from any legally available source of fees, charges, or other
64703 amounts coming due under the agreements entered into by the commission.
64704 (3) (a) Any signature of a public official authorized by resolution of the commission to
64705 sign the bonds may be a facsimile signature of that official imprinted, engraved, stamped, or
64706 otherwise placed on the bonds.
64707 (b) If all signatures of public officials on the bonds are facsimile signatures, provision
64708 shall be made for a manual authenticating signature on the bonds by or on behalf of a
64709 designated authentication agent.
64710 (c) If an official ceases to hold office before delivery of the bonds signed by that
64711 official, the signature or facsimile signature of the official is nevertheless valid for all purposes.
64712 (d) A facsimile of the state seal may be imprinted, engraved, stamped, or otherwise
64713 placed on the bonds.
64714 (4) (a) The commission may enact resolutions providing for the replacement of lost,
64715 destroyed, or mutilated bonds, or for the exchange of bonds after issuance for bonds of smaller
64716 or larger denominations.
64717 (b) Bonds in changed denominations shall:
64718 (i) be exchanged for the original bonds in like aggregate principal amounts and in a
64719 manner that prevents the duplication of interest; and
64720 (ii) bear interest at the same rate, mature on the same date, and be as nearly as
64721 practicable in the form of the original bonds.
64722 (5) (a) Bonds may be registered as to both principal and interest or may be in a book
64723 entry form under which the right to principal and interest may be transferred only through a
64724 book entry.

64725 (b) The commission may provide for the services and payment for the services of one
64726 or more financial institutions or other entities or persons, or nominees, within or outside the
64727 state, for the authentication, registration, transfer, including record, bookkeeping, or book entry
64728 functions, exchange, and payment of the bonds.
64729 (c) The records of ownership, registration, transfer, and exchange of the bonds, and of
64730 persons to whom payment with respect to the obligations is made, are private records as
64731 provided in Section [~~63-2-302~~] 63G-2-302, or protected records as provided in Section
64732 [~~63-2-304~~] 63G-2-305.
64733 (d) The bonds and any evidences of participation interest in the bonds may be issued,
64734 executed, authenticated, registered, transferred, exchanged, and otherwise made to comply with
64735 Title 15, Chapter 7, Registered Public Obligations Act, or any other act of the Legislature
64736 relating to the registration of obligations enacted to meet the requirements of Section 149 of the
64737 Internal Revenue Code of 1986, as amended, or any successor to it, and applicable regulations.
64738 (6) The commission may:
64739 (a) by resolution, provide for payment to the United States of whatever amounts are
64740 necessary to comply with Section 148 (f) of the Internal Revenue Code of 1986, as amended;
64741 and
64742 (b) enter into agreements with financial and other institutions and attorneys to provide
64743 for:
64744 (i) the calculation, holding, and payment of those amounts; and
64745 (ii) payment from any legally available source of fees, charges, or other amounts
64746 coming due under any agreements entered into by the commission.
64747 Section 1268. Section **63B-10-105** is amended to read:
64748 **63B-10-105. Terms and conditions of sale -- Plan of financing -- Signatures --**
64749 **Replacement -- Registration -- Federal rebate.**
64750 (1) In the issuance of bonds, the commission may determine by resolution:
64751 (a) the manner of sale, including public or private sale;
64752 (b) the terms and conditions of sale, including price, whether at, below, or above face
64753 value;
64754 (c) denominations;
64755 (d) form;

64756 (e) manner of execution;
64757 (f) manner of authentication;
64758 (g) place and medium of purchase;
64759 (h) redemption terms; and
64760 (i) other provisions and details it considers appropriate.
64761 (2) The commission may, by resolution, adopt a plan of financing, which may include
64762 terms and conditions of arrangements entered into by the commission on behalf of the state
64763 with financial and other institutions for letters of credit, standby letters of credit,
64764 reimbursement agreements, and remarketing, indexing, and tender agent agreements to secure
64765 the bonds, including payment from any legally available source of fees, charges, or other
64766 amounts coming due under the agreements entered into by the commission.
64767 (3) (a) Any signature of a public official authorized by resolution of the commission to
64768 sign the bonds may be a facsimile signature of that official imprinted, engraved, stamped, or
64769 otherwise placed on the bonds.
64770 (b) If all signatures of public officials on the bonds are facsimile signatures, provision
64771 shall be made for a manual authenticating signature on the bonds by or on behalf of a
64772 designated authentication agent.
64773 (c) If an official ceases to hold office before delivery of the bonds signed by that
64774 official, the signature or facsimile signature of the official is nevertheless valid for all purposes.
64775 (d) A facsimile of the state seal may be imprinted, engraved, stamped, or otherwise
64776 placed on the bonds.
64777 (4) (a) The commission may enact resolutions providing for the replacement of lost,
64778 destroyed, or mutilated bonds, or for the exchange of bonds after issuance for bonds of smaller
64779 or larger denominations.
64780 (b) Bonds in changed denominations shall:
64781 (i) be exchanged for the original bonds in like aggregate principal amounts and in a
64782 manner that prevents the duplication of interest; and
64783 (ii) bear interest at the same rate, mature on the same date, and be as nearly as
64784 practicable in the form of the original bonds.
64785 (5) (a) Bonds may be registered as to both principal and interest or may be in a book
64786 entry form under which the right to principal and interest may be transferred only through a

64787 book entry.
64788 (b) The commission may provide for the services and payment for the services of one
64789 or more financial institutions or other entities or persons, or nominees, within or outside the
64790 state, for the authentication, registration, transfer, including record, bookkeeping, or book entry
64791 functions, exchange, and payment of the bonds.
64792 (c) The records of ownership, registration, transfer, and exchange of the bonds, and of
64793 persons to whom payment with respect to the obligations is made, are private records as
64794 provided in Section [~~63-2-302~~] 63G-2-302, or protected records as provided in Section
64795 [~~63-2-304~~] 63G-2-305.
64796 (d) The bonds and any evidences of participation interest in the bonds may be issued,
64797 executed, authenticated, registered, transferred, exchanged, and otherwise made to comply with
64798 Title 15, Chapter 7, Registered Public Obligations Act, or any other act of the Legislature
64799 relating to the registration of obligations enacted to meet the requirements of Section 149 of the
64800 Internal Revenue Code of 1986, as amended, or any successor to it, and applicable regulations.
64801 (6) The commission may:
64802 (a) by resolution, provide for payment to the United States of whatever amounts are
64803 necessary to comply with Section 148(f) of the Internal Revenue Code of 1986, as amended;
64804 and
64805 (b) enter into agreements with financial and other institutions and attorneys to provide
64806 for:
64807 (i) the calculation, holding, and payment of those amounts; and
64808 (ii) payment from any legally available source of fees, charges, or other amounts
64809 coming due under any agreements entered into by the commission.
64810 Section 1269. Section **63B-10-301** is amended to read:
64811 **63B-10-301. Revenue bond authorizations.**
64812 (1) (a) It is the intent of the Legislature that the State Building Ownership Authority,
64813 under the authority of [~~Title 63, Chapter 9a, State Building Ownership Act~~] Title 63B, Chapter
64814 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter
64815 into or arrange for a lease purchase agreement in which participation interests may be created,
64816 to provide up to $8,281,000 for the construction of an expansion of the Department of
64817 Alcoholic Beverage Control warehouse together with additional amounts necessary to pay costs

64818 of issuance, pay capitalized interest, and fund any debt service reserve requirements.
64819 (b) It is the intent of the Legislature that enhanced revenues of the Department of
64820 Alcoholic Beverage Control be used as the primary revenue source for repayment of any
64821 obligation created under authority of this Subsection (1).
64822 (2) (a) It is the intent of the Legislature that the State Building Ownership Authority,
64823 under the authority of [~~Title 63, Chapter 9a, State Building Ownership Act~~] Title 63B, Chapter
64824 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter
64825 into or arrange for a lease purchase agreement in which participation interests may be created,
64826 to provide up to $957,100 for the acquisition of a site and construction of a store in the western
64827 part of Salt Lake County for the Department of Alcoholic Beverage Control together with
64828 additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any
64829 debt service reserve requirements.
64830 (b) It is the intent of the Legislature that enhanced revenues of the Department of
64831 Alcoholic Beverage Control be used as the primary revenue source for repayment of any
64832 obligation created under authority of this Subsection (2).
64833 (3) (a) It is the intent of the Legislature that the State Building Ownership Authority,
64834 under the authority of [~~Title 63, Chapter 9a, State Building Ownership Act~~] Title 63B, Chapter
64835 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter
64836 into or arrange for a lease purchase agreement in which participation interests may be created,
64837 to provide up to $1,497,700 for the acquisition of a site and construction of a store in the
64838 southern part of Salt Lake County for the Department of Alcoholic Beverage Control together
64839 with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund
64840 any debt service reserve requirements.
64841 (b) It is the intent of the Legislature that enhanced revenues of the Department of
64842 Alcoholic Beverage Control be used as the primary revenue source for repayment of any
64843 obligation created under authority of this Subsection (3).
64844 (4) (a) It is the intent of the Legislature that the State Building Ownership Authority,
64845 under the authority of [~~Title 63, Chapter 9a, State Building Ownership Act~~] Title 63B, Chapter
64846 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter
64847 into or arrange for a lease purchase agreement in which participation interests may be created,
64848 to provide up to $100,000,000 for the acquisition and construction of a cancer clinical research

64849 hospital facility adjacent to the University of Utah Medical Center, together with additional
64850 amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service
64851 reserve requirements.
64852 (b) The State Building Ownership Authority shall work cooperatively with the
64853 Division of Facilities Construction and Management and the University of Utah to seek out the
64854 most cost effective and prudent lease purchase plan available.
64855 (c) It is the intent of the Legislature that the University of Utah lease land to the State
64856 Building Ownership Authority for the construction of a cancer clinical research hospital facility
64857 adjacent to the University of Utah Medical Center.
64858 (d) The anticipated revenue sources for repayment of any obligation created under
64859 authority of this section are:
64860 (i) the institutional funds of the University of Utah, including the University's annual
64861 distribution of tobacco settlement funds from the state; and
64862 (ii) donations from the Huntsman Cancer Foundation and other donors.
64863 (e) By September 1 of each year of the existence of this revenue bond, the University
64864 of Utah shall give an annual report regarding the status of the bond and the bond payments to
64865 the Legislative Fiscal Analyst. This report shall be reviewed by the Higher Education
64866 Appropriations Subcommittee and the Capital Facilities Appropriation Subcommittee.
64867 (5) It is the intent of the Legislature that:
64868 (a) the Board of Regents, on behalf of the University of Utah, issue, sell, and deliver
64869 revenue bonds or other evidences of indebtedness of the University of Utah to borrow money
64870 on the credit, revenues, and reserves of the University of Utah, other than appropriations of the
64871 Legislature, to finance the cost of acquiring, constructing, furnishing, and equipping an
64872 expansion of the University Hospital;
64873 (b) University Hospital revenues be used as the primary revenue source for repayment
64874 of any obligation created under authority of this section; and
64875 (c) the bonds or other evidences of indebtedness authorized by this section may provide
64876 up to $25,000,000, together with other amounts necessary to pay costs of issuance, pay
64877 capitalized interest, and fund any debt service reserve requirements.
64878 (6) It is the intent of the Legislature that:
64879 (a) the Board of Regents, on behalf of Salt Lake Community College, issue, sell, and

64880 deliver revenue bonds or other evidences of indebtedness of Salt Lake Community College to
64881 borrow money on the credit, revenues, and reserves of Salt Lake Community College, other
64882 than appropriations of the Legislature, to finance the cost of acquiring, constructing, furnishing,
64883 and equipping the remodel of the cafeteria and expansion of the Student Center;
64884 (b) student fees be used as the primary revenue source for repayment of any obligation
64885 created under authority of this section; and
64886 (c) the bonds or other evidences of indebtedness authorized by this section may provide
64887 up to $6,000,000, together with other amounts necessary to pay costs of issuance, pay
64888 capitalized interest, and fund any debt service reserve requirements.
64889 (7) It is the intent of the Legislature that:
64890 (a) the Board of Regents, on behalf of Dixie College, issue, sell, and deliver revenue
64891 bonds or other evidences of indebtedness of Dixie College to borrow money on the credit,
64892 revenues, and reserves of Dixie College, other than appropriations of the Legislature, to finance
64893 the cost of acquiring, constructing, furnishing, and equipping an expansion of the Gardner
64894 Student Center;
64895 (b) student fees be used as the primary revenue source for repayment of any obligation
64896 created under authority of this section; and
64897 (c) the bonds or other evidences of indebtedness authorized by this section may provide
64898 up to $1,500,000, together with other amounts necessary to pay costs of issuance, pay
64899 capitalized interest, and fund any debt service reserve requirements.
64900 Section 1270. Section **63B-10-302** is amended to read:
64901 **63B-10-302. Other revenue bond authorizations.**
64902 (1) It is the intent of the Legislature that the State Building Ownership Authority, under
64903 the authority of [~~Title 63, Chapter 9a, State Building Ownership Act~~] Title 63B, Chapter 1, Part
64904 3, State Building Ownership Authority Act, may issue or execute obligations to provide up to
64905 $12,000,000 for the construction of a 36-hole golf course at Soldier Hollow in the Wasatch
64906 Mountain State Park, including necessary facilities such as a clubhouse, restroom facilities, and
64907 maintenance facilities, together with additional amounts necessary to:
64908 (a) pay costs of issuance;
64909 (b) pay capitalized interest; and
64910 (c) fund any debt service reserve requirements.

64911 (2) The State Building Ownership Authority shall work cooperatively with the
64912 Division of Parks and Recreation in the design and construction of the golf course at Soldier
64913 Hollow.
64914 Section 1271. Section **63B-11-105** is amended to read:
64915 **63B-11-105. Terms and conditions of sale -- Plan of financing -- Signatures --**
64916 **Replacement -- Registration -- Federal rebate.**
64917 (1) In the issuance of bonds, the commission may determine by resolution:
64918 (a) the manner of sale, including public or private sale;
64919 (b) the terms and conditions of sale, including price, whether at, below, or above face
64920 value;
64921 (c) denominations;
64922 (d) form;
64923 (e) manner of execution;
64924 (f) manner of authentication;
64925 (g) place and medium of purchase;
64926 (h) redemption terms; and
64927 (i) other provisions and details it considers appropriate.
64928 (2) The commission may, by resolution, adopt a plan of financing, which may include
64929 terms and conditions of arrangements entered into by the commission on behalf of the state
64930 with financial and other institutions for letters of credit, standby letters of credit,
64931 reimbursement agreements, and remarketing, indexing, and tender agent agreements to secure
64932 the bonds, including payment from any legally available source of fees, charges, or other
64933 amounts coming due under the agreements entered into by the commission.
64934 (3) (a) Any signature of a public official authorized by resolution of the commission to
64935 sign the bonds may be a facsimile signature of that official imprinted, engraved, stamped, or
64936 otherwise placed on the bonds.
64937 (b) If all signatures of public officials on the bonds are facsimile signatures, provision
64938 shall be made for a manual authenticating signature on the bonds by or on behalf of a
64939 designated authentication agent.
64940 (c) If an official ceases to hold office before delivery of the bonds signed by that
64941 official, the signature or facsimile signature of the official is nevertheless valid for all purposes.

64942 (d) A facsimile of the state seal may be imprinted, engraved, stamped, or otherwise
64943 placed on the bonds.
64944 (4) (a) The commission may enact resolutions providing for the replacement of lost,
64945 destroyed, or mutilated bonds, or for the exchange of bonds after issuance for bonds of smaller
64946 or larger denominations.
64947 (b) Bonds in changed denominations shall:
64948 (i) be exchanged for the original bonds in like aggregate principal amounts and in a
64949 manner that prevents the duplication of interest; and
64950 (ii) bear interest at the same rate, mature on the same date, and be as nearly as
64951 practicable in the form of the original bonds.
64952 (5) (a) Bonds may be registered as to both principal and interest or may be in a book
64953 entry form under which the right to principal and interest may be transferred only through a
64954 book entry.
64955 (b) The commission may provide for the services and payment for the services of one
64956 or more financial institutions or other entities or persons, or nominees, within or outside the
64957 state, for the authentication, registration, transfer, including record, bookkeeping, or book entry
64958 functions, exchange, and payment of the bonds.
64959 (c) The records of ownership, registration, transfer, and exchange of the bonds, and of
64960 persons to whom payment with respect to the obligations is made, are private records as
64961 provided in Section [~~63-2-302~~] 63G-2-302 or protected records as provided in Section
64962 [~~63-2-304~~] 63G-2-305.
64963 (d) The bonds and any evidences of participation interest in the bonds may be issued,
64964 executed, authenticated, registered, transferred, exchanged, and otherwise made to comply with
64965 Title 15, Chapter 7, Registered Public Obligations Act, or any other act of the Legislature
64966 relating to the registration of obligations enacted to meet the requirements of Section 149 of the
64967 Internal Revenue Code of 1986, as amended, or any successor to it, and applicable regulations.
64968 (6) The commission may:
64969 (a) by resolution, provide for payment to the United States of whatever amounts are
64970 necessary to comply with Section 148 (f) of the Internal Revenue Code of 1986, as amended;
64971 and
64972 (b) enter into agreements with financial and other institutions and attorneys to provide

64973 for:
64974 (i) the calculation, holding, and payment of those amounts; and
64975 (ii) payment from any legally available source of fees, charges, or other amounts
64976 coming due under any agreements entered into by the commission.
64977 Section 1272. Section **63B-11-202** is amended to read:
64978 **63B-11-202. Maximum amount -- Projects authorized.**
64979 (1) (a) The total amount of bonds issued under this part may not exceed $21,250,000.
64980 (b) When Utah State University certifies to the commission that the university has
64981 obtained reliable commitments, convertible to cash, of $5,000,000 or more in nonstate funds to
64982 construct an addition to the new engineering building and demolish the existing engineering
64983 classroom building, the commission may issue and sell general obligation bonds in a total
64984 amount not to exceed $6,100,000.
64985 (c) When the University of Utah certifies to the commission that the university has
64986 obtained reliable commitments, convertible to cash, of $13,000,000 or more in nonstate funds
64987 to construct a new engineering building, the commission may issue and sell general obligation
64988 bonds in a total amount not to exceed $15,150,000.
64989 (2) (a) Proceeds from the issuance of bonds shall be provided to the division to provide
64990 funds to pay all or part of the cost of acquiring and constructing the projects listed in this
64991 Subsection (2).
64992 (b) These costs may include the cost of acquiring land, interests in land, easements and
64993 rights-of-way, improving sites, and acquiring, constructing, equipping, and furnishing facilities
64994 and all structures, roads, parking facilities, utilities, and improvements necessary, incidental, or
64995 convenient to the facilities, interest estimated to accrue on these bonds during the period to be
64996 covered by construction of the projects plus a period of six months after the end of the
64997 construction period, and all related engineering, architectural, and legal fees.
64998 (c) For the division, proceeds shall be provided for the following:

64999 PROJECT	AMOUNT	ESTIMATED OPERATING
65000 DESCRIPTION	FUNDED	AND MAINTENANCE COSTS
65001 1. Utah State	$5,943,500	$425,000
65002 University		
65003 Engineering Building		

65004 Renovation
65005 2. University of $15,000,000 $489,000
65006 Utah New
65007 Engineering Building
65008 COSTS OF ISSUANCE $306,500
65009 TOTAL CAPITAL AND ECONOMIC DEVELOPMENT $21,250,000
65010 (d) For purposes of this section, operations and maintenance costs:
65011 (i) are estimates only;
65012 (ii) may include any operations and maintenance costs already funded in existing
65013 agency budgets; and
65014 (iii) are not commitments by this Legislature or future Legislatures to fund those
65015 operations and maintenance costs.
65016 (3) (a) The amounts funded as listed in Subsection (2) are estimates only and do not
65017 constitute a limitation on the amount that may be expended for any project.
65018 (b) The board may revise these estimates and redistribute the amount estimated for a
65019 project among the projects authorized.
65020 (c) The commission, by resolution and in consultation with the board, may delete one
65021 or more projects from this list if the inclusion of that project or those projects in the list could
65022 be construed to violate state law or federal law or regulation.
65023 (4) (a) The division may enter into agreements related to these projects before the
65024 receipt of proceeds of bonds issued under this chapter.
65025 (b) The division shall make those expenditures from unexpended and unencumbered
65026 building funds already appropriated to the Capital Projects Fund.
65027 (c) The division shall reimburse the Capital Projects Fund upon receipt of the proceeds
65028 of bonds issued under this chapter.
65029 (d) The commission may, by resolution, make any statement of intent relating to that
65030 reimbursement that is necessary or desirable to comply with federal tax law.
65031 (5) (a) For those projects for which only partial funding is provided in Subsection (2),
65032 it is the intent of the Legislature that the balance necessary to complete the projects be
65033 addressed by future Legislatures, either through appropriations or through the issuance or sale
65034 of bonds.

65035 (b) For those phased projects, the division may enter into contracts for amounts not to
65036 exceed the anticipated full project funding but may not allow work to be performed on those
65037 contracts in excess of the funding already authorized by the Legislature.
65038 (c) Those contracts shall contain a provision for termination of the contract for the
65039 convenience of the state as required by Section [~~63-56-601~~] 63G-6-601.
65040 (d) It is also the intent of the Legislature that this authorization to the division does not
65041 bind future Legislatures to fund projects initiated from this authorization.
65042 Section 1273. Section **63B-11-205** is amended to read:
65043 **63B-11-205. Terms and conditions of sale -- Plan of financing -- Signatures --**
65044 **Replacement -- Registration -- Federal rebate.**
65045 (1) In the issuance of bonds, the commission may determine by resolution:
65046 (a) the manner of sale, including public or private sale;
65047 (b) the terms and conditions of sale, including price, whether at, below, or above face
65048 value;
65049 (c) denominations;
65050 (d) form;
65051 (e) manner of execution;
65052 (f) manner of authentication;
65053 (g) place and medium of purchase;
65054 (h) redemption terms; and
65055 (i) other provisions and details it considers appropriate.
65056 (2) The commission may, by resolution, adopt a plan of financing, which may include
65057 terms and conditions of arrangements entered into by the commission on behalf of the state
65058 with financial and other institutions for letters of credit, standby letters of credit,
65059 reimbursement agreements, and remarketing, indexing, and tender agent agreements to secure
65060 the bonds, including payment from any legally available source of fees, charges, or other
65061 amounts coming due under the agreements entered into by the commission.
65062 (3) (a) Any signature of a public official authorized by resolution of the commission to
65063 sign the bonds may be a facsimile signature of that official imprinted, engraved, stamped, or
65064 otherwise placed on the bonds.
65065 (b) If all signatures of public officials on the bonds are facsimile signatures, provision

65066 shall be made for a manual authenticating signature on the bonds by or on behalf of a
65067 designated authentication agent.
65068 (c) If an official ceases to hold office before delivery of the bonds signed by that
65069 official, the signature or facsimile signature of the official is nevertheless valid for all purposes.
65070 (d) A facsimile of the state seal may be imprinted, engraved, stamped, or otherwise
65071 placed on the bonds.
65072 (4) (a) The commission may enact resolutions providing for the replacement of lost,
65073 destroyed, or mutilated bonds, or for the exchange of bonds after issuance for bonds of smaller
65074 or larger denominations.
65075 (b) Bonds in changed denominations shall:
65076 (i) be exchanged for the original bonds in like aggregate principal amounts and in a
65077 manner that prevents the duplication of interest; and
65078 (ii) bear interest at the same rate, mature on the same date, and be as nearly as
65079 practicable in the form of the original bonds.
65080 (5) (a) Bonds may be registered as to both principal and interest or may be in a book
65081 entry form under which the right to principal and interest may be transferred only through a
65082 book entry.
65083 (b) The commission may provide for the services and payment for the services of one
65084 or more financial institutions or other entities or persons, or nominees, within or outside the
65085 state, for the authentication, registration, transfer, including record, bookkeeping, or book entry
65086 functions, exchange, and payment of the bonds.
65087 (c) The records of ownership, registration, transfer, and exchange of the bonds, and of
65088 persons to whom payment with respect to the obligations is made, are private records as
65089 provided in Section [~~63-2-302~~] 63G-2-302 or protected records as provided in Section
65090 [~~63-2-304~~] 63G-2-305.
65091 (d) The bonds and any evidences of participation interest in the bonds may be issued,
65092 executed, authenticated, registered, transferred, exchanged, and otherwise made to comply with
65093 Title 15, Chapter 7, Registered Public Obligations Act, or any other act of the Legislature
65094 relating to the registration of obligations enacted to meet the requirements of Section 149 of the
65095 Internal Revenue Code of 1986, as amended, or any successor to it, and applicable regulations.
65096 (6) The commission may:

65097 (a) by resolution, provide for payment to the United States of whatever amounts are
65098 necessary to comply with Section 148 (f) of the Internal Revenue Code of 1986, as amended;
65099 and
65100 (b) enter into agreements with financial and other institutions and attorneys to provide
65101 for:
65102 (i) the calculation, holding, and payment of those amounts; and
65103 (ii) payment from any legally available source of fees, charges, or other amounts
65104 coming due under any agreements entered into by the commission.
65105 Section 1274. Section **63B-11-305** is amended to read:
65106 **63B-11-305. Terms and conditions of sale -- Plan of financing -- Signatures --**
65107 **Replacement -- Registration -- Federal rebate.**
65108 (1) In the issuance of bonds, the commission may determine by resolution:
65109 (a) the manner of sale, including public or private sale;
65110 (b) the terms and conditions of sale, including price, whether at, below, or above face
65111 value;
65112 (c) denominations;
65113 (d) form;
65114 (e) manner of execution;
65115 (f) manner of authentication;
65116 (g) place and medium of purchase;
65117 (h) redemption terms; and
65118 (i) other provisions and details it considers appropriate.
65119 (2) The commission may, by resolution, adopt a plan of financing, which may include
65120 terms and conditions of arrangements entered into by the commission on behalf of the state
65121 with financial and other institutions for letters of credit, standby letters of credit,
65122 reimbursement agreements, and remarketing, indexing, and tender agent agreements to secure
65123 the bonds, including payment from any legally available source of fees, charges, or other
65124 amounts coming due under the agreements entered into by the commission.
65125 (3) (a) Any signature of a public official authorized by resolution of the commission to
65126 sign the bonds may be a facsimile signature of that official imprinted, engraved, stamped, or
65127 otherwise placed on the bonds.

65128 (b) If all signatures of public officials on the bonds are facsimile signatures, provision
65129 shall be made for a manual authenticating signature on the bonds by or on behalf of a
65130 designated authentication agent.
65131 (c) If an official ceases to hold office before delivery of the bonds signed by that
65132 official, the signature or facsimile signature of the official is nevertheless valid for all purposes.
65133 (d) A facsimile of the state seal may be imprinted, engraved, stamped, or otherwise
65134 placed on the bonds.
65135 (4) (a) The commission may enact resolutions providing for the replacement of lost,
65136 destroyed, or mutilated bonds, or for the exchange of bonds after issuance for bonds of smaller
65137 or larger denominations.
65138 (b) Bonds in changed denominations shall:
65139 (i) be exchanged for the original bonds in like aggregate principal amounts and in a
65140 manner that prevents the duplication of interest; and
65141 (ii) bear interest at the same rate, mature on the same date, and be as nearly as
65142 practicable in the form of the original bonds.
65143 (5) (a) Bonds may be registered as to both principal and interest or may be in a book
65144 entry form under which the right to principal and interest may be transferred only through a
65145 book entry.
65146 (b) The commission may provide for the services and payment for the services of one
65147 or more financial institutions or other entities or persons, or nominees, within or outside the
65148 state, for the authentication, registration, transfer, including record, bookkeeping, or book entry
65149 functions, exchange, and payment of the bonds.
65150 (c) The records of ownership, registration, transfer, and exchange of the bonds, and of
65151 persons to whom payment with respect to the obligations is made, are private records as
65152 provided in Section [~~63-2-302~~] 63G-2-302, or protected records as provided in Section
65153 [~~63-2-304~~] 63G-2-305.
65154 (d) The bonds and any evidences of participation interest in the bonds may be issued,
65155 executed, authenticated, registered, transferred, exchanged, and otherwise made to comply with
65156 Title 15, Chapter 7, Registered Public Obligations Act, or any other act of the Legislature
65157 relating to the registration of obligations enacted to meet the requirements of Section 149 of the
65158 Internal Revenue Code of 1986, as amended, or any successor to it, and applicable regulations.

65159 (6) The commission may:
65160 (a) by resolution, provide for payment to the United States of whatever amounts are
65161 necessary to comply with Section 148(f) of the Internal Revenue Code of 1986, as amended;
65162 and
65163 (b) enter into agreements with financial and other institutions and attorneys to provide
65164 for:
65165 (i) the calculation, holding, and payment of those amounts; and
65166 (ii) payment from any legally available source of fees, charges, or other amounts
65167 coming due under any agreements entered into by the commission.
65168 Section 1275. Section **63B-11-505** is amended to read:
65169 **63B-11-505. Terms and conditions of sale -- Plan of financing -- Signatures --**
65170 **Replacement -- Registration -- Federal rebate.**
65171 (1) In the issuance of bonds, the commission may determine by resolution:
65172 (a) the manner of sale, including public or private sale;
65173 (b) the terms and conditions of sale, including price, whether at, below, or above face
65174 value;
65175 (c) denominations;
65176 (d) form;
65177 (e) manner of execution;
65178 (f) manner of authentication;
65179 (g) place and medium of purchase;
65180 (h) redemption terms; and
65181 (i) other provisions and details it considers appropriate.
65182 (2) The commission may, by resolution, adopt a plan of financing, which may include
65183 terms and conditions of arrangements entered into by the commission on behalf of the state
65184 with financial and other institutions for letters of credit, standby letters of credit,
65185 reimbursement agreements, and remarketing, indexing, and tender agent agreements to secure
65186 the bonds, including payment from any legally available source of fees, charges, or other
65187 amounts coming due under the agreements entered into by the commission.
65188 (3) (a) Any signature of a public official authorized by resolution of the commission to
65189 sign the bonds may be a facsimile signature of that official imprinted, engraved, stamped, or

65190 otherwise placed on the bonds.
65191 (b) If all signatures of public officials on the bonds are facsimile signatures, provision
65192 shall be made for a manual authenticating signature on the bonds by or on behalf of a
65193 designated authentication agent.
65194 (c) If an official ceases to hold office before delivery of the bonds signed by that
65195 official, the signature or facsimile signature of the official is nevertheless valid for all purposes.
65196 (d) A facsimile of the state seal may be imprinted, engraved, stamped, or otherwise
65197 placed on the bonds.
65198 (4) (a) The commission may enact resolutions providing for the replacement of lost,
65199 destroyed, or mutilated bonds, or for the exchange of bonds after issuance for bonds of smaller
65200 or larger denominations.
65201 (b) Bonds in changed denominations shall:
65202 (i) be exchanged for the original bonds in like aggregate principal amounts and in a
65203 manner that prevents the duplication of interest; and
65204 (ii) bear interest at the same rate, mature on the same date, and be as nearly as
65205 practicable in the form of the original bonds.
65206 (5) (a) Bonds may be registered as to both principal and interest or may be in a book
65207 entry form under which the right to principal and interest may be transferred only through a
65208 book entry.
65209 (b) The commission may provide for the services and payment for the services of one
65210 or more financial institutions or other entities or persons, or nominees, within or outside the
65211 state, for the authentication, registration, transfer, including record, bookkeeping, or book entry
65212 functions, exchange, and payment of the bonds.
65213 (c) The records of ownership, registration, transfer, and exchange of the bonds, and of
65214 persons to whom payment with respect to the obligations is made, are private records as
65215 provided in Section [~~63-2-302~~] 63G-2-302, or protected records as provided in Section
65216 [~~63-2-304~~] 63G-2-305.
65217 (d) The bonds and any evidences of participation interest in the bonds may be issued,
65218 executed, authenticated, registered, transferred, exchanged, and otherwise made to comply with
65219 Title 15, Chapter 7, Registered Public Obligations Act, or any other act of the Legislature
65220 relating to the registration of obligations enacted to meet the requirements of Section 149 of the

65221 Internal Revenue Code of 1986, as amended, or any successor to it, and applicable regulations.
65222 (6) The commission may:
65223 (a) by resolution, provide for payment to the United States of whatever amounts are
65224 necessary to comply with Section 148 (f) of the Internal Revenue Code of 1986, as amended;
65225 and
65226 (b) enter into agreements with financial and other institutions and attorneys to provide
65227 for:
65228 (i) the calculation, holding, and payment of those amounts; and
65229 (ii) payment from any legally available source of fees, charges, or other amounts
65230 coming due under any agreements entered into by the commission.
65231 Section 1276. Section **63B-11-701** is amended to read:
65232 **63B-11-701. Revenue bond authorizations.**
65233 (1) It is the intent of the Legislature that:
65234 (a) the Board of Regents, on behalf of the University of Utah, issue, sell, and deliver
65235 revenue bonds or other evidences of indebtedness of the University of Utah to borrow money
65236 on the credit, revenues, and reserves of the University of Utah, other than appropriations of the
65237 Legislature, to refinance the cost of acquiring, constructing, furnishing, and equipping the
65238 East-Campus Central Plant and related energy improvements;
65239 (b) savings in heating and cooling costs be used as the primary revenue source for
65240 repayment of any obligation created under authority of this section; and
65241 (c) the bonds or other evidences of indebtedness authorized by this section may provide
65242 up to $33,000,000, together with other amounts necessary to pay costs of issuance, pay
65243 capitalized interest, and fund any debt service reserve requirements.
65244 (2) It is the intent of the Legislature that:
65245 (a) the Board of Regents, on behalf of Utah State University, issue, sell, and deliver
65246 revenue bonds or other evidences of indebtedness of Utah State University to borrow money on
65247 the credit, revenues, and reserves of Utah State University, other than appropriations of the
65248 Legislature, to finance the cost of acquiring, constructing, furnishing, and equipping research
65249 and office facilities at its Research Park;
65250 (b) revenues from research activities, the Utah State University Research Foundation,
65251 and other institutional funds be used as the primary revenue source for repayment of any

65252 obligation created under authority of this section; and
65253 (c) the bonds or other evidences of indebtedness authorized by this section may provide
65254 up to $19,000,000, together with other amounts necessary to pay costs of issuance, pay
65255 capitalized interest, and fund any debt service reserve requirements.
65256 (3) It is the intent of the Legislature that:
65257 (a) the Board of Regents, on behalf of Southern Utah University, issue, sell, and deliver
65258 revenue bonds or other evidences of indebtedness of Southern Utah University to borrow
65259 money on the credit, revenues, and reserves of Southern Utah University, other than
65260 appropriations of the Legislature, to finance the cost of acquiring, constructing, furnishing, and
65261 equipping a Student Living and Learning Facility;
65262 (b) student housing and other auxiliary revenues and student building fees be used as
65263 the primary revenue source for repayment of any obligation created under authority of this
65264 section; and
65265 (c) the bonds or other evidences of indebtedness authorized by this section may provide
65266 up to $9,000,000, together with other amounts necessary to pay costs of issuance, pay
65267 capitalized interest, and fund any debt service reserve requirements.
65268 (4) It is the intent of the Legislature that:
65269 (a) the Board of Regents, on behalf of Snow College, issue, sell, and deliver revenue
65270 bonds or other evidences of indebtedness of Snow College to borrow money on the credit,
65271 revenues, and reserves of Snow College, other than appropriations of the Legislature, to finance
65272 the cost of acquiring, constructing, furnishing, and equipping a Multi-Event Center in
65273 Richfield;
65274 (b) usage fees and other operating revenues be used as the primary revenue source for
65275 repayment of any obligation created under authority of this section; and
65276 (c) the bonds or other evidences of indebtedness authorized by this section may provide
65277 up to $2,500,000, together with other amounts necessary to pay costs of issuance, pay
65278 capitalized interest, and fund any debt service reserve requirements.
65279 (5) It is the intent of the Legislature that the State Building Ownership Authority, under
65280 the authority of [~~Title 63, Chapter 9a, State Building Ownership Act~~] Title 63B, Chapter 1, Part
65281 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or
65282 arrange for a lease purchase agreement in which participation interests may be created, to

65283 provide up to $1,836,000 for the acquisition of a site and construction of a store in Tooele for
65284 the Department of Alcoholic Beverage Control, together with additional amounts necessary to
65285 pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.
65286 Section 1277. Section **63B-12-201** is amended to read:
65287 **63B-12-201. Revenue bond authorizations.**
65288 (1) (a) It is the intent of the Legislature that the State Building Ownership Authority,
65289 under the authority of [~~Title 63, Chapter 9a, State Building Ownership Act~~] Title 63B, Chapter
65290 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter
65291 into or arrange for a lease purchase agreement in which participation interests may be created,
65292 to provide up to $14,099,000 for the construction of a state courthouse in the City of West
65293 Jordan together with additional amounts necessary to pay costs of issuance, pay capitalized
65294 interest, and fund any debt service reserve requirements.
65295 (b) It is the intent of the Legislature that, before entering into the obligations authorized
65296 by this Subsection (1), the State Building Ownership Authority shall confirm that the projected
65297 amount of fees in the Courts Complex Fund, Fund 106, along with other funds in existing
65298 budgets of the courts are adequate to cover the repayment of any obligation created under
65299 authority of this Subsection (1).
65300 (c) It is further the intent of the Legislature that when Sandy City has entered into a
65301 binding agreement with the Division of Facilities Construction and Management to purchase
65302 the existing Sandy Courthouse at an amount that will provide sale proceeds, net of any rent that
65303 may be charged to the courts for occupying the Sandy Courthouse during construction of the
65304 new courthouse, of not less than $4,500,000, those proceeds may be used to include
65305 replacement space for the district court in the new courthouse.
65306 (2) (a) It is the intent of the Legislature that the State Building Ownership Authority,
65307 under the authority of [~~Title 63, Chapter 9a, State Building Ownership Act~~] Title 63B, Chapter
65308 1, Part 3, State Building Ownership Authority Act, issue or execute obligations, or enter into or
65309 arrange for a lease purchase agreement in which participation interests may be created, to
65310 provide up to $1,242,000 for the construction of a driver license office in West Valley City,
65311 together with additional amounts necessary to pay costs of issuance, pay capitalized interest,
65312 and fund any debt service reserve requirements.
65313 (b) It is further the intent of the Legislature that fees for driver licenses be used as the

65314 primary revenue source for repayment of any obligation created under authority of this
65315 Subsection (2).
65316 Section 1278. Section **63C-4-101** is amended to read:
65317 **63C-4-101. Creation of Constitutional Defense Council -- Membership --**
65318 **Vacancies -- Reports -- Per diem and funding.**
65319 (1) There is created the Constitutional Defense Council.
65320 (2) (a) The defense council shall consist of the following 11 members:
65321 (i) the governor, who shall serve as chair of the council;
65322 (ii) the president of the Senate or [~~his~~] the president of the Senate's designee;
65323 (iii) the speaker of the House or [~~his~~] the speaker of the House's designee;
65324 (iv) the minority leader of the Senate or [~~his~~] the minority leader of the Senate's
65325 designee;
65326 (v) the minority leader of the House or [~~his~~] the minority leader of the House's
65327 designee;
65328 (vi) the attorney general or [~~his~~] the attorney general's designee;
65329 (vii) one citizen member appointed by the governor; and
65330 (viii) four elected county commissioners, county council members, or county
65331 executives from different counties who are selected by the Utah Association of Counties.
65332 (b) The council shall select a vice-chair from its members.
65333 (3) When a vacancy occurs in the membership for any reason, the replacement shall be
65334 appointed for the unexpired term in the same manner as the original appointment.
65335 (4) (a) (i) Except as provided in Subsection (4)(a)(ii), the defense council shall meet at
65336 least monthly or more frequently as needed.
65337 (ii) The defense council need not meet monthly if the chair, after polling the members,
65338 determines that a majority of the members do not wish to meet.
65339 (b) The governor or any six members of the council may call a meeting of the council.
65340 (c) Before calling a meeting, the governor or council members shall solicit items for
65341 the agenda from other members of the council.
65342 (d) (i) The Constitutional Defense Council shall require that any entity that receives
65343 monies from the Constitutional Defense Restricted Account provide financial reports and
65344 litigation reports to the Council.

65345 (ii) Nothing in this Subsection (4)(d) prohibits the council from closing a meeting
65346 under Title 52, Chapter 4, Open and Public Meetings Act, or prohibits the council from
65347 complying with [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records Access and
65348 Management Act.
65349 (e) A majority of the membership on the defense council is required for a quorum to
65350 conduct council business. A majority vote of the quorum is required for any action taken by
65351 the defense council.
65352 (5) The Office of the Attorney General shall provide staff to the defense council.
65353 (6) (a) (i) State government officer and employee members who do not receive salary,
65354 per diem, or expenses from their agency for their service may receive per diem and expenses
65355 incurred in the performance of their official duties from the council at the rates established by
65356 the Division of Finance under Sections 63A-3-106 and 63A-3-107.
65357 (ii) State government officer and employee members may decline to receive per diem
65358 and expenses for their service.
65359 (b) (i) Local government members who do not receive salary, per diem, or expenses
65360 from the entity that they represent for their service may receive per diem and expenses incurred
65361 in the performance of their official duties at the rates established by the Division of Finance
65362 under Sections 63A-3-106 and 63A-3-107.
65363 (ii) Local government members may decline to receive per diem and expenses for their
65364 service.
65365 (c) Legislators on the committee shall receive compensation and expenses as provided
65366 by law and legislative rule.
65367 (7) (a) The council shall be funded from the Constitutional Defense Restricted Account
65368 created in Section 63C-4-103.
65369 (b) Monies appropriated for or received by the council may be expended by the
65370 governor in consultation with the council.
65371 Section 1279. Section **63C-4-102** is amended to read:
65372 **63C-4-102. Duties.**
65373 (1) The Constitutional Defense Council is a council to assist the governor and the
65374 Legislature on the following types of issues:
65375 (a) the constitutionality of unfunded federal mandates;

65376 (b) when making recommendations to challenge the federal mandates and regulations
65377 described in Subsections (1)(e)(i) through (v), the rationale for and effectiveness of those
65378 federal mandates or regulations;
65379 (c) legal and policy issues surrounding state and local government rights under R.S.
65380 2477;
65381 (d) legal issues relating to the rights of the School and Institutional Trust Lands
65382 Administration and its beneficiaries; and
65383 (e) the advisability, feasibility, estimated cost, and likelihood of success of challenging:
65384 (i) federal court rulings that hinder the management of the state's prison system and
65385 place undue financial hardship on the state's taxpayers;
65386 (ii) federal laws or regulations that reduce or negate water rights or the rights of owners
65387 of private property, or the rights and interest of state and local governments, including
65388 sovereignty interests and the power to provide for the health, safety, and welfare, and promote
65389 the prosperity of their inhabitants;
65390 (iii) conflicting federal regulations or policies in land management on federal land;
65391 (iv) federal intervention that would damage the state's mining, timber, and ranching
65392 industries;
65393 (v) the authority of the Environmental Protection Agency and Congress to mandate
65394 local air quality standards and penalties; and
65395 (vi) other issues that are relevant to Subsections (1)(a) through (e).
65396 (2) The council chair may require the attorney general or a designee to provide
65397 testimony on potential legal actions that would enhance the state's sovereignty or authority on
65398 issues affecting Utah and the well-being of its citizens.
65399 (3) The council chair may direct the attorney general to initiate and prosecute any
65400 action that the council determines will further its purposes.
65401 (4) (a) Subject to the provisions of this section, the council may select and employ
65402 attorneys to implement the purposes and duties of the council.
65403 (b) The council chair may, in consultation with the council, direct any council attorney
65404 in any manner considered appropriate by the attorney general to best serve the purposes of the
65405 council.
65406 (c) The attorney general shall negotiate a contract for services with any attorney

65407 selected and approved for employment under this section.
65408 (5) The council chair shall, only with the concurrence of the council, review and
65409 approve all claims for payments for legal services that are submitted to the council.
65410 (6) Within five business days' notice, the council chair may, with the concurrence of
65411 the council, order the attorney general or an attorney employed by the council to cease work to
65412 be charged to the fund.
65413 (7) (a) At least 20 calendar days before the state submits comments on the draft
65414 environmental impact statement or environmental assessment for a proposed land management
65415 plan of any federal land management agency, the governor shall make those documents
65416 available to:
65417 (i) members of the council; and
65418 (ii) any county executive, county council member, or county commissioner of a county
65419 that is covered by the management plan and that has established formal cooperating agency
65420 status with the relevant federal land management agency regarding the proposed plan.
65421 (b) (i) Council members or local government officials receiving the documents may
65422 make recommendations to the governor or the governor's designee concerning changes to the
65423 documents before they are submitted to the federal land management agency.
65424 (ii) Council members or local government officials shall submit recommendations to
65425 the governor or the governor's designee no later than ten calendar days after receiving the
65426 documents under Subsection (7)(a).
65427 (c) Documents transmitted or received under this Subsection (7) are drafts and are
65428 protected records pursuant to Subsection [~~63-2-304~~] 63G-2-305(22).
65429 (8) The council shall submit a report on December 1 of each year to the speaker of the
65430 House of Representatives and the president of the Senate that summarizes the council's
65431 activities.
65432 Section 1280. Section **63C-4-103** is amended to read:
65433 **63C-4-103. Creation of Constitutional Defense Restricted Account -- Sources of**
65434 **funds -- Uses of funds -- Reports.**
65435 (1) There is created a restricted account within the General Fund known as the
65436 Constitutional Defense Restricted Account.
65437 (2) The account consists of monies from the following revenue sources:

65438 (a) monies deposited to the account as required by Section 53C-3-203;
65439 (b) voluntary contributions;
65440 (c) monies received by the Constitutional Defense Council from other state agencies;
65441 and
65442 (d) appropriations made by the Legislature.
65443 (3) Funds in the account shall be nonlapsing.
65444 (4) The account balance may not exceed $2,000,000.
65445 (5) The Legislature may annually appropriate monies from the Constitutional Defense
65446 Restricted Account to one or more of the following:
65447 (a) the Constitutional Defense Council to carry out its duties in Section 63C-4-102;
65448 (b) the Public Lands Policy Coordinating Office to carry out its duties in Section
65449 [~~63-38d-603~~] 63J-4-603;
65450 (c) the Public Lands Policy Coordinating Council to carry out its duties in Section
65451 [~~63-38d-605~~] 63J-4-605;
65452 (d) the Office of the Governor, to be used only for the purpose of asserting, defending,
65453 or litigating state and local government rights under R.S. 2477, in accordance with a plan
65454 developed and approved as provided in Section 63C-4-104;
65455 (e) a county or association of counties to assist counties, consistent with the purposes
65456 of the council, in pursuing issues affecting the counties; or
65457 (f) the Office of the Attorney General, to be used only for public lands counsel and
65458 assistance and litigation to the state or local governments including asserting, defending, or
65459 litigating state and local government rights under R.S. 2477 in accordance with a plan
65460 developed and approved as provided in Section 63C-4-104.
65461 (6) (a) The Constitutional Defense Council shall require that any entity that receives
65462 monies from the Constitutional Defense Restricted Account provide financial reports and
65463 litigation reports to the Council.
65464 (b) Nothing in this Subsection (6) prohibits the council from closing a meeting under
65465 Title 52, Chapter 4, Open and Public Meetings Act, or prohibits the council from complying
65466 with [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records Access and Management
65467 Act.
65468 Section 1281. Section **63C-7-210** is amended to read:

65469 **63C-7-210. Exemption from certain acts.**
65470 (1) The Utah Communications Agency Network is exempt from:
65471 (a) [~~Title 63, Chapter 38~~] Title 63J, Chapter 1, Budgetary Procedures Act;
65472 (b) Title 63A, Utah Administrative Services Code, except as provided in Section
65473 63A-4-205.5;
65474 (c) [~~Title 63, Chapter 56~~] Title 63G, Chapter 6, Utah Procurement Code;
65475 (d) [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act; and
65476 (e) Title 67, Chapter 19, Utah State Personnel Management Act.
65477 (2) The board shall adopt budgetary procedures, accounting, procurement, and
65478 personnel policies substantially similar to those from which they have been exempted in
65479 Subsection (1).
65480 Section 1282. Section **63C-8-105** is amended to read:
65481 **63C-8-105. Powers of council.**
65482 The council may:
65483 (1) conduct surveys, with the assistance of the Division of Occupational and
65484 Professional Licensing within the Department of Commerce, to assess and meet changing
65485 market and education needs;
65486 (2) notwithstanding the provisions of Subsection 35A-4-312(3), receive information
65487 obtained by the Division of Workforce Information and Payment Services under the provisions
65488 of Section 35A-4-312 for purposes consistent with the council's duties as identified under
65489 Section 63C-8-104, including identifying changes in the medical and health care workforce
65490 numbers, types, and geographic distribution;
65491 (3) appoint advisory committees of broad representation on interdisciplinary clinical
65492 education, workforce mix planning and projections, funding mechanisms, and other topics as is
65493 necessary;
65494 (4) use federal monies for necessary administrative expenses to carry out its duties and
65495 powers as permitted by federal law;
65496 (5) distribute program monies in accordance with Subsection 63C-8-104(7); and
65497 (6) as is necessary to carry out its duties under Section 63C-8-104:
65498 (a) hire employees; and
65499 (b) adopt rules in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah

65500 Administrative Rulemaking Act.
65501 Section 1283. Section **63C-8-106** is amended to read:
65502 **63C-8-106. Rural residency training program.**
65503 (1) For purposes of this section:
65504 (a) "Physician" means:
65505 (i) a person licensed to practice medicine under Title 58 Chapter 67, Utah Medical
65506 Practice Act or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and
65507 (ii) a person licensed to practice dentistry under Title 58, Chapter 69, Dentist and
65508 Dental Hygienist Practice Act.
65509 (b) "Rural residency training program" means an accredited clinical training program
65510 as defined in Section 63C-8-101 which places a physician into a rural county for a part or all of
65511 the physician's clinical training.
65512 (2) (a) Subject to appropriations from the Legislature, the council shall establish a pilot
65513 program to place physicians into rural residency training programs.
65514 (b) The pilot program shall begin July 1, 2005 and sunset July 1, 2015, in accordance
65515 with Section [~~63-55-263~~] 63I-1-263.
65516 (3) (a) The council shall report to the Legislature's Health and Human Services Interim
65517 Committee concerning the implementation of the pilot program and the success of the program
65518 in increasing the retention or recruitment of physicians in rural counties in the state.
65519 (b) The report required by this Subsection (3) shall be made by November 30 of each
65520 year.
65521 Section 1284. Section **63C-9-301** is amended to read:
65522 **63C-9-301. Board powers -- Subcommittees.**
65523 (1) The board shall:
65524 (a) except as provided in Subsection (2), exercise complete jurisdiction and
65525 stewardship over capitol hill facilities, capitol hill grounds, and the capitol hill complex;
65526 (b) preserve, maintain, and restore the capitol hill complex, capitol hill facilities,
65527 capitol hill grounds, and their contents;
65528 (c) before October 1 of each year, review and approve the executive director's annual
65529 budget request for submittal to the governor and Legislature;
65530 (d) by October 1 of each year, prepare and submit a recommended budget request for

65531 the upcoming fiscal year for the capitol hill complex to:
65532 (i) the governor, through the Governor's Office of Planning and Budget; and
65533 (ii) the Legislature's appropriations subcommittee responsible for capitol hill facilities,
65534 through the Office of Legislative Fiscal Analyst;
65535 (e) review and approve the executive director's:
65536 (i) annual work plan;
65537 (ii) long-range master plan for the capitol hill complex, capitol hill facilities, and
65538 capitol hill grounds; and
65539 (iii) furnishings plan for placement and care of objects under the care of the board;
65540 (f) approve all changes to the buildings and their grounds, including:
65541 (i) restoration, remodeling, and rehabilitation projects;
65542 (ii) usual maintenance program; and
65543 (iii) any transfers or loans of objects under the board's care;
65544 (g) define and identify all significant aspects of the capitol hill complex, capitol hill
65545 facilities, and capitol hill grounds, after consultation with the:
65546 (i) Division of Facilities Construction and Management;
65547 (ii) State Library Division;
65548 (iii) Division of Archives and Records Service;
65549 (iv) Division of State History;
65550 (v) Office of Museum Services; and
65551 (vi) Arts Council;
65552 (h) inventory, define, and identify all significant contents of the buildings and all
65553 state-owned items of historical significance that were at one time in the buildings, after
65554 consultation with the:
65555 (i) Division of Facilities Construction and Management;
65556 (ii) State Library Division;
65557 (iii) Division of Archives and Records Service;
65558 (iv) Division of State History;
65559 (v) Office of Museum Services; and
65560 (vi) Arts Council;
65561 (i) maintain archives relating to the construction and development of the buildings, the

65562 contents of the buildings and their grounds, including documents such as plans, specifications,
65563 photographs, purchase orders, and other related documents, the original copies of which shall
65564 be maintained by the Division of Archives and Records Service;
65565 (j) comply with federal and state laws related to program and facility accessibility; and
65566 (k) establish procedures for receiving, hearing, and deciding complaints or other issues
65567 raised about the capitol hill complex, capitol hill facilities, and capitol hill grounds, or their
65568 use.
65569 (2) Notwithstanding Subsection (1)(a), the supervision and control of the legislative
65570 area, as defined in Section 36-5-1, is reserved to the Legislature.
65571 (3) (a) The board shall make rules to govern, administer, and regulate the capitol hill
65572 complex, capitol hill facilities, and capitol hill grounds by following the procedures and
65573 requirements of [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking
65574 Act.
65575 (b) A person who violates a rule adopted by the board under the authority of this
65576 Subsection (3) is subject to a civil penalty not to exceed $2,500 for each violation, plus the
65577 amount of any actual damages, expenses, and costs related to the violation of the rule that are
65578 incurred by the state.
65579 (c) The board may take any other legal action allowed by law.
65580 (d) If any violation of a rule adopted by the board is also an offense under Title 76,
65581 Utah Criminal Code, the violation is subject to the civil penalty, damages, expenses, and costs
65582 allowed under this Subsection (3) in addition to any criminal prosecution.
65583 (e) The board may not apply this section or rules adopted under the authority of this
65584 section in a manner that violates a person's rights under the Utah Constitution or the First
65585 Amendment to the United States Constitution, including the right of persons to peaceably
65586 assemble.
65587 (f) The board shall send proposed rules under this section to the legislative general
65588 counsel and the governor's general counsel for review and comment before the board adopts the
65589 rules.
65590 (4) The board is exempt from the requirements of [~~Title 63, Chapter 56~~] Title 63G,
65591 Chapter 6, Utah Procurement Code, but shall adopt procurement rules substantially similar to
65592 the requirements of that chapter.

65593 (5) (a) The board may:
65594 (i) establish subcommittees made up of board members and members of the public to
65595 assist and support the executive director in accomplishing the executive director's duties;
65596 (ii) establish fees for the use of capitol hill facilities and capitol hill grounds;
65597 (iii) assign and allocate specific duties and responsibilities to any other state agency, if
65598 the other agency agrees to perform the duty or accept the responsibility;
65599 (iv) contract with another state agency to provide services;
65600 (v) delegate by specific motion of the board any authority granted to it by this section
65601 to the executive director;
65602 (vi) in conjunction with Salt Lake City, expend monies to improve or maintain public
65603 property contiguous to East Capitol Boulevard and capitol hill;
65604 (vii) provide wireless Internet service to the public without a fee in any capitol hill
65605 facility; and
65606 (viii) when necessary, consult with the:
65607 (A) Division of Facilities Construction and Management;
65608 (B) State Library Division;
65609 (C) Division of Archives and Records Service;
65610 (D) Division of State History;
65611 (E) Office of Museum Services; and
65612 (F) Arts Council.
65613 (b) The board's provision of wireless Internet service under Subsection (5)(a)(vii) shall
65614 be discontinued in the legislative area if the president of the Senate and the speaker of the
65615 House of Representatives each submit a signed letter to the board indicating that the service is
65616 disruptive to the legislative process and is to be discontinued.
65617 (c) If a budget subcommittee is established by the board, the following shall serve as ex
65618 officio, nonvoting members of the budget subcommittee:
65619 (i) the legislative fiscal analyst, or the analyst's designee, who shall be from the Office
65620 of Legislative Fiscal Analyst; and
65621 (ii) the director of the Governor's Office of Planning and Budget, or the director's
65622 designee, who shall be from the Governor's Office of Planning and Budget.
65623 (d) If a preservation and maintenance subcommittee is established by the board, the

65624 board may, by majority vote, appoint one or each of the following to serve on the
65625 subcommittee as voting members of the subcommittee:
65626 (i) an architect, who shall be selected from a list of three architects submitted by the
65627 American Institute of Architects; or
65628 (ii) an engineer, who shall be selected from a list of three engineers submitted by the
65629 American Civil Engineers Council.
65630 (e) If the board establishes any subcommittees, the board may, by majority vote,
65631 appoint up to two people who are not members of the board to serve, at the will of the board, as
65632 nonvoting members of a subcommittee.
65633 (f) Members of each subcommittee shall, at the first meeting of each calendar year,
65634 select one individual to act as chair of the subcommittee for a one-year term.
65635 (6) (a) The board, and the employees of the board, may not move the office of the
65636 governor, lieutenant governor, president of the Senate, speaker of the House of
65637 Representatives, or a member of the Legislature from the State Capitol Building unless the
65638 removal is approved by:
65639 (i) the governor, in the case of the governor's office;
65640 (ii) the lieutenant governor, in the case of the lieutenant governor's office;
65641 (iii) the president of the Senate, in the case of the president's office or the office of a
65642 member of the Senate; or
65643 (iv) the speaker of the House of Representatives, in the case of the speaker's office or
65644 the office of a member of the House.
65645 (b) The board and the employees of the board have no control over the furniture,
65646 furnishings, and decorative objects in the offices of the governor, lieutenant governor, or the
65647 members of the Legislature except as necessary to inventory or conserve items of historical
65648 significance owned by the state.
65649 (c) The board and the employees of the board have no control over records and
65650 documents produced by or in the custody of a state agency, official, or employee having an
65651 office in a building on the capitol hill complex.
65652 (d) Except for items identified by the board as having historical significance, and
65653 except as provided in Subsection (6)(b), the board and the employees of the board have no
65654 control over moveable furnishings and equipment in the custody of a state agency, official, or

65655 employee having an office in a building on the capitol hill complex.
65656 Section 1285. Section **63C-11-202** is amended to read:
65657 **63C-11-202. Powers and duties of authority.**
65658 (1) The authority shall:
65659 (a) hire an executive director, who shall serve as staff to the authority;
65660 (b) oversee and make any necessary rules concerning the Pete Suazo Utah Athletic
65661 Commission created in Section 63C-11-303; and
65662 (c) make rules in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
65663 Administrative Rulemaking Act, necessary for the administration of this chapter.
65664 (2) The authority may:
65665 (a) hire employees to carry out its duties as budgetary constraints allow;
65666 (b) solicit and accept contributions of moneys, services, and facilities from any other
65667 sources, public or private, and shall use these funds for coordinating the promotion and
65668 enhancement of sporting opportunities in Utah; and
65669 (c) contract with an existing not-for-profit organization for the purpose of sports
65670 development throughout the state, including:
65671 (i) branding, advertising, and marketing;
65672 (ii) sports tourism promotion, including attracting and developing sporting events;
65673 (iii) coordinating with any other entity the promotion or enhancement of sporting
65674 opportunities in Utah;
65675 (iv) partnering with existing entities for Olympic-related sports development;
65676 (v) coordinating with the Division of Parks and Recreation to establish a destination
65677 golf program to promote golf-related tourism; and
65678 (vi) coordinating with existing entities the recruitment and relocation of the United
65679 States Olympic Committee National Governing Bodies and other organizations governing
65680 sports.
65681 (3) The authority may not perform any of the functions listed in Subsections (2)(c)(i)
65682 through (vi).
65683 (4) (a) The not-for-profit organization contracted with in Subsection (1):
65684 (i) shall have at least five years' experience in the promotion, development, and
65685 marketing of sports events and sports tourism;

65686 (ii) shall represent all geographic areas of the state; and
65687 (iii) may not have a financial or ownership interest in any sports venue.
65688 (b) Development of sports under the contract entered into under Subsection (1) shall
65689 include:
65690 (i) summer and winter sports;
65691 (ii) amateur and professional sports; and
65692 (iii) participatory and spectator sports.
65693 Section 1286. Section **63C-11-302** is amended to read:
65694 **63C-11-302. Definitions.**
65695 As used in this part:
65696 (1) "Bodily injury" is as defined in Section 76-1-601.
65697 (2) "Boxing" means the sport of attack and defense using the fist, which is covered by
65698 an approved boxing glove.
65699 (3) (a) "Club fighting" means any contest of unarmed combat, whether admission is
65700 charged or not, where:
65701 (i) the rules of the contest are not approved by the commission;
65702 (ii) a licensed physician or osteopath is not in attendance;
65703 (iii) an HIV negative test regarding each contestant not less than 180 days before the
65704 contest has not been provided to the commission;
65705 (iv) the contest is not conducted in accordance with commission rules; or
65706 (v) the contestants are not matched by the weight standards described in Section
65707 63C-11-324.
65708 (b) "Club fighting" does not include sparring if:
65709 (i) it is conducted for training purposes;
65710 (ii) no tickets are sold to spectators;
65711 (iii) no concessions are available for spectators;
65712 (iv) protective clothing, including protective headgear, a mouthguard, and a protective
65713 cup, is worn; and
65714 (v) for boxing, 16 ounce boxing gloves are worn.
65715 (4) "Commission" means the Pete Suazo Utah Athletic Commission created in this
65716 part.

65717 (5) "Contest" means a live match, performance, or exhibition involving two or more
65718 persons engaged in unarmed combat.
65719 (6) "Contestant" means an individual who participates in a contest.
65720 (7) "Designated commission member" means a member of the commission designated
65721 to:
65722 (a) attend and supervise a particular contest; and
65723 (b) act on the behalf of the commission at a contest venue.
65724 (8) "Elimination boxing contest" means a contest where:
65725 (a) a number of contestants participate in a tournament;
65726 (b) the duration is not more than 48 hours; and
65727 (c) the loser of each contest is eliminated from further competition.
65728 (9) "Exhibition" means an engagement in which the participants show or display their
65729 skills without necessarily striving to win.
65730 (10) "Judge" means an individual qualified by training or experience to:
65731 (a) rate the performance of contestants;
65732 (b) score a contest; and
65733 (c) determine with other judges whether there is a winner of the contest or whether the
65734 contestants performed equally, resulting in a draw.
65735 (11) "Licensee" means an individual licensed by the commission to act as a:
65736 (a) contestant;
65737 (b) judge;
65738 (c) manager;
65739 (d) promoter;
65740 (e) referee; or
65741 (f) second.
65742 (12) "Manager" means an individual who represents a contestant for the purposes of:
65743 (a) obtaining a contest for a contestant;
65744 (b) negotiating terms and conditions of the contract under which the contestant will
65745 engage in a contest; or
65746 (c) arranging for a second for the contestant at a contest.
65747 (13) "Promoter" means a person who engages in producing or staging contests and

65748 promotions.
65749 (14) "Promotion" means a single contest or a combination of contests that:
65750 (a) occur during the same time and at the same location; and
65751 (b) is produced or staged by a promoter.
65752 (15) "Purse" means any money, prize, remuneration, or any other valuable
65753 consideration a contestant receives or may receive for participation in a contest.
65754 (16) "Referee" means an individual qualified by training or experience to act as the
65755 official attending a contest at the point of contact between contestants for the purpose of:
65756 (a) enforcing the rules relating to the contest;
65757 (b) stopping the contest in the event the health, safety, and welfare of a contestant or
65758 any other person in attendance at the contest is in jeopardy; and
65759 (c) to act as a judge if so designated by the commission.
65760 (17) "Round" means one of a number of individual time periods that, taken together,
65761 constitute a contest during which contestants are engaged in a form of unarmed combat.
65762 (18) "Second" means an individual who attends a contestant at the site of the contest
65763 before, during, and after the contest in accordance with contest rules.
65764 (19) "Secretary" means the secretary of the Pete Suazo Utah Athletic Commission.
65765 (20) "Serious bodily injury" is as defined in Section 76-1-601.
65766 (21) "Total gross receipts" means the amount of the face value of all tickets sold to a
65767 particular contest plus any sums received as consideration for holding the contest at a particular
65768 location.
65769 (22) "Ultimate fighting" means a live contest, whether or not an admission fee is
65770 charged, in which:
65771 (a) contest rules permit contestants to use a combination of boxing, kicking, wrestling,
65772 hitting, punching, or other combative contact techniques;
65773 (b) contest rules incorporate a formalized system of combative techniques against
65774 which a contestant's performance is judged to determine the prevailing contestant;
65775 (c) contest rules divide nonchampionship contests into three equal and specified rounds
65776 of no more than five minutes per round with a rest period of one minute between each round;
65777 (d) contest rules divide championship contests into five equal and specified rounds of
65778 no more than five minutes per round with a rest period of one minute between each round; and

65779 (e) contest rules prohibit contestants from:
65780 (i) using anything that is not part of the human body, except for boxing gloves, to
65781 intentionally inflict serious bodily injury upon an opponent through direct contact or the
65782 expulsion of a projectile;
65783 (ii) striking a person who demonstrates an inability to protect himself from the
65784 advances of an opponent;
65785 (iii) biting; or
65786 (iv) direct, intentional, and forceful strikes to the eyes, groin area, adam's apple area of
65787 the neck, and temple area of the head.
65788 (23) (a) "Unarmed combat" means boxing or any other form of competition in which a
65789 blow is usually struck which may reasonably be expected to inflict bodily injury.
65790 (b) "Unarmed combat" does not include a competition or exhibition between
65791 participants in which the participants engage in simulated combat for entertainment purposes.
65792 (24) "Unlawful conduct" means organizing, promoting, or participating in a contest
65793 which involves contestants that are not licensed under this part.
65794 (25) "Unprofessional conduct" means:
65795 (a) entering into a contract for a contest in bad faith;
65796 (b) participating in any sham or fake contest;
65797 (c) participating in a contest pursuant to a collusive understanding or agreement in
65798 which the contestant competes in or terminates the contest in a manner that is not based upon
65799 honest competition or the honest exhibition of the skill of the contestant;
65800 (d) engaging in an act or conduct that is detrimental to a contest, including any foul or
65801 unsportsmanlike conduct in connection with a contest;
65802 (e) failing to comply with any limitation, restriction, or condition placed on a license;
65803 (f) striking of a downed opponent by a contestant while the contestant remains on the
65804 contestant's feet unless the commission, following a hearing conducted under Subsection
65805 63C-11-316(3) and before the contest, has exempted the contest and each contestant from this
65806 Subsection (25)(f);
65807 (g) after entering the ring or contest area, penetrating an area within four feet of an
65808 opponent by a contestant, manager or second before the commencement of the contest; or
65809 (h) as further defined by rules made by the commission under [~~Title 63, Chapter 46a~~]

65810 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
65811 (26) "White-collar contest" means a contest conducted at a training facility where no
65812 alcohol is served in which:
65813 (a) for boxing:
65814 (i) neither contestant is or has been a licensed contestant in any state or an amateur
65815 registered with USA Boxing, Inc.;
65816 (ii) no cash prize, or other prize valued at greater than $35, is awarded;
65817 (iii) protective clothing, including protective headgear, a mouthguard, a protective cup,
65818 and for a female contestant a chestguard, is worn;
65819 (iv) 16 ounce boxing gloves are worn;
65820 (v) the contest is no longer than three rounds of no longer than three minutes each;
65821 (vi) no winner is declared; and
65822 (vii) the contestants do not compete in a cage; and
65823 (b) for ultimate fighting:
65824 (i) neither contestant is or has been a licensed contestant in any state or an amateur
65825 registered with USA Boxing, Inc.;
65826 (ii) no cash prize, or other prize valued at greater than $35, is awarded;
65827 (iii) protective clothing, including a protective mouthguard and a protective cup, is
65828 worn;
65829 (iv) elbow strikes are not allowed;
65830 (v) a contestant is not allowed to stand and strike a downed opponent;
65831 (vi) a closed-hand blow to the head is not allowed while either contestant is on the
65832 ground;
65833 (vii) the contest is no longer than three rounds of no longer than three minutes each;
65834 and
65835 (viii) no winner is declared.
65836 Section 1287. Section **63C-11-304** is amended to read:
65837 **63C-11-304. Commission powers and duties.**
65838 (1) The commission shall:
65839 (a) purchase and use a seal;
65840 (b) adopt rules for the administration of this part in accordance with [~~Title 63, Chapter~~

65841 ~~46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
65842 (c) prepare all forms of contracts between sponsors, licensees, promoters, and
65843 contestants; and
65844 (d) hold hearings relating to matters under its jurisdiction, including violations of this
65845 part or rules promulgated under this part.
65846 (2) The commission may subpoena witnesses, take evidence, and require the
65847 production of books, papers, documents, records, contracts, recordings, tapes, correspondence,
65848 or other information relevant to an investigation if the commission or its designee considers it
65849 necessary.
65850 Section 1288. Section **63C-11-308** is amended to read:
65851 **63C-11-308. Licensing.**
65852 (1) A license is required for a person to act as or to represent that the person is a:
65853 (a) promoter;
65854 (b) manager;
65855 (c) contestant;
65856 (d) second;
65857 (e) referee; or
65858 (f) judge.
65859 (2) The commission shall issue to a person who qualifies under this part a license in the
65860 classifications of:
65861 (a) promoter;
65862 (b) manager;
65863 (c) contestant;
65864 (d) second;
65865 (e) referee; or
65866 (f) judge.
65867 (3) All moneys collected pursuant to this section and Sections 63C-11-312,
65868 63C-11-315, 63C-11-318, and 63C-11-321 shall be deposited in the General Fund.
65869 (4) Each applicant for licensure as a promoter shall:
65870 (a) submit an application in a form prescribed by the commission;
65871 (b) pay the fee determined by the commission under Section [~~63-38-3.2~~] 63J-1-303;

65872 (c) provide to the commission evidence of financial responsibility, which shall include
65873 financial statements and other information that the commission may reasonably require to
65874 determine that the applicant or licensee is able to competently perform as and meet the
65875 obligations of a promoter in this state;
65876 (d) produce information, documentation, and assurances as may be required to
65877 establish by a preponderance of the evidence the applicant's reputation for good character,
65878 honesty, integrity, and responsibility, which shall include information, documentation, and
65879 assurances that the applicant:
65880 (i) has not been convicted of a crime in any jurisdiction which the commission
65881 determines by the nature of the crime and circumstances surrounding the crime should
65882 disqualify the applicant from licensure in the public interest;
65883 (ii) is not engaging in illegal gambling with respect to sporting events or gambling with
65884 respect to the promotions the applicant is promoting;
65885 (iii) has not been found in a criminal or civil proceeding to have engaged in or
65886 attempted to engage in any fraud or misrepresentation in connection with a contest or any other
65887 sporting event; and
65888 (iv) has not been found in a criminal or civil proceeding to have violated or attempted
65889 to violate any law with respect to a contest in any jurisdiction or any law, rule, or order relating
65890 to the regulation of contests in this state or any other jurisdiction;
65891 (e) acknowledge in writing to the commission receipt, understanding, and intent to
65892 comply with this part and the rules made under this part; and
65893 (f) if requested by the commission or the secretary, meet with the commission or the
65894 secretary to examine the applicant's qualifications for licensure.
65895 (5) Each applicant for licensure as a contestant shall:
65896 (a) be not less than 18 years of age at the time the application is submitted to the
65897 commission;
65898 (b) submit an application in a form prescribed by the commission;
65899 (c) pay the fee established by the commission under Section [~~63-38-3.2~~] 63J-1-303;
65900 (d) provide a certificate of physical examination, dated not more than 60 days prior to
65901 the date of application for license, in a form provided by the commission, completed by a
65902 licensed physician and surgeon certifying that the applicant is free from any physical or mental

65903 condition that indicates the applicant should not engage in activity as a contestant;
65904 (e) provide the commission with an accurate history of all matches that the applicant
65905 has engaged in since becoming a contestant, including information on whether the applicant
65906 won or lost each contest, and the matches in which there was a knockout or technical knockout;
65907 (f) produce information, documentation, and assurances as may be required to establish
65908 by a preponderance of the evidence the applicant's reputation for good character, honesty,
65909 integrity, and responsibility, which shall include information, documentation, and assurances
65910 that the applicant:
65911 (i) has not been convicted of a crime in any jurisdiction which the commission
65912 determines by the nature of the crime and circumstances surrounding that crime should
65913 disqualify the applicant from licensure in the public interest;
65914 (ii) is not engaging in illegal gambling with respect to sporting events or gambling with
65915 respect to a contest in which the applicant will participate;
65916 (iii) has not been found in a criminal or civil proceeding to have engaged in or
65917 attempted to have engaged in any fraud or misrepresentation in connection with a contest or
65918 any other sporting event; and
65919 (iv) has not been found in a criminal or civil proceeding to have violated or attempted
65920 to violate any law with respect to contests in any jurisdiction or any law, rule, or order relating
65921 to the regulation of contests in this state or any other jurisdiction;
65922 (g) acknowledge in writing to the commission receipt, understanding, and intent to
65923 comply with this part and the rules made under this part; and
65924 (h) if requested by the commission or the secretary, meet with the commission or the
65925 secretary to examine the applicant's qualifications for licensure.
65926 (6) Each applicant for licensure as a manager or second shall:
65927 (a) submit an application in a form prescribed by the commission;
65928 (b) pay a fee determined by the commission under Section [~~63-38-3.2~~] 63J-1-303;
65929 (c) produce information, documentation, and assurances as may be required to
65930 establish by a preponderance of the evidence the applicant's reputation for good character,
65931 honesty, integrity, and responsibility, which shall include information, documentation, and
65932 assurances that the applicant:
65933 (i) has not been convicted of a crime in any jurisdiction which the commission

65934 determines by the nature of the crime and circumstances surrounding that crime should
65935 disqualify the applicant from licensure in the public interest;
65936 (ii) is not engaging in illegal gambling with respect to sporting events or gambling with
65937 respect to a contest in which the applicant is participating;
65938 (iii) has not been found in a criminal or civil proceeding to have engaged in or
65939 attempted to have engaged in any fraud or misrepresentation in connection with a contest or
65940 any other sporting event; and
65941 (iv) has not been found in a criminal or civil proceeding to have violated or attempted
65942 to violate any law with respect to a contest in any jurisdiction or any law, rule, or order relating
65943 to the regulation of contests in this state or any other jurisdiction;
65944 (d) acknowledge in writing to the commission receipt, understanding, and intent to
65945 comply with this part and the rules made under this part; and
65946 (e) if requested by the commission or secretary, meet with the commission or the
65947 secretary to examine the applicant's qualifications for licensure.
65948 (7) Each applicant for licensure as a referee or judge shall:
65949 (a) submit an application in a form prescribed by the commission;
65950 (b) pay a fee determined by the commission under Section [~~63-38-3.2~~] 63J-1-303;
65951 (c) produce information, documentation, and assurances as may be required to
65952 establish by a preponderance of the evidence the applicant's reputation for good character,
65953 honesty, integrity, and responsibility, which shall include information, documentation, and
65954 assurances that the applicant:
65955 (i) has not been convicted of a crime in any jurisdiction which the commission
65956 determines by the nature of the crime and circumstances surrounding the crime should
65957 disqualify the applicant from licensure in the public interest;
65958 (ii) is not engaging in illegal gambling with respect to sporting events or gambling with
65959 respect to a contest in which the applicant is participating;
65960 (iii) has not been found in a criminal or civil proceeding to have engaged in or
65961 attempted to have engaged in any fraud or misrepresentation in connection with a contest or
65962 any other sporting event; and
65963 (iv) has not been found in a criminal or civil proceeding to have violated or attempted
65964 to violate any law with respect to contests in any jurisdiction or any law, rule, or order relating

65965 to the regulation of contests in this state or any other jurisdiction;
65966 (d) acknowledge in writing to the commission receipt, understanding, and intent to
65967 comply with this part and the rules made under this part;
65968 (e) provide evidence satisfactory to the commission that the applicant is qualified by
65969 training and experience to competently act as a referee or judge in a contest; and
65970 (f) if requested by the commission or the secretary, meet with the commission or the
65971 secretary to examine the applicant's qualifications for licensure.
65972 (8) (a) A licensee serves at the pleasure, and under the direction, of the commission
65973 while participating in any way at a contest.
65974 (b) A licensee's license may be suspended, or a fine imposed, if the licensee does not
65975 follow the commission's direction at an event or contest.
65976 Section 1289. Section **63C-11-310** is amended to read:
65977 **63C-11-310. Grounds for denial of license -- Disciplinary proceedings --**
65978 **Reinstatement.**
65979 (1) The commission shall refuse to issue a license to an applicant and shall refuse to
65980 renew or shall revoke, suspend, restrict, place on probation, or otherwise act upon the license of
65981 a licensee who does not meet the qualifications for licensure under this part.
65982 (2) The commission may refuse to issue a license to an applicant and may refuse to
65983 renew or may revoke, suspend, restrict, place on probation, issue a public or private reprimand
65984 to, or otherwise act upon the license of any licensee if:
65985 (a) the applicant or licensee has engaged in unlawful or unprofessional conduct, as
65986 defined by statute or rule under this part;
65987 (b) the applicant or licensee has been determined to be mentally incompetent for any
65988 reason by a court of competent jurisdiction; or
65989 (c) the applicant or licensee is unable to practice the occupation or profession with
65990 reasonable skill and safety because of illness, drunkenness, excessive use of drugs, narcotics,
65991 chemicals, or any other type of material, or as a result of any other mental or physical
65992 condition, when the licensee's condition demonstrates a threat or potential threat to the public
65993 health, safety, or welfare.
65994 (3) Any licensee whose license under this part has been suspended, revoked, or
65995 restricted may apply for reinstatement of the license at reasonable intervals and upon

65996 compliance with any conditions imposed upon the licensee by statute, rule, or terms of the
65997 license suspension, revocation, or restriction.
65998 (4) The commission may issue cease and desist orders:
65999 (a) to a licensee or applicant who may be disciplined under Subsection (1) or (2); and
66000 (b) to any person who otherwise violates this part or any rules adopted under this part.
66001 (5) (a) The commission may impose an administrative fine for acts of unprofessional or
66002 unlawful conduct under this part.
66003 (b) An administrative fine under this Subsection (5) may not exceed $2,500 for each
66004 separate act of unprofessional or unlawful conduct.
66005 (c) The commission shall comply with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
66006 Administrative Procedures Act, in any action to impose an administrative fine under this part.
66007 (d) The imposition of a fine under this Subsection (5) does not affect any other action
66008 the commission or department may take concerning a license issued under this part.
66009 (6) (a) The commission may not take disciplinary action against any person for
66010 unlawful or unprofessional conduct under this part, unless the commission initiates an
66011 adjudicative proceeding regarding the conduct within four years after the conduct is reported to
66012 the commission, except under Subsection (6)(b).
66013 (b) The commission may not take disciplinary action against any person for unlawful
66014 or unprofessional conduct more than ten years after the occurrence of the conduct, unless the
66015 proceeding is in response to a civil or criminal judgment or settlement and the proceeding is
66016 initiated within one year following the judgment or settlement.
66017 (7) (a) Notwithstanding [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
66018 Procedures Act, the following may immediately suspend the license of a licensee at such time
66019 and for such period that the following believes is necessary to protect the health, safety, and
66020 welfare of the licensee, another licensee, or the public:
66021 (i) the commission;
66022 (ii) a designated commission member; or
66023 (iii) if a designated commission member is not present, the secretary.
66024 (b) The commission shall establish by rule appropriate procedures to invoke the
66025 suspension and to provide a suspended licensee a right to a hearing before the commission with
66026 respect to the suspension within a reasonable time after the suspension.

66027 Section 1290. Section **63C-11-311** is amended to read:
66028 **63C-11-311. Additional fees for license of promoter -- Dedicated credits --**
66029 **Promotion of contests -- Annual exemption of showcase event.**
66030 (1) In addition to the payment of any other fees and money due under this part, every
66031 promoter shall pay a license fee determined by the commission, which may be:
66032 (a) (i) $100 for a contest or event occurring in a venue of fewer than 200 seats;
66033 (ii) $200 for a contest or event occurring in a venue of at least 200 but fewer than 500
66034 seats;
66035 (iii) $300 for a contest or event occurring in a venue of at least 500 seats but fewer than
66036 1,000 seats;
66037 (iv) $400 for a contest or event occurring in a venue of at least 1,000 seats but fewer
66038 than 3,000 seats; or
66039 (v) $600 for a contest or event occurring in a venue of at least 3,000 seats; and
66040 (b) 3% of total gross receipts from the sale, lease, or other exploitation of broadcasting,
66041 television, and motion picture rights for each contest or exhibition.
66042 (2) (a) One-half of license fees collected under Subsection (1)(a) from professional
66043 boxing contests or exhibitions shall be deposited in the General Fund.
66044 (b) One-half of license fees collected under Subsection (1)(a) from professional boxing
66045 contests or exhibitions shall be retained by the commission as a dedicated credit to be used by
66046 the commission to award grants to organizations that promote amateur boxing in the state.
66047 (3) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
66048 Administrative Rulemaking Act, the commission shall adopt rules:
66049 (a) governing the manner in which applications for grants under Subsection (2) may be
66050 submitted to the commission; and
66051 (b) establishing standards for awarding grants under Subsection (2) to organizations
66052 which promote amateur boxing in the state.
66053 (4) (a) For the purpose of creating a greater interest in contests in the state, the
66054 commission may exempt from the payment of license fees under this section one contest or
66055 exhibition in each calendar year, intended as a showcase event.
66056 (b) The commission shall select the contest or exhibition to be exempted based on
66057 factors which include:

66058 (i) attraction of the optimum number of spectators;
66059 (ii) costs of promoting and producing the contest or exhibition;
66060 (iii) ticket pricing;
66061 (iv) committed promotions and advertising of the contest or exhibition;
66062 (v) rankings and quality of the contestants; and
66063 (vi) committed television and other media coverage of the contest or exhibition.
66064 Section 1291. Section **63C-11-315** is amended to read:
66065 **63C-11-315. Approval to hold contest or promotion -- Bond required.**
66066 (1) An application to hold a contest or multiple contests as part of a single promotion
66067 shall be made by a licensed promoter to the commission on forms provided by the commission.
66068 (2) The application shall be accompanied by a contest fee determined by the
66069 commission under Section [~~63-38-3.2~~] 63J-1-303.
66070 (3) (a) The commission may approve or deny approval to hold a contest or promotion
66071 permitted under this part.
66072 (b) Provisional approval under Subsection (3)(a) shall be granted upon a determination
66073 by the commission that:
66074 (i) the promoter of the contest or promotion is properly licensed;
66075 (ii) a bond meeting the requirements of Subsection (6) has been posted by the promoter
66076 of the contest or promotion; and
66077 (iii) the contest or promotion will be held in accordance with this part and rules made
66078 under this part.
66079 (4) (a) Final approval to hold a contest or promotion may not be granted unless the
66080 commission receives not less than seven days before the day of the contest with ten or more
66081 rounds:
66082 (i) proof of a negative HIV test performed not more than 180 days before the day of the
66083 contest for each contestant;
66084 (ii) a copy of each contestant's federal identification card;
66085 (iii) a copy of a signed contract between each contestant and the promoter for the
66086 contest;
66087 (iv) a statement specifying the maximum number of rounds of the contest;
66088 (v) a statement specifying the site, date, and time of weigh-in; and

66089 (vi) the name of the physician selected from among a list of registered and
66090 commission-approved ringside physicians who shall act as ringside physician for the contest.
66091 (b) Notwithstanding Subsection (4)(a), the commission may approve a contest or
66092 promotion if the requirements under Subsection (4)(a) are not met because of unforseen
66093 circumstances beyond the promoter's control.
66094 (5) Final approval for a contest under ten rounds in duration may be granted as
66095 determined by the commission after receiving the materials identified in Subsection (4) at a
66096 time determined by the commission.
66097 (6) An applicant shall post a surety bond or cashier's check with the commission in the
66098 greater of $10,000 or the amount of the purse, providing for forfeiture and disbursement of the
66099 proceeds if the applicant fails to comply with:
66100 (a) the requirements of this part; or
66101 (b) rules made under this part relating to the promotion or conduct of the contest or
66102 promotion.
66103 Section 1292. Section **63C-11-316** is amended to read:
66104 **63C-11-316. Rules for the conduct of contests.**
66105 (1) The commission shall adopt rules in accordance with [~~Title 63, Chapter 46a~~] Title
66106 63G, Chapter 3, Utah Administrative Rulemaking Act, for the conduct of contests in the state.
66107 (2) The rules shall include:
66108 (a) authority for:
66109 (i) stopping contests; and
66110 (ii) impounding purses with respect to contests when there is a question with respect to
66111 the contest, contestants, or any other licensee associated with the contest; and
66112 (b) reasonable and necessary provisions to ensure that all obligations of a promoter
66113 with respect to any promotion or contest are paid in accordance with agreements made by the
66114 promoter.
66115 (3) (a) The commission may, in its discretion, exempt a contest and each contestant
66116 from the definition of unprofessional conduct found in Subsection 63C-11-302(25)(f) after:
66117 (i) a promoter requests the exemption; and
66118 (ii) the commission considers relevant factors, including:
66119 (A) the experience of the contestants;

66120 (B) the win and loss records of each contestant;
66121 (C) each contestant's level of training; and
66122 (D) any other evidence relevant to the contestants' professionalism and the ability to
66123 safely conduct the contest.
66124 (b) The commission's hearing of a request for an exemption under this Subsection (3)
66125 is an informal adjudicative proceeding under Section [~~63-46b-4~~] 63G-4-202.
66126 (c) The commission's decision to grant or deny a request for an exemption under this
66127 Subsection (3) is not subject to agency review under Section [~~63-46b-12~~] 63G-4-301.
66128 Section 1293. Section **63C-11-317** is amended to read:
66129 **63C-11-317. Medical examinations and drug tests.**
66130 (1) The commission shall adopt rules in accordance with [~~Title 63, Chapter 46a~~] Title
66131 63G, Chapter 3, Utah Administrative Rulemaking Act, for medical examinations and drug
66132 testing of contestants, including provisions under which contestants shall:
66133 (a) produce evidence based upon competent laboratory examination that they are HIV
66134 negative as a condition of participating as a contestant in any contest;
66135 (b) be subject to random drug testing before or after participation in a contest, and
66136 sanctions, including barring participation in a contest or withholding a percentage of any purse,
66137 that shall be placed against a contestant testing positive for alcohol or any other drug that in the
66138 opinion of the commission is inconsistent with the safe and competent participation of that
66139 contestant in a contest;
66140 (c) be subject to a medical examination by the ringside physician not more than 30
66141 hours before the contest to identify any physical ailment or communicable disease that, in the
66142 opinion of the commission or designated commission member, are inconsistent with the safe
66143 and competent participation of that contestant in the contest; and
66144 (d) be subject to medical testing for communicable diseases as considered necessary by
66145 the commission to protect the health, safety, and welfare of the licensees and the public.
66146 (2) (a) Medical information concerning a contestant shall be provided by the contestant
66147 or medical professional or laboratory.
66148 (b) A promoter or manager may not provide to or receive from the commission medical
66149 information concerning a contestant.
66150 Section 1294. Section **63C-11-318** is amended to read:

66151 **63C-11-318. Contests.**
66152 (1) Except as provided in Section 63C-11-325, a licensee may not participate in:
66153 (a) a boxing contest as a contestant if that person has participated in another boxing
66154 contest as a contestant within 30 days before the proposed boxing contest; or
66155 (b) an ultimate fighting contest as a contestant if that person has participated in another
66156 ultimate fighting contest as a contestant within six days before the proposed ultimate fighting
66157 contest.
66158 (2) Subsection (1) applies regardless of where the previous boxing contest occurred.
66159 (3) During the period of time beginning 60 minutes before the beginning of a contest,
66160 the promoter shall demonstrate the promoter's compliance with the commission's security
66161 requirements to all commission members present at the contest.
66162 (4) The commission shall establish fees in accordance with Section [~~63-38-3.2~~]
66163 63J-1-303 to be paid by a promoter for the conduct of each contest or event composed of
66164 multiple contests conducted under this part.
66165 Section 1295. Section **63D-2-103** is amended to read:
66166 **63D-2-103. Collection of personally identifiable information.**
66167 (1) A governmental entity may not collect personally identifiable information related to
66168 a user of the governmental entity's governmental website unless the governmental entity has
66169 taken reasonable steps to ensure that on the day on which the personally identifiable
66170 information is collected the governmental entity's governmental website complies with
66171 Subsection (2).
66172 (2) A governmental website shall contain a privacy policy statement that discloses:
66173 (a) (i) the identity of the governmental website operator; and
66174 (ii) how the governmental website operator may be contacted:
66175 (A) by telephone; or
66176 (B) electronically;
66177 (b) the personally identifiable information collected by the governmental entity;
66178 (c) a summary of how the personally identifiable information is used by:
66179 (i) the governmental entity; or
66180 (ii) the governmental website operator;
66181 (d) the practices of the following related to disclosure of personally identifiable

66182 information collected:
66183 (i) the governmental entity; or
66184 (ii) the governmental website operator;
66185 (e) the procedures, if any, by which a user of a governmental entity may request:
66186 (i) access to the user's personally identifiable information; and
66187 (ii) access to correct the user's personally identifiable information; and
66188 (f) without compromising the integrity of the security measures, a general description
66189 of the security measures in place to protect a user's personally identifiable information from
66190 unintended disclosure.
66191 (3) (a) Personally identifiable information is not a classification of records under [~~Title~~
66192 ~~63, Chapter 2~~] Title 63G, Chapter 2, Government Records Access and Management Act.
66193 (b) Access to government records is governed by [~~Title 63, Chapter 2~~] Title 63G,
66194 Chapter 2, Government Records Access and Management Act.
66195 Section 1296. Section **63E-1-102** is amended to read:
66196 **63E-1-102. Definitions.**
66197 As used in this title:
66198 (1) "Authorizing statute" means the statute creating an entity as an independent entity.
66199 (2) "Committee" means the Retirement and Independent Entities Committee created in
66200 Section 63E-1-201.
66201 (3) "Independent corporation" means a corporation incorporated in accordance with
66202 Chapter 2, Independent Corporations Act.
66203 (4) (a) "Independent entity" means an entity having a public purpose relating to the
66204 state or its citizens that is individually created by the state or is given by the state the right to
66205 exist and conduct its affairs as an:
66206 (i) independent state agency; or
66207 (ii) independent corporation.
66208 (b) "Independent entity" includes the:
66209 (i) Dairy Commission created in Title 4, Chapter 22, Dairy Promotion Act;
66210 (ii) Heber Valley Railroad Authority created in Title 9, Chapter 3, Part 3, Heber Valley
66211 Historic Railroad Authority;
66212 (iii) Utah Science Center Authority created in Title 9, Chapter 3, Part 4, Utah Science

66213 Center Authority;
66214 (iv) Utah Housing Corporation created in Title 9, Chapter 4, Part 9, Utah Housing
66215 Corporation Act;
66216 (v) Utah State Fair Corporation created in Title 9, Chapter 4, Part 11, Utah State Fair
66217 Corporation Act;
66218 (vi) Workers' Compensation Fund created in Title 31A, Chapter 33, Workers'
66219 Compensation Fund;
66220 (vii) Utah State Retirement Office created in Title 49, Chapter 11, Utah State
66221 Retirement Systems Administration;
66222 (viii) School and Institutional Trust Lands Administration created in Title 53C,
66223 Chapter 1, Part 2, School and Institutional Trust Lands Administration;
66224 (ix) Utah Communications Agency Network created in Title 63C, Chapter 7, Utah
66225 Communications Agency Network Act; and
66226 (x) Utah Capital Investment Corporation created in [~~Title 63, Chapter 38f~~] Title 63M,
66227 Chapter 1, Part 12, Utah Venture Capital Enhancement Act.
66228 (c) Notwithstanding this Subsection (4), "independent entity" does not include:
66229 (i) the Public Service Commission of Utah created in Section 54-1-1;
66230 (ii) an institution within the state system of higher education;
66231 (iii) a city, county, or town;
66232 (iv) a local school district;
66233 (v) a local district under Title 17B, Limited Purpose Local Government Entities - Local
66234 Districts; or
66235 (vi) a special service district under Title 17A, Chapter 2, Part 13, Utah Special Service
66236 District Act.
66237 (5) "Independent state agency" means an entity that is created by the state, but is
66238 independent of the governor's direct supervisory control.
66239 (6) "Monies held in trust" means monies maintained for the benefit of:
66240 (a) one or more private individuals, including public employees;
66241 (b) one or more public or private entities; or
66242 (c) the owners of a quasi-public corporation.
66243 (7) "Public corporation" means an artificial person, public in ownership, individually

66244 created by the state as a body politic and corporate for the administration of a public purpose
66245 relating to the state or its citizens.
66246 (8) "Quasi-public corporation" means an artificial person, private in ownership,
66247 individually created as a corporation by the state which has accepted from the state the grant of
66248 a franchise or contract involving the performance of a public purpose relating to the state or its
66249 citizens.
66250 Section 1297. Section **63E-2-109** is amended to read:
66251 **63E-2-109. State statutes.**
66252 (1) Except as specifically modified in its authorizing statute, each independent
66253 corporation shall be exempt from the statutes governing state agencies, including:
66254 (a) Title 51, Chapter 5, Funds Consolidation Act;
66255 (b) Title 51, Chapter 7, State Money Management Act;
66256 (c) [~~Title 63, Chapter 38~~] Title 63J, Chapter 1, Budgetary Procedures Act;
66257 (d) [~~Title 63, Chapter 38a~~] Title 63J, Chapter 2, Revenue Procedures and Control Act;
66258 (e) [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
66259 (f) [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act;
66260 (g) [~~Title 63, Chapter 56~~] Title 63G, Chapter 6, Utah Procurement Code;
66261 (h) Title 63A, Utah Administrative Services Code; and
66262 (i) Title 67, Chapter 19, Utah Personnel Management Act.
66263 (2) Except as specifically modified in its authorizing statute, each independent
66264 corporation shall be subject to:
66265 (a) Title 52, Chapter 4, Open and Public Meetings Act; and
66266 (b) [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records Access and
66267 Management Act.
66268 (3) Each independent corporation board may adopt its own policies and procedures
66269 governing its:
66270 (a) funds management;
66271 (b) audits; and
66272 (c) personnel.
66273 Section 1298. Section **63F-1-103** is amended to read:
66274 **63F-1-103. Department of Technology Services.**

66275 (1) There is created within state government the Department of Technology Services
66276 which has all of the policymaking functions, regulatory and enforcement powers, rights, duties,
66277 and responsibilities outlined in this title.
66278 (2) In accordance with Subsection [~~63-38-3.5~~] 63J-1-306(7), the department has
66279 authority to operate as an internal service fund agency as provided in Section [~~63-38-3.5~~]
66280 63J-1-306.
66281 Section 1299. Section **63F-1-204** is amended to read:
66282 **63F-1-204. Agency information technology plans.**
66283 (1) (a) By July 1 of each year, each executive branch agency shall submit an agency
66284 information technology plan to the chief information officer at the department level, unless the
66285 governor or the chief information officer request an information technology plan be submitted
66286 by a subunit of a department, or by an executive branch agency other than a department.
66287 (b) The information technology plans required by this section shall be in the form and
66288 level of detail required by the chief information officer, by administrative rule adopted in
66289 accordance with Section 63F-1-206, and shall include, at least:
66290 (i) the information technology objectives of the agency;
66291 (ii) any performance measures used by the agency for implementing the agency's
66292 information technology objectives;
66293 (iii) any planned expenditures related to information technology;
66294 (iv) the agency's need for appropriations for information technology;
66295 (v) how the agency's development of information technology coordinates with other
66296 state and local governmental entities;
66297 (vi) any efforts the agency has taken to develop public and private partnerships to
66298 accomplish the information technology objectives of the agency; and
66299 (vii) the efforts the executive branch agency has taken to conduct transactions
66300 electronically in compliance with Section 46-4-503.
66301 (2) (a) Except as provided in Subsection (2)(b), an agency information technology plan
66302 described in Subsection (1) shall comply with the executive branch strategic plan established in
66303 accordance with Section 63F-1-203.
66304 (b) If the executive branch agency submitting the agency information technology plan
66305 justifies the need to depart from the executive branch strategic plan, an agency information

66306 technology plan may depart from the executive branch strategic plan to the extent approved by
66307 the chief information officer.
66308 (3) (a) On receipt of a state agency information technology plan, the chief information
66309 officer shall forward a complete copy of the agency information technology plan to the
66310 Division of Enterprise Technology created in Section 63F-1-401 and the Division of Integrated
66311 Technology created in Section 63F-1-501.
66312 (b) The divisions shall provide the chief information officer a written analysis of each
66313 agency plan submitted in accordance with Sections 63F-1-404 and 63F-1-504.
66314 (4) (a) The chief information officer shall review each agency plan to determine:
66315 (i) (A) whether the agency plan complies with the executive branch strategic plan and
66316 state information architecture; or
66317 (B) to the extent that the agency plan does not comply with the executive branch
66318 strategic plan or state information architecture, whether the executive branch entity is justified
66319 in departing from the executive branch strategic plan, or state information architecture; and
66320 (ii) whether the agency plan meets the information technology and other needs of:
66321 (A) the executive branch agency submitting the plan; and
66322 (B) the state.
66323 (b) In conducting the review required by Subsection (4)(a), the chief information
66324 officer shall consider the analysis submitted by the divisions under Subsection (3).
66325 (5) After the chief information officer conducts the review described in Subsection (4)
66326 of an agency information technology plan, the chief information officer may:
66327 (a) approve the agency information technology plan;
66328 (b) disapprove the agency information technology plan; or
66329 (c) recommend modifications to the agency information technology plan.
66330 (6) An executive branch agency or the department may not submit a request for
66331 appropriation related to information technology or an information technology system to the
66332 governor in accordance with Section [~~63-38-2~~] 63J-1-201 until after the executive branch
66333 agency's information technology plan is approved by the chief information officer.
66334 Section 1300. Section **63F-1-205** is amended to read:
66335 **63F-1-205. Approval of acquisitions of information technology.**
66336 (1) (a) In accordance with Subsection (2), the chief information officer shall approve

66337 the acquisition by an executive branch agency of:
66338 (i) information technology equipment;
66339 (ii) telecommunications equipment;
66340 (iii) software;
66341 (iv) services related to the items listed in Subsections (1)(a)(i) through (iii); and
66342 (v) data acquisition.
66343 (b) The chief information officer may negotiate the purchase, lease, or rental of private
66344 or public information technology or telecommunication services or facilities in accordance with
66345 this section.
66346 (c) Where practical, efficient, and economically beneficial, the chief information
66347 officer shall use existing private and public information technology or telecommunication
66348 resources.
66349 (2) Before negotiating a purchase, lease, or rental under Subsection (1) for an amount
66350 that exceeds the value established by the chief information officer by rule in accordance with
66351 Section 63F-1-206, the chief information officer shall:
66352 (a) conduct an analysis of the needs of executive branch agencies and subscribers of
66353 services and the ability of the proposed information technology or telecommunications services
66354 or supplies to meet those needs; and
66355 (b) for purchases, leases, or rentals not covered by an existing statewide contract,
66356 provide in writing to the chief procurement officer in the Division of Purchasing and General
66357 Services that:
66358 (i) the analysis required in Subsection (2)(a) was completed; and
66359 (ii) based on the analysis, the proposed purchase, lease, rental, or master contract of
66360 services, products, or supplies is practical, efficient, and economically beneficial to the state
66361 and the executive branch agency or subscriber of services.
66362 (3) In approving an acquisition described in Subsections (1) and (2), the chief
66363 information officer shall:
66364 (a) establish by administrative rule, in accordance with Section 63F-1-206, standards
66365 under which an agency must obtain approval from the chief information officer before
66366 acquiring the items listed in Subsections (1) and (2);
66367 (b) for those acquisitions requiring approval, determine whether the acquisition is in

66368 compliance with:
66369 (i) the executive branch strategic plan;
66370 (ii) the applicable agency information technology plan;
66371 (iii) the budget for the executive branch agency or department as adopted by the
66372 Legislature; and
66373 (iv) [~~Title 63, Chapter 56~~] Title 63G, Chapter 6, Utah Procurement Code; and
66374 (c) in accordance with Section 63F-1-207, require coordination of acquisitions between
66375 two or more executive branch agencies if it is in the best interests of the state.
66376 (4) (a) Each executive branch agency shall provide the chief information officer with
66377 complete access to all information technology records, documents, and reports:
66378 (i) at the request of the chief information officer; and
66379 (ii) related to the executive branch agency's acquisition of any item listed in Subsection
66380 (1).
66381 (b) Beginning July 1, 2006 and in accordance with administrative rules established by
66382 the department under Section 63F-1-206, no new technology projects may be initiated by an
66383 executive branch agency or the department unless the technology project is described in a
66384 formal project plan and the business case analysis has been approved by the chief information
66385 officer and agency head. The project plan and business case analysis required by this
66386 Subsection (4) shall be in the form required by the chief information officer, and shall include:
66387 (i) a statement of work to be done and existing work to be modified or displaced;
66388 (ii) total cost of system development and conversion effort, including system analysis
66389 and programming costs, establishment of master files, testing, documentation, special
66390 equipment cost and all other costs, including overhead;
66391 (iii) savings or added operating costs that will result after conversion;
66392 (iv) other advantages or reasons that justify the work;
66393 (v) source of funding of the work, including ongoing costs;
66394 (vi) consistency with budget submissions and planning components of budgets; and
66395 (vii) whether the work is within the scope of projects or initiatives envisioned when the
66396 current fiscal year budget was approved.
66397 (5) (a) The chief information officer and the Division of Purchasing and General
66398 Services shall work cooperatively to establish procedures under which the chief information

66399 officer shall monitor and approve acquisitions as provided in this section.
66400 (b) The procedures established under this section shall include at least the written
66401 certification required by Subsection [~~63-56-204~~] 63G-6-204(8).
66402 Section 1301. Section **63F-1-206** is amended to read:
66403 **63F-1-206. Rulemaking -- Policies.**
66404 (1) (a) Except as provided in Subsection (2), in accordance with [~~Title 63, Chapter 46a~~]
66405 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the chief information officer shall
66406 make rules that:
66407 (i) provide standards that impose requirements on executive branch agencies that:
66408 (A) are related to the security of the statewide area network; and
66409 (B) establish standards for when an agency must obtain approval before obtaining
66410 items listed in Subsection 63F-1-205(1);
66411 (ii) specify the detail and format required in an agency information technology plan
66412 submitted in accordance with Section 63F-1-204;
66413 (iii) provide for standards related to the privacy policies of websites operated by or on
66414 behalf of an executive branch agency;
66415 (iv) provide for the acquisition, licensing, and sale of computer software;
66416 (v) specify the requirements for the project plan and business case analysis required by
66417 Section 63F-1-205;
66418 (vi) provide for project oversight of agency technology projects when required by
66419 Section 63F-1-205;
66420 (vii) establish, in accordance with Subsection 63F-1-205(2), the implementation of the
66421 needs assessment for information technology purchases; and
66422 (viii) establish telecommunications standards and specifications in accordance with
66423 Section 63F-1-404.
66424 (b) The rulemaking authority in this Subsection (1) is in addition to any other
66425 rulemaking authority granted by this title.
66426 (2) (a) Notwithstanding [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
66427 Administrative Rulemaking Act, and subject to Subsection (2)(b), the chief information officer
66428 may adopt a policy that outlines procedures to be followed by the chief information officer in
66429 facilitating the implementation of this title by executive branch agencies if the policy:

66430 (i) is consistent with the executive branch strategic plan; and
66431 (ii) is not required to be made by rule under Subsection (1) or Section [~~63-46a-3~~]
66432 63G-3-201.
66433 (b) (i) A policy adopted by the chief information officer under Subsection (2)(a) may
66434 not take effect until 30 days after the day on which the chief information officer submits the
66435 policy to:
66436 (A) the governor; and
66437 (B) all cabinet level officials.
66438 (ii) During the 30-day period described in Subsection (2)(b)(i), cabinet level officials
66439 may review and comment on a policy submitted under Subsection (2)(b)(i).
66440 (3) (a) Notwithstanding Subsection (1) or (2) or [~~Title 63, Chapter 46a~~] Title 63G,
66441 Chapter 3, Utah Administrative Rulemaking Act, without following the procedures of
66442 Subsection (1) or (2), the chief information officer may adopt a security procedure to be
66443 followed by executive branch agencies to protect the statewide area network if:
66444 (i) broad communication of the security procedure would create a significant potential
66445 for increasing the vulnerability of the statewide area network to breach or attack; and
66446 (ii) after consultation with the chief information officer, the governor agrees that broad
66447 communication of the security procedure would create a significant potential increase in the
66448 vulnerability of the statewide area network to breach or attack.
66449 (b) A security procedure described in Subsection (3)(a) is classified as a protected
66450 record under [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records Access and
66451 Management Act.
66452 (c) The chief information officer shall provide a copy of the security procedure as a
66453 protected record to:
66454 (i) the chief justice of the Utah Supreme Court for the judicial branch;
66455 (ii) the speaker of the House of Representatives and the president of the Senate for the
66456 legislative branch;
66457 (iii) the chair of the Board of Regents; and
66458 (iv) the chair of the State Board of Education.
66459 Section 1302. Section **63F-1-207** is amended to read:
66460 **63F-1-207. Coordination within the executive branch -- Cooperation with other**

66461 **branches.**
66462 (1) In accordance with the executive branch strategic plan and the requirements of this
66463 title, the chief information officer shall coordinate the development of information technology
66464 systems between two or more executive branch agencies subject to:
66465 (a) the budget approved by the Legislature; and
66466 (b) [~~Title 63, Chapter 38~~] Title 63J, Chapter 1, Budgetary Procedures Act.
66467 (2) In addition to the coordination described in Subsection (1), the chief information
66468 officer shall promote cooperation regarding information technology in a manner consistent
66469 with the interbranch coordination plan created in accordance with Section 63F-1-201.
66470 Section 1303. Section **63F-1-209** is amended to read:
66471 **63F-1-209. Delegation of department staff to executive branch agencies --**
66472 **Prohibition against executive branch agency information technology staff.**
66473 (1) (a) The chief information officer shall assign department staff to serve an agency
66474 in-house if the chief information officer and the executive branch agency director jointly
66475 determine it is appropriate to provide information technology services to:
66476 (i) the agency's unique mission critical functions and applications;
66477 (ii) the agency's participation in and use of statewide enterprise architecture under the
66478 Division of Enterprise Technology; and
66479 (iii) the agency's use of coordinated technology services with other agencies that share
66480 similar characteristics with the agency under the Division of Integrated Technology.
66481 (b) (i) An agency may request the chief information officer to assign in-house staff
66482 support from the department.
66483 (ii) The chief information officer shall respond to the agency's request for in-house
66484 staff support in accordance with Subsection (1)(a).
66485 (c) The department shall enter into service agreements with an agency when
66486 department staff is assigned in-house to the agency under the provisions of this section.
66487 (d) An agency that receives in-house staff support assigned from the department under
66488 the provision of this section is responsible for paying the rates charged by the department for
66489 that staff as established under Section 63F-1-301.
66490 (2) (a) After July 1, 2006, an executive branch agency may not create a full-time
66491 equivalent position or part-time position, or request an appropriation to fund a full-time

66492 equivalent position or part-time position under the provisions of Section [~~63-38-2~~] 63J-1-201
66493 for the purpose of providing information technology services to the agency unless:
66494 (i) the chief information officer has approved a delegation under Section 63F-1-208;
66495 and
66496 (ii) the Division of Agency Services conducts an audit under Section 63F-1-604 and
66497 finds that the delegation of information technology services to the agency meets the
66498 requirements of Section 63F-1-208.
66499 (b) The prohibition against a request for appropriation under Subsection (2)(a) does not
66500 apply to a request for appropriation needed to pay rates imposed under Subsection (1)(d).
66501 Section 1304. Section **63F-1-301** is amended to read:
66502 **63F-1-301. Cost based services -- Fees -- Rate committee.**
66503 (1) The chief information officer shall:
66504 (a) at the lowest practical cost, manage the delivery of efficient and cost-effective
66505 information technology and telecommunication services for:
66506 (i) all executive branch agencies; and
66507 (ii) entities that subscribe to the services in accordance with Section 63F-1-303; and
66508 (b) provide priority service to public safety agencies.
66509 (2) (a) In accordance with this Subsection (2), the chief information officer shall
66510 prescribe a schedule of fees for all services rendered by the department to:
66511 (i) an executive branch entity; or
66512 (ii) an entity that subscribes to services rendered by the department in accordance with
66513 Section 63F-1-303.
66514 (b) Each fee included in the schedule of fees required by Subsection (2)(a):
66515 (i) shall be equitable;
66516 (ii) should be based upon a zero based, full cost accounting of activities necessary to
66517 provide each service for which a fee is established; and
66518 (iii) for each service multiplied by the projected consumption of the service recovers
66519 no more or less than the full cost of each service.
66520 (c) Before charging a fee for its services to an executive branch agency or to a
66521 subscriber of services other than an executive branch agency, the chief information officer
66522 shall:

66523 (i) submit the proposed rates, fees, and cost analysis to the Rate Committee established
66524 in Section 63F-1-302; and
66525 (ii) obtain the approval of the Legislature as required by Section [~~63-38-3.5~~] 63J-1-306.
66526 (d) The chief information officer shall conduct a market analysis by July 1, 2006, and
66527 periodically thereafter, of proposed rates and fees, which analysis shall include a comparison of
66528 the department's rates with the fees of other public or private sector providers where
66529 comparable services and rates are reasonably available.
66530 Section 1305. Section **63F-1-302** is amended to read:
66531 **63F-1-302. Information Technology Rate Committee -- Membership -- Duties.**
66532 (1) (a) There is created an Information Technology Rate Committee which shall consist
66533 of:
66534 (i) the director of the Governor's Office of Planning and Budget, or a designee;
66535 (ii) the executive directors, or their designee, of three executive branch agencies that
66536 use services and pay rates to one of the department internal service funds, appointed by the
66537 governor for a two-year term;
66538 (iii) the director of the Division of Finance, or a designee; and
66539 (iv) the chief information officer.
66540 (b) (i) The director of the Division of Finance shall serve as chair of the committee.
66541 (ii) Members of the committee who are state government employees and who do not
66542 receive salary, per diem, or expenses from their agency for their service on the committee shall
66543 receive no compensation, benefits, per diem, or expenses for the member's service on the
66544 committee.
66545 (c) The department shall provide staff services to the committee.
66546 (2) (a) Any internal service funds managed by the department shall submit to the
66547 committee a proposed rate and fee schedule for services rendered by the department to an
66548 executive branch agency or an entity that subscribes to services rendered by the department.
66549 (b) The committee shall:
66550 (i) conduct meetings in accordance with Title 52, Chapter 4, Open and Public Meetings
66551 Act;
66552 (ii) review the proposed rate and fee schedule and determine if the proposed fee is
66553 based on cost recovery as required by Subsection 63F-1-301(2)(b);

66554 (iii) review the proposed rate and fee schedules and may approve, increase, or decrease
66555 the rate and fee;
66556 (iv) recommend a proposed rate and fee schedule for each internal service fund to:
66557 (A) the Governor's Office of Planning and Budget; and
66558 (B) the Office of Legislative Fiscal Analyst for review by the Legislature in accordance
66559 with Section [~~63-38-3.5~~] 63J-1-306, which requires the Legislature to approve the internal
66560 service fund agency's rates, fees, and budget in an appropriations act; and
66561 (v) in accordance with Section [~~63-38-3.5~~] 63J-1-306, review and approve, increase or
66562 decrease an interim rate, fee, or amount when an internal service fund agency begins a new
66563 service or introduces a new product between annual general sessions of the Legislature, which
66564 rate, fee, or amount shall be submitted to the Legislature at the next annual general session.
66565 (c) The committee may in accordance with Subsection [~~63-38-3.5~~] 63J-1-306(4)
66566 decrease a rate, fee, or amount that has been approved by the Legislature.
66567 Section 1306. Section **63F-1-509** is amended to read:
66568 **63F-1-509. Statewide Global Positioning Reference Network created -- Advisory**
66569 **committee.**
66570 (1) (a) There is created the Statewide Global Positioning Reference Network to
66571 improve the quality of geographic information system data and the productivity, efficiency, and
66572 cost-effectiveness of government services.
66573 (b) The network shall provide a system of permanently mounted, fully networked,
66574 global positioning system base stations that will provide real time radio navigation and
66575 establish a standard statewide coordinate reference system.
66576 (c) The center shall administer the network.
66577 (2) (a) There is created the Global Positioning Systems Advisory Committee to advise
66578 the center on implementing and maintaining the network.
66579 (b) The committee membership shall consist of:
66580 (i) the center manager or the manager's designee;
66581 (ii) a representative from the Department of Transportation created by Section
66582 72-1-201 designated by the executive director appointed under Section 72-1-202;
66583 (iii) the chief information officer or the chief information officer's designee;
66584 (iv) a representative from the Utah Association of County Surveyors; and

66585 (v) a representative from the Utah Council of Land Surveyors.
66586 (c) The representative from the center shall be the chair of the committee.
66587 (d) The committee shall meet upon the call of the chair or a majority of the committee
66588 members.
66589 (e) The committee chair shall give reasonable notice to each member prior to any
66590 meeting.
66591 (f) Three members shall constitute a quorum for the transaction of business.
66592 (g) The center shall provide staff support to the committee.
66593 (h) Committee members who are state government employees shall receive no
66594 additional compensation for their work on the committee.
66595 (i) Committee members who are not state government employees shall receive no
66596 compensation or expenses for their work on the committee.
66597 (j) The committee shall recommend rules to the chief information officer for adoption
66598 under Subsection (3).
66599 (3) (a) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
66600 Administrative Rulemaking Act, the chief information officer shall make, in consultation with
66601 the committee, rules providing for operating policies and procedures for the network.
66602 (b) The rules shall consider:
66603 (i) network development that serves a public purpose;
66604 (ii) increased productivity and efficiency for state agencies; and
66605 (iii) costs and longevity of the network.
66606 Section 1307. Section **63G-1-101** is enacted to read:
66607 **TITLE 63G. GENERAL GOVERNMENT**
66608 **CHAPTER 1. STATE SYMBOLS AND DESIGNATIONS**
66609 **Part 1. General Provisions**
66610 **63G-1-101. Title.**
66611 (1) This title is known as "General Government."
66612 (2) This chapter is known as "State Symbols and Designations."
66613 Section 1308. Section **63G-1-201**, which is renumbered from Section 63-13-1.5 is
66614 renumbered and amended to read:
66615 **Part 2. State Language**

66616 **[~~63-13-1.5~~]. 63G-1-201. Official state language.**
66617 (1) English is declared to be the official language of Utah.
66618 (2) As the official language of this State, the English language is the sole language of
66619 the government, except as otherwise provided in this section.
66620 (3) Except as provided in Subsection (4), all official documents, transactions,
66621 proceedings, meetings, or publications issued, conducted, or regulated by, on behalf of, or
66622 representing the state and its political subdivisions shall be in English.
66623 (4) Languages other than English may be used when required:
66624 (a) by the United States Constitution, the Utah State Constitution, federal law, or
66625 federal regulation;
66626 (b) by law enforcement or public health and safety needs;
66627 (c) by public and higher education systems according to rules made by the State Board
66628 of Education and the State Board of Regents to comply with Subsection (5);
66629 (d) in judicial proceedings, when necessary to insure that justice is served;
66630 (e) to promote and encourage tourism and economic development, including the
66631 hosting of international events such as the Olympics; and
66632 (f) by libraries to:
66633 (i) collect and promote foreign language materials; and
66634 (ii) provide foreign language services and activities.
66635 (5) The State Board of Education and the State Board of Regents shall make rules
66636 governing the use of foreign languages in the public and higher education systems that promote
66637 the following principles:
66638 (a) non-English speaking children and adults should become able to read, write, and
66639 understand English as quickly as possible;
66640 (b) foreign language instruction should be encouraged;
66641 (c) formal and informal programs in English as a Second Language should be initiated,
66642 continued, and expanded; and
66643 (d) public schools should establish communication with non-English speaking parents
66644 of children within their systems, using a means designed to maximize understanding when
66645 necessary, while encouraging those parents who do not speak English to become more
66646 proficient in English.

66647 (6) Unless exempted by Subsection (4), all state funds appropriated or designated for
66648 the printing or translation of materials or the provision of services or information in a language
66649 other than English shall be returned to the General Fund.
66650 (a) Each state agency that has state funds appropriated or designated for the printing or
66651 translation of materials or the provision of services or information in a language other than
66652 English shall:
66653 (i) notify the Division of Finance that those monies exist and the amount of those
66654 monies; and
66655 (ii) return those monies to the Division of Finance.
66656 (b) The Division of Finance shall account for those monies and inform the Legislature
66657 of the existence and amount of those monies at the beginning of the Legislature's annual
66658 general session.
66659 (c) The Legislature may appropriate any monies received under this section to the State
66660 School Board for use in English as a Second Language programs.
66661 (7) Nothing in this section affects the ability of government employees, private
66662 businesses, non-profit organizations, or private individuals to exercise their rights under:
66663 (a) the First Amendment of the United States Constitution; and
66664 (b) Utah Constitution, Article 1, Sections 1 and 15.
66665 (8) If any provision of this section, or the application of any such provision to any
66666 person or circumstance, is held invalid, the remainder of this act shall be given effect without
66667 the invalid provision or application.
66668 Section 1309. Section **63G-1-301**, which is renumbered from Section 63-13-2 is
66669 renumbered and amended to read:
66670 **Part 3. State Holidays**
66671 **[~~63-13-2~~]. 63G-1-301. Legal holidays -- Personal preference day -- Governor**
66672 **authorized to declare additional days.**
66673 (1) (a) The following-named days are legal holidays in this state:
66674 (i) every Sunday;
66675 (ii) January 1, called New Year's Day;
66676 (iii) the third Monday of January, called Dr. Martin Luther King, Jr. Day;
66677 (iv) the third Monday of February, called Washington and Lincoln Day;

66678 (v) the last Monday of May, called Memorial Day;
66679 (vi) July 4, called Independence Day;
66680 (vii) July 24, called Pioneer Day;
66681 (viii) the first Monday of September, called Labor Day;
66682 (ix) the second Monday of October, called Columbus Day;
66683 (x) November 11, called Veterans' Day;
66684 (xi) the fourth Thursday of November, called Thanksgiving Day;
66685 (xii) December 25, called Christmas; and
66686 (xiii) all days which may be set apart by the President of the United States, or the
66687 governor of this state by proclamation as days of fast or thanksgiving.
66688 (b) If any of the holidays under Subsection (1)(a), except the first mentioned, namely
66689 Sunday, falls on Sunday, then the following Monday shall be the holiday.
66690 (c) If any of the holidays under Subsection (1)(a) falls on Saturday the preceding Friday
66691 shall be the holiday.
66692 (d) Each employee may select one additional day, called Personal Preference Day, to
66693 be scheduled pursuant to rules adopted by the Department of Human Resource Management.
66694 (2) (a) Whenever in [~~his~~] the governor's opinion extraordinary conditions exist
66695 justifying the action, the governor may:
66696 (i) declare, by proclamation, legal holidays in addition to those holidays under
66697 Subsection (1); and
66698 (ii) limit the holidays to certain classes of business and activities to be designated by
66699 [~~him~~] the governor.
66700 (b) A holiday may not extend for a longer period than 60 consecutive days.
66701 (c) Any holiday may be renewed for one or more periods not exceeding 30 days each as
66702 the governor may consider necessary, and any holiday may, by like proclamation, be terminated
66703 before the expiration of the period for which it was declared.
66704 Section 1310. Section **63G-1-401**, which is renumbered from Section 63-13-5.6 is
66705 renumbered and amended to read:
66706 **Part 4. State Commemorative Periods**
66707 **[~~63-13-5.6~~]. 63G-1-401. Commemorative periods.**
66708 (1) The following days shall be commemorated yearly:

66709 (a) Bill of Rights Day, on December 15;
66710 (b) Constitution Day, on September 17;
66711 (c) Yellow Ribbon Day, on the third Monday in May, in honor of men and women who
66712 are serving or have served in the U.S. armed forces around the world in defense of freedom;
66713 (d) POW/MIA Recognition Day, on the third Friday in September; and
66714 (e) Indigenous People Day, the Monday immediately preceding Thanksgiving.
66715 (2) The Department of Veterans' Affairs shall coordinate activities, special programs,
66716 and promotional information to heighten public awareness and involvement relating to
66717 Subsections (1)(c) and (d).
66718 (3) The month of November shall be commemorated yearly as American Indian
66719 Heritage Month.
66720 (4) The first full week of May shall be commemorated yearly as State Water Week to
66721 recognize the importance of water conservation, quality, and supply in the state.
66722 Section 1311. Section **63G-1-501**, which is renumbered from Section 63-13-5 is
66723 renumbered and amended to read:
66724 **Part 5. State Flag**
66725 **[~~63-13-5~~]. 63G-1-501. State flag.**
66726 The state flag of Utah shall be a flag of blue field, fringed, with gold borders, with the
66727 following device worked in natural colors on the center of the blue field:
66728 The center a shield; above the shield and thereon an American eagle with outstretched
66729 wings; the top of the shield pierced with six arrows arranged crosswise; upon the shield under
66730 the arrows the word "Industry," and below the word "Industry" on the center of the shield, a
66731 beehive; on each side of the beehive, growing sego lilies; below the beehive and near the
66732 bottom of the shield, the word "Utah," and below the word "Utah" and on the bottom of the
66733 shield, the figures "1847"; with the appearance of being back of the shield there shall be two
66734 American flags on flagstaffs placed crosswise with the flag so draped that they will project
66735 beyond each side of the shield, the heads of the flagstaffs appearing in front of the eagle's
66736 wings and the bottom of each staff appearing over the face of the draped flag below the shield;
66737 below the shield and flags and upon the blue field, the figures "1896"; around the entire design,
66738 a narrow circle in gold.
66739 Section 1312. Section **63G-1-601**, which is renumbered from Section 63-13-5.5 is

66740 renumbered and amended to read:

66741 **Part 6. State Symbols**

66742 **[~~63-13-5.5~~]. 63G-1-601. State symbols.**

66743 (1) Utah's state animal is the elk.

66744 (2) Utah's state bird is the sea gull.

66745 (3) Utah's state centennial astronomical symbol is the Beehive Cluster located in the
66746 constellation of Cancer the Crab.

66747 (4) Utah's state centennial star is Dubhe, one of the seven bright stars composing the
66748 Big Dipper in the constellation Ursa Major.

66749 (5) Utah's state centennial tartan, which honors the first Scots known to have been in
66750 Utah and those Utahns of Scottish heritage, shall have a pattern or repeating-half-sett of
66751 white-2, blue-6, red-6, blue-4, red-6, green-18, red-6, and white-4 to represent the tartan worn
66752 anciently by the Logan and Skene clans, with the addition of a white stripe.

66753 (6) Utah's state cooking pot is the dutch oven.

66754 (7) Utah's state emblem is the beehive.

66755 (8) Utah's state fish is the Bonneville cutthroat trout.

66756 (9) Utah's state flower is the sego lily.

66757 (10) Utah's state folk dance is the square dance, the folk dance that is called, cued, or
66758 prompted to the dancers and includes squares, rounds, clogging, contra, line, and heritage
66759 dances.

66760 (11) Utah's state fossil is the Allosaurus.

66761 (12) Utah's state fruit is the cherry.

66762 (13) Utah's state vegetable is the Spanish sweet onion.

66763 (14) Utah's historic state vegetable is the sugar beet.

66764 (15) Utah's state gem is topaz, as is prominently found in the Thomas Mountain Range
66765 in Juab County, Utah.

66766 (16) Utah's state grass is Indian rice grass.

66767 (17) Utah's state hymn is "Utah We Love Thee" by Evan Stephens.

66768 (18) Utah's state insect is the honeybee.

66769 (19) Utah's state mineral is copper.

66770 (20) Utah's state motto is "Industry."

66771 (21) Utah's state railroad museum is Ogden Union Station.
66772 (22) Utah's state rock is coal.
66773 (23) Utah's state song is "Utah This is the Place" by Sam and Gary Francis.
66774 (24) Utah's state tree is the blue spruce.
66775 Section 1313. Section **63G-2-101**, which is renumbered from Section 63-2-101 is
66776 renumbered and amended to read:
66777 **CHAPTER 2. GOVERNMENT RECORDS ACCESS AND MANAGEMENT ACT**
66778 **Part 1. General Provisions**
66779 **[~~63-2-101~~]. 63G-2-101. Title.**
66780 This chapter is known as the "Government Records Access and Management Act."
66781 Section 1314. Section **63G-2-102**, which is renumbered from Section 63-2-102 is
66782 renumbered and amended to read:
66783 **[~~63-2-102~~]. 63G-2-102. Legislative intent.**
66784 (1) In enacting this act, the Legislature recognizes two constitutional rights:
66785 (a) the public's right of access to information concerning the conduct of the public's
66786 business; and
66787 (b) the right of privacy in relation to personal data gathered by governmental entities.
66788 (2) The Legislature also recognizes a public policy interest in allowing a government to
66789 restrict access to certain records, as specified in this chapter, for the public good.
66790 (3) It is the intent of the Legislature to:
66791 (a) promote the public's right of easy and reasonable access to unrestricted public
66792 records;
66793 (b) specify those conditions under which the public interest in allowing restrictions on
66794 access to records may outweigh the public's interest in access;
66795 (c) prevent abuse of confidentiality by governmental entities by permitting confidential
66796 treatment of records only as provided in this chapter;
66797 (d) provide guidelines for both disclosure and restrictions on access to government
66798 records, which are based on the equitable weighing of the pertinent interests and which are
66799 consistent with nationwide standards of information practices;
66800 (e) favor public access when, in the application of this act, countervailing interests are
66801 of equal weight; and

66802 (f) establish fair and reasonable records management practices.
66803 Section 1315. Section **63G-2-103**, which is renumbered from Section 63-2-103 is
66804 renumbered and amended to read:
66805 **[~~63-2-103~~]. 63G-2-103. Definitions.**
66806 As used in this chapter:
66807 (1) "Audit" means:
66808 (a) a systematic examination of financial, management, program, and related records
66809 for the purpose of determining the fair presentation of financial statements, adequacy of
66810 internal controls, or compliance with laws and regulations; or
66811 (b) a systematic examination of program procedures and operations for the purpose of
66812 determining their effectiveness, economy, efficiency, and compliance with statutes and
66813 regulations.
66814 (2) "Chronological logs" mean the regular and customary summary records of law
66815 enforcement agencies and other public safety agencies that show:
66816 (a) the time and general nature of police, fire, and paramedic calls made to the agency;
66817 (b) and any arrests or jail bookings made by the agency.
66818 (3) "Classification," "classify," and their derivative forms mean determining whether a
66819 record series, record, or information within a record is public, private, controlled, protected, or
66820 exempt from disclosure under Subsection [~~63-2-201~~] 63G-2-201(3)(b).
66821 (4) (a) "Computer program" means:
66822 (i) a series of instructions or statements that permit the functioning of a computer
66823 system in a manner designed to provide storage, retrieval, and manipulation of data from the
66824 computer system; and
66825 (ii) any associated documentation and source material that explain how to operate the
66826 computer program.
66827 (b) "Computer program" does not mean:
66828 (i) the original data, including numbers, text, voice, graphics, and images;
66829 (ii) analysis, compilation, and other manipulated forms of the original data produced by
66830 use of the program; or
66831 (iii) the mathematical or statistical formulas, excluding the underlying mathematical
66832 algorithms contained in the program, that would be used if the manipulated forms of the

66833 original data were to be produced manually.
66834 (5) (a) "Contractor" means:
66835 (i) any person who contracts with a governmental entity to provide goods or services
66836 directly to a governmental entity; or
66837 (ii) any private, nonprofit organization that receives funds from a governmental entity.
66838 (b) "Contractor" does not mean a private provider.
66839 (6) "Controlled record" means a record containing data on individuals that is controlled
66840 as provided by Section [~~63-2-303~~] 63G-2-304.
66841 (7) "Designation," "designate," and their derivative forms mean indicating, based on a
66842 governmental entity's familiarity with a record series or based on a governmental entity's
66843 review of a reasonable sample of a record series, the primary classification that a majority of
66844 records in a record series would be given if classified and the classification that other records
66845 typically present in the record series would be given if classified.
66846 (8) "Elected official" means each person elected to a state office, county office,
66847 municipal office, school board or school district office, local district office, or special service
66848 district office, but does not include judges.
66849 (9) "Explosive" means a chemical compound, device, or mixture:
66850 (a) commonly used or intended for the purpose of producing an explosion; and
66851 (b) that contains oxidizing or combustive units or other ingredients in proportions,
66852 quantities, or packing so that:
66853 (i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the
66854 compound or mixture may cause a sudden generation of highly heated gases; and
66855 (ii) the resultant gaseous pressures are capable of:
66856 (A) producing destructive effects on contiguous objects; or
66857 (B) causing death or serious bodily injury.
66858 (10) "Government audit agency" means any governmental entity that conducts an audit.
66859 (11) (a) "Governmental entity" means:
66860 (i) executive department agencies of the state, the offices of the governor, lieutenant
66861 governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole,
66862 the Board of Examiners, the National Guard, the Career Service Review Board, the State Board
66863 of Education, the State Board of Regents, and the State Archives;

66864 (ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal
66865 Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative
66866 committees, except any political party, group, caucus, or rules or sifting committee of the
66867 Legislature;
66868 (iii) courts, the Judicial Council, the Office of the Court Administrator, and similar
66869 administrative units in the judicial branch;
66870 (iv) any state-funded institution of higher education or public education; or
66871 (v) any political subdivision of the state, but, if a political subdivision has adopted an
66872 ordinance or a policy relating to information practices pursuant to Section [~~63-2-701~~]
66873 63G-2-701, this chapter shall apply to the political subdivision to the extent specified in
66874 Section [~~63-2-701~~] 63G-2-701 or as specified in any other section of this chapter that
66875 specifically refers to political subdivisions.
66876 (b) "Governmental entity" also means every office, agency, board, bureau, committee,
66877 department, advisory board, or commission of an entity listed in Subsection (11)(a) that is
66878 funded or established by the government to carry out the public's business.
66879 (12) "Gross compensation" means every form of remuneration payable for a given
66880 period to an individual for services provided including salaries, commissions, vacation pay,
66881 severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any
66882 similar benefit received from the individual's employer.
66883 (13) "Individual" means a human being.
66884 (14) (a) "Initial contact report" means an initial written or recorded report, however
66885 titled, prepared by peace officers engaged in public patrol or response duties describing official
66886 actions initially taken in response to either a public complaint about or the discovery of an
66887 apparent violation of law, which report may describe:
66888 (i) the date, time, location, and nature of the complaint, the incident, or offense;
66889 (ii) names of victims;
66890 (iii) the nature or general scope of the agency's initial actions taken in response to the
66891 incident;
66892 (iv) the general nature of any injuries or estimate of damages sustained in the incident;
66893 (v) the name, address, and other identifying information about any person arrested or
66894 charged in connection with the incident; or

66895 (vi) the identity of the public safety personnel, except undercover personnel, or
66896 prosecuting attorney involved in responding to the initial incident.
66897 (b) Initial contact reports do not include follow-up or investigative reports prepared
66898 after the initial contact report. However, if the information specified in Subsection (14)(a)
66899 appears in follow-up or investigative reports, it may only be treated confidentially if it is
66900 private, controlled, protected, or exempt from disclosure under Subsection [~~63-2-201~~]
66901 63G-2-201(3)(b).
66902 (15) "Legislative body" means the Legislature.
66903 (16) "Notice of compliance" means a statement confirming that a governmental entity
66904 has complied with a records committee order.
66905 (17) "Person" means:
66906 (a) an individual;
66907 (b) a nonprofit or profit corporation;
66908 (c) a partnership;
66909 (d) a sole proprietorship;
66910 (e) other type of business organization; or
66911 (f) any combination acting in concert with one another.
66912 (18) "Private provider" means any person who contracts with a governmental entity to
66913 provide services directly to the public.
66914 (19) "Private record" means a record containing data on individuals that is private as
66915 provided by Section [~~63-2-302~~] 63G-2-302.
66916 (20) "Protected record" means a record that is classified protected as provided by
66917 Section [~~63-2-304~~] 63G-2-305.
66918 (21) "Public record" means a record that is not private, controlled, or protected and that
66919 is not exempt from disclosure as provided in Subsection [~~63-2-201~~] 63G-2-201(3)(b).
66920 (22) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film,
66921 card, tape, recording, electronic data, or other documentary material regardless of physical form
66922 or characteristics:
66923 (i) that is prepared, owned, received, or retained by a governmental entity or political
66924 subdivision; and
66925 (ii) where all of the information in the original is reproducible by photocopy or other

66926 mechanical or electronic means.
66927 (b) "Record" does not mean:
66928 (i) a personal note or personal communication prepared or received by an employee or
66929 officer of a governmental entity in the employee's or officer's private capacity;
66930 (ii) a temporary draft or similar material prepared for the originator's personal use or
66931 prepared by the originator for the personal use of an individual for whom the originator is
66932 working;
66933 (iii) material that is legally owned by an individual in the individual's private capacity;
66934 (iv) material to which access is limited by the laws of copyright or patent unless the
66935 copyright or patent is owned by a governmental entity or political subdivision;
66936 (v) proprietary software;
66937 (vi) junk mail or a commercial publication received by a governmental entity or an
66938 official or employee of a governmental entity;
66939 (vii) a book that is cataloged, indexed, or inventoried and contained in the collections
66940 of a library open to the public;
66941 (viii) material that is cataloged, indexed, or inventoried and contained in the collections
66942 of a library open to the public, regardless of physical form or characteristics of the material;
66943 (ix) a daily calendar or other personal note prepared by the originator for the
66944 originator's personal use or for the personal use of an individual for whom the originator is
66945 working;
66946 (x) a computer program that is developed or purchased by or for any governmental
66947 entity for its own use;
66948 (xi) a note or internal memorandum prepared as part of the deliberative process by:
66949 (A) a member of the judiciary;
66950 (B) an administrative law judge;
66951 (C) a member of the Board of Pardons and Parole; or
66952 (D) a member of any other body charged by law with performing a quasi-judicial
66953 function; or
66954 (xii) a telephone number or similar code used to access a mobile communication
66955 device that is used by an employee or officer of a governmental entity, provided that the
66956 employee or officer of the governmental entity has designated at least one business telephone

66957 number that is a public record as provided in Section [~~63-2-301~~] 63G-2-301.
66958 (23) "Record series" means a group of records that may be treated as a unit for
66959 purposes of designation, description, management, or disposition.
66960 (24) "Records committee" means the State Records Committee created in Section
66961 [~~63-2-501~~] 63G-2-501.
66962 (25) "Records officer" means the individual appointed by the chief administrative
66963 officer of each governmental entity, or the political subdivision to work with state archives in
66964 the care, maintenance, scheduling, designation, classification, disposal, and preservation of
66965 records.
66966 (26) "Schedule," "scheduling," and their derivative forms mean the process of
66967 specifying the length of time each record series should be retained by a governmental entity for
66968 administrative, legal, fiscal, or historical purposes and when each record series should be
66969 transferred to the state archives or destroyed.
66970 (27) "Sponsored research" means research, training, and other sponsored activities as
66971 defined by the federal Executive Office of the President, Office of Management and Budget:
66972 (a) conducted:
66973 (i) by an institution within the state system of higher education defined in Section
66974 53B-1-102; and
66975 (ii) through an office responsible for sponsored projects or programs; and
66976 (b) funded or otherwise supported by an external:
66977 (i) person that is not created or controlled by the institution within the state system of
66978 higher education; or
66979 (ii) federal, state, or local governmental entity.
66980 (28) "State archives" means the Division of Archives and Records Service created in
66981 Section [~~63-2-901~~] 63A-12-101.
66982 (29) "State archivist" means the director of the state archives.
66983 (30) "Summary data" means statistical records and compilations that contain data
66984 derived from private, controlled, or protected information but that do not disclose private,
66985 controlled, or protected information.
66986 Section 1316. Section **63G-2-104**, which is renumbered from Section 63-2-104 is
66987 renumbered and amended to read:

66988 **[~~63-2-104~~]. 63G-2-104. Administrative Procedures Act not applicable.**
66989 [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, does not
66990 apply to this chapter except as provided in Section [~~63-2-603~~] 63G-2-603.
66991 Section 1317. Section **63G-2-105**, which is renumbered from Section 63-2-105 is
66992 renumbered and amended to read:
66993 **[~~63-2-105~~]. 63G-2-105. Confidentiality agreements.**
66994 If a governmental entity or political subdivision receives a request for a record that is
66995 subject to a confidentiality agreement executed before April 1, 1992, the law in effect at the
66996 time the agreement was executed, including late judicial interpretations of the law, shall govern
66997 access to the record, unless all parties to the confidentiality agreement agree in writing to be
66998 governed by the provisions of this chapter.
66999 Section 1318. Section **63G-2-106**, which is renumbered from Section 63-2-106 is
67000 renumbered and amended to read:
67001 **[~~63-2-106~~]. 63G-2-106. Records of security measures.**
67002 The records of a governmental entity or political subdivision regarding security
67003 measures designed for the protection of persons or property, public or private, are not subject to
67004 this chapter. These records include:
67005 (1) security plans;
67006 (2) security codes and combinations, and passwords;
67007 (3) passes and keys;
67008 (4) security procedures; and
67009 (5) building and public works designs, to the extent that the records or information
67010 relate to the ongoing security measures of a public entity.
67011 Section 1319. Section **63G-2-107**, which is renumbered from Section 63-2-107 is
67012 renumbered and amended to read:
67013 **[~~63-2-107~~]. 63G-2-107. Disclosure of records subject to federal law.**
67014 Notwithstanding the provisions of Subsections [~~63-2-201~~] 63G-2-201(6)(a) and (b), this
67015 chapter does not apply to a record containing protected health information as defined in 45
67016 C.F.R., Part 164, Standards for Privacy of Individually Identifiable Health Information, if the
67017 record is:
67018 (1) controlled or maintained by a governmental entity; and

67019 (2) governed by 45 C.F.R., Parts 160 and 164, Standards for Privacy of Individually
67020 Identifiable Health Information.
67021 Section 1320. Section **63G-2-201**, which is renumbered from Section 63-2-201 is
67022 renumbered and amended to read:
67023 **Part 2. Access to Records**
67024 **[~~63-2-201~~]. 63G-2-201. Right to inspect records and receive copies of records.**
67025 (1) Every person has the right to inspect a public record free of charge, and the right to
67026 take a copy of a public record during normal working hours, subject to Sections [~~63-2-203~~]
67027 63G-2-203 and [~~63-2-204~~] 63G-2-204.
67028 (2) A record is public unless otherwise expressly provided by statute.
67029 (3) The following records are not public:
67030 (a) a record that is private, controlled, or protected under Sections [~~63-2-302~~]
67031 63G-2-302, [~~63-2-302.5~~] 63G-2-303, [~~63-2-303~~] 63G-2-304, and [~~63-2-304~~] 63G-2-305; and
67032 (b) a record to which access is restricted pursuant to court rule, another state statute,
67033 federal statute, or federal regulation, including records for which access is governed or
67034 restricted as a condition of participation in a state or federal program or for receiving state or
67035 federal funds.
67036 (4) Only a record specified in Section [~~63-2-302~~] 63G-2-302, [~~63-2-302.5~~] 63G-2-303,
67037 [~~63-2-303~~] 63G-2-304, or [~~63-2-304~~] 63G-2-305 may be classified private, controlled, or
67038 protected.
67039 (5) (a) A governmental entity may not disclose a record that is private, controlled, or
67040 protected to any person except as provided in Subsection (5)(b), Subsection (5)(c), Section
67041 [~~63-2-202~~] 63G-2-202, [~~63-2-206~~] 63G-2-206, or [~~63-2-302.5~~] 63G-2-303.
67042 (b) A governmental entity may disclose a record that is private under Subsection
67043 [~~63-2-302~~] 63G-2-302(2) or protected under Section [~~63-2-304~~] 63G-2-305 to persons other
67044 than those specified in Section [~~63-2-202~~] 63G-2-202 or [~~63-2-206~~] 63G-2-206 if the head of a
67045 governmental entity, or a designee, determines that:
67046 (i) there is no interest in restricting access to the record; or
67047 (ii) the interests favoring access outweighs the interest favoring restriction of access.
67048 (c) In addition to the disclosure under Subsection (5)(b), a governmental entity may
67049 disclose a record that is protected under Subsection [~~63-2-304~~] 63G-2-305(51) if:

67050 (i) the head of the governmental entity, or a designee, determines that the disclosure:
67051 (A) is mutually beneficial to:
67052 (I) the subject of the record;
67053 (II) the governmental entity; and
67054 (III) the public; and
67055 (B) serves a public purpose related to:
67056 (I) public safety; or
67057 (II) consumer protection; and
67058 (ii) the person who receives the record from the governmental entity agrees not to use
67059 or allow the use of the record for advertising or solicitation purposes.
67060 (6) (a) The disclosure of a record to which access is governed or limited pursuant to
67061 court rule, another state statute, federal statute, or federal regulation, including a record for
67062 which access is governed or limited as a condition of participation in a state or federal program
67063 or for receiving state or federal funds, is governed by the specific provisions of that statute,
67064 rule, or regulation.
67065 (b) This chapter applies to records described in Subsection (6)(a) insofar as this chapter
67066 is not inconsistent with the statute, rule, or regulation.
67067 (7) A governmental entity shall provide a person with a certified copy of a record if:
67068 (a) the person requesting the record has a right to inspect it;
67069 (b) the person identifies the record with reasonable specificity; and
67070 (c) the person pays the lawful fees.
67071 (8) (a) In response to a request, a governmental entity is not required to:
67072 (i) create a record;
67073 (ii) compile, format, manipulate, package, summarize, or tailor information;
67074 (iii) provide a record in a particular format, medium, or program not currently
67075 maintained by the governmental entity;
67076 (iv) fulfill a person's records request if the request unreasonably duplicates prior
67077 records requests from that person; or
67078 (v) fill a person's records request if:
67079 (A) the record requested is accessible in the identical physical form and content in a
67080 public publication or product produced by the governmental entity receiving the request;

67081 (B) the governmental entity provides the person requesting the record with the public
67082 publication or product; and
67083 (C) the governmental entity specifies where the record can be found in the public
67084 publication or product.
67085 (b) Upon request, a governmental entity may provide a record in a particular form
67086 under Subsection (8)(a)(ii) or (iii) if:
67087 (i) the governmental entity determines it is able to do so without unreasonably
67088 interfering with the governmental entity's duties and responsibilities; and
67089 (ii) the requester agrees to pay the governmental entity for providing the record in the
67090 requested form in accordance with Section [~~63-2-203~~] 63G-2-203.
67091 (9) (a) A governmental entity may allow a person requesting more than 50 pages of
67092 records to copy the records if:
67093 (i) the records are contained in files that do not contain records that are exempt from
67094 disclosure, or the records may be segregated to remove private, protected, or controlled
67095 information from disclosure; and
67096 (ii) the governmental entity provides reasonable safeguards to protect the public from
67097 the potential for loss of a public record.
67098 (b) When the requirements of Subsection (9)(a) are met, the governmental entity may:
67099 (i) provide the requester with the facilities for copying the requested records and
67100 require that the requester make the copies; or
67101 (ii) allow the requester to provide the requester's own copying facilities and personnel
67102 to make the copies at the governmental entity's offices and waive the fees for copying the
67103 records.
67104 (10) (a) A governmental entity that owns an intellectual property right and that offers
67105 the intellectual property right for sale or license may control by ordinance or policy the
67106 duplication and distribution of the material based on terms the governmental entity considers to
67107 be in the public interest.
67108 (b) Nothing in this chapter shall be construed to limit or impair the rights or protections
67109 granted to the governmental entity under federal copyright or patent law as a result of its
67110 ownership of the intellectual property right.
67111 (11) A governmental entity may not use the physical form, electronic or otherwise, in

67112 which a record is stored to deny, or unreasonably hinder the rights of a person to inspect and
67113 receive a copy of a record under this chapter.
67114 (12) A governmental entity may provide access to an electronic copy of a record in lieu
67115 of providing access to its paper equivalent.
67116 Section 1321. Section **63G-2-202**, which is renumbered from Section 63-2-202 is
67117 renumbered and amended to read:
67118 **[~~63-2-202~~]. 63G-2-202. Access to private, controlled, and protected documents.**
67119 (1) Upon request, a governmental entity shall disclose a private record to:
67120 (a) the subject of the record;
67121 (b) the parent or legal guardian of an unemancipated minor who is the subject of the
67122 record;
67123 (c) the legal guardian of a legally incapacitated individual who is the subject of the
67124 record;
67125 (d) any other individual who:
67126 (i) has a power of attorney from the subject of the record;
67127 (ii) submits a notarized release from the subject of the record or [~~his~~] the individual's
67128 legal representative dated no more than 90 days before the date the request is made; or
67129 (iii) if the record is a medical record described in Subsection [~~63-2-302~~]
67130 63G-2-302(1)(b), is a health care provider, as defined in Section 26-33a-102, if releasing the
67131 record or information in the record is consistent with normal professional practice and medical
67132 ethics; or
67133 (e) any person to whom the record must be provided pursuant to:
67134 (i) court order as provided in Subsection (7); or
67135 (ii) a legislative subpoena as provided in Title 36, Chapter 14.
67136 (2) (a) Upon request, a governmental entity shall disclose a controlled record to:
67137 (i) a physician, psychologist, certified social worker, insurance provider or producer, or
67138 a government public health agency upon submission of:
67139 (A) a release from the subject of the record that is dated no more than 90 days prior to
67140 the date the request is made; and
67141 (B) a signed acknowledgment of the terms of disclosure of controlled information as
67142 provided by Subsection (2)(b); and

67143 (ii) any person to whom the record must be disclosed pursuant to:
67144 (A) a court order as provided in Subsection (7); or
67145 (B) a legislative subpoena as provided in Title 36, Chapter 14.
67146 (b) A person who receives a record from a governmental entity in accordance with
67147 Subsection (2)(a)(i) may not disclose controlled information from that record to any person,
67148 including the subject of the record.
67149 (3) If there is more than one subject of a private or controlled record, the portion of the
67150 record that pertains to another subject shall be segregated from the portion that the requester is
67151 entitled to inspect.
67152 (4) Upon request, a governmental entity shall disclose a protected record to:
67153 (a) the person who submitted the record;
67154 (b) any other individual who:
67155 (i) has a power of attorney from all persons, governmental entities, or political
67156 subdivisions whose interests were sought to be protected by the protected classification; or
67157 (ii) submits a notarized release from all persons, governmental entities, or political
67158 subdivisions whose interests were sought to be protected by the protected classification or from
67159 their legal representatives dated no more than 90 days prior to the date the request is made;
67160 (c) any person to whom the record must be provided pursuant to:
67161 (i) a court order as provided in Subsection (7); or
67162 (ii) a legislative subpoena as provided in Title 36, Chapter 14; or
67163 (d) the owner of a mobile home park, subject to the conditions of Subsection
67164 41-1a-116(5).
67165 (5) A governmental entity may disclose a private, controlled, or protected record to
67166 another governmental entity, political subdivision, another state, the United States, or a foreign
67167 government only as provided by Section [~~63-2-206~~] 63G-2-206.
67168 (6) Before releasing a private, controlled, or protected record, the governmental entity
67169 shall obtain evidence of the requester's identity.
67170 (7) A governmental entity shall disclose a record pursuant to the terms of a court order
67171 signed by a judge from a court of competent jurisdiction, provided that:
67172 (a) the record deals with a matter in controversy over which the court has jurisdiction;
67173 (b) the court has considered the merits of the request for access to the record; and

67174 (c) the court has considered and, where appropriate, limited the requester's use and
67175 further disclosure of the record in order to protect:
67176 (i) privacy interests in the case of private or controlled records;
67177 (ii) business confidentiality interests in the case of records protected under Subsection
67178 [~~63-2-304~~] 63G-2-305(1), (2), (40)(a)(ii), or (40)(a)(vi); and
67179 (iii) privacy interests or the public interest in the case of other protected records;
67180 (d) to the extent the record is properly classified private, controlled, or protected, the
67181 interests favoring access, considering limitations thereon, outweigh the interests favoring
67182 restriction of access; and
67183 (e) where access is restricted by a rule, statute, or regulation referred to in Subsection
67184 [~~63-2-201~~] 63G-2-201(3)(b), the court has authority independent of this chapter to order
67185 disclosure.
67186 (8) (a) A governmental entity may disclose or authorize disclosure of private or
67187 controlled records for research purposes if the governmental entity:
67188 (i) determines that the research purpose cannot reasonably be accomplished without
67189 use or disclosure of the information to the researcher in individually identifiable form;
67190 (ii) determines that:
67191 (A) the proposed research is bona fide; and
67192 (B) the value of the research outweighs the infringement upon personal privacy;
67193 (iii) (A) requires the researcher to assure the integrity, confidentiality, and security of
67194 the records; and
67195 (B) requires the removal or destruction of the individual identifiers associated with the
67196 records as soon as the purpose of the research project has been accomplished;
67197 (iv) prohibits the researcher from:
67198 (A) disclosing the record in individually identifiable form, except as provided in
67199 Subsection (8)(b); or
67200 (B) using the record for purposes other than the research approved by the governmental
67201 entity; and
67202 (v) secures from the researcher a written statement of the researcher's understanding of
67203 and agreement to the conditions of this Subsection (8) and the researcher's understanding that
67204 violation of the terms of this Subsection (8) may subject the researcher to criminal prosecution

67205 under Section [~~63-2-801~~] 63G-2-801.
67206 (b) A researcher may disclose a record in individually identifiable form if the record is
67207 disclosed for the purpose of auditing or evaluating the research program and no subsequent use
67208 or disclosure of the record in individually identifiable form will be made by the auditor or
67209 evaluator except as provided by this section.
67210 (c) A governmental entity may require indemnification as a condition of permitting
67211 research under this Subsection (8).
67212 (9) (a) Under Subsections [~~63-2-201~~] 63G-2-201(5)(b) and [~~63-2-401~~] 63G-2-401(6), a
67213 governmental entity may disclose to persons other than those specified in this section records
67214 that are:
67215 (i) private under Section [~~63-2-302~~] 63G-2-302; or
67216 (ii) protected under Section [~~63-2-304~~] 63G-2-305 subject to Section [~~63-2-308~~]
67217 63G-2-309 if a claim for business confidentiality has been made under Section [~~63-2-308~~]
67218 63G-2-309.
67219 (b) Under Subsection [~~63-2-403~~] 63G-2-403(11)(b), the records committee may require
67220 the disclosure to persons other than those specified in this section of records that are:
67221 (i) private under Section [~~63-2-302~~] 63G-2-302;
67222 (ii) controlled under Section [~~63-2-303~~] 63G-2-304; or
67223 (iii) protected under Section [~~63-2-304~~] 63G-2-305 subject to Section [~~63-2-308~~]
67224 63G-2-309 if a claim for business confidentiality has been made under Section [~~63-2-308~~]
67225 63G-2-309.
67226 (c) Under Subsection [~~63-2-404~~] 63G-2-404(8), the court may require the disclosure of
67227 records that are private under Section [~~63-2-302~~] 63G-2-302, controlled under Section
67228 [~~63-2-303~~] 63G-2-304, or protected under Section [~~63-2-304~~] 63G-2-305 to persons other than
67229 those specified in this section.
67230 Section 1322. Section **63G-2-203**, which is renumbered from Section 63-2-203 is
67231 renumbered and amended to read:
67232 **[~~63-2-203~~]. 63G-2-203. Fees.**
67233 (1) A governmental entity may charge a reasonable fee to cover the governmental
67234 entity's actual cost of providing a record. This fee shall be approved by the governmental
67235 entity's executive officer.

67236 (2) (a) When a governmental entity compiles a record in a form other than that
67237 normally maintained by the governmental entity, the actual costs under this section may include
67238 the following:
67239 (i) the cost of staff time for compiling, formatting, manipulating, packaging,
67240 summarizing, or tailoring the record either into an organization or media to meet the person's
67241 request;
67242 (ii) the cost of staff time for search, retrieval, and other direct administrative costs for
67243 complying with a request; and
67244 (iii) in the case of fees for a record that is the result of computer output other than word
67245 processing, the actual incremental cost of providing the electronic services and products
67246 together with a reasonable portion of the costs associated with formatting or interfacing the
67247 information for particular users, and the administrative costs as set forth in Subsections
67248 (2)(a)(i) and (ii).
67249 (b) An hourly charge under Subsection (2)(a) may not exceed the salary of the lowest
67250 paid employee who, in the discretion of the custodian of records, has the necessary skill and
67251 training to perform the request.
67252 (c) Notwithstanding Subsections (2)(a) and (b), no charge may be made for the first
67253 quarter hour of staff time.
67254 (3) (a) Fees shall be established as provided in this Subsection (3).
67255 (b) A governmental entity with fees established by the Legislature:
67256 (i) shall establish the fees defined in Subsection (2), or other actual costs associated
67257 with this section through the budget process; and
67258 (ii) may use the procedures of Section [~~63-38-3.2~~] 63J-1-303 to set fees until the
67259 Legislature establishes fees through the budget process.
67260 (c) Political subdivisions shall establish fees by ordinance or written formal policy
67261 adopted by the governing body.
67262 (d) The judiciary shall establish fees by rules of the judicial council.
67263 (4) A governmental entity may fulfill a record request without charge and is
67264 encouraged to do so when it determines that:
67265 (a) releasing the record primarily benefits the public rather than a person;
67266 (b) the individual requesting the record is the subject of the record, or an individual

67267 specified in Subsection [~~63-2-202~~] 63G-2-202(1) or (2); or
67268 (c) the requester's legal rights are directly implicated by the information in the record,
67269 and the requester is impecunious.
67270 (5) A governmental entity may not charge a fee for:
67271 (a) reviewing a record to determine whether it is subject to disclosure, except as
67272 permitted by Subsection (2)(a)(ii); or
67273 (b) inspecting a record.
67274 (6) (a) A person who believes that there has been an unreasonable denial of a fee
67275 waiver under Subsection (4) may appeal the denial in the same manner as a person appeals
67276 when inspection of a public record is denied under Section [~~63-2-205~~] 63G-2-205.
67277 (b) The adjudicative body hearing the appeal has the same authority when a fee waiver
67278 or reduction is denied as it has when the inspection of a public record is denied.
67279 (7) (a) All fees received under this section by a governmental entity subject to
67280 Subsection (3)(b) shall be retained by the governmental entity as a dedicated credit.
67281 (b) Those funds shall be used to recover the actual cost and expenses incurred by the
67282 governmental entity in providing the requested record or record series.
67283 (8) (a) A governmental entity may require payment of past fees and future estimated
67284 fees before beginning to process a request if:
67285 (i) fees are expected to exceed $50; or
67286 (ii) the requester has not paid fees from previous requests.
67287 (b) Any prepaid amount in excess of fees due shall be returned to the requester.
67288 (9) This section does not alter, repeal, or reduce fees established by other statutes or
67289 legislative acts.
67290 (10) (a) Notwithstanding Subsection (3)(c), fees for voter registration records shall be
67291 set as provided in this Subsection (10).
67292 (b) The lieutenant governor shall:
67293 (i) after consultation with county clerks, establish uniform fees for voter registration
67294 and voter history records that meet the requirements of this section; and
67295 (ii) obtain legislative approval of those fees by following the procedures and
67296 requirements of Section [~~63-38-3.2~~] 63J-1-303.
67297 Section 1323. Section **63G-2-204**, which is renumbered from Section 63-2-204 is

67298 renumbered and amended to read:
67299 **[~~63-2-204~~]. 63G-2-204. Requests -- Time limit for response and extraordinary**
67300 **circumstances.**
67301 (1) A person making a request for a record shall furnish the governmental entity with a
67302 written request containing:
67303 (a) the person's name, mailing address, and daytime telephone number, if available;
67304 and
67305 (b) a description of the record requested that identifies the record with reasonable
67306 specificity.
67307 (2) (a) Subject to Subsection (2)(b), a person making a request for a record shall submit
67308 the request to the governmental entity that prepares, owns, or retains the record.
67309 (b) In response to a request for a record, a governmental entity may not provide a
67310 record that it has received under Section [~~63-2-206~~] 63G-2-206 as a shared record if the record
67311 was shared for the purpose of auditing, if the governmental entity is authorized by state statute
67312 to conduct an audit.
67313 (c) If a governmental entity is prohibited from providing a record under Subsection
67314 (2)(b), it shall:
67315 (i) deny the records request; and
67316 (ii) inform the person making the request that records requests must be submitted to the
67317 governmental entity that prepares, owns, or retains the record.
67318 (d) A governmental entity may make rules in accordance with [~~Title 63, Chapter 46a~~]
67319 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying where and to whom
67320 requests for access shall be directed.
67321 (3) (a) As soon as reasonably possible, but no later than ten business days after
67322 receiving a written request, or five business days after receiving a written request if the
67323 requester demonstrates that expedited response to the record request benefits the public rather
67324 than the person, the governmental entity shall respond to the request by:
67325 (i) approving the request and providing the record;
67326 (ii) denying the request;
67327 (iii) notifying the requester that it does not maintain the record and providing, if
67328 known, the name and address of the governmental entity that does maintain the record; or

67329 (iv) notifying the requester that because of one of the extraordinary circumstances
67330 listed in Subsection (4), it cannot immediately approve or deny the request.
67331 (b) The notice described in Subsection (3)(a)(iv) shall:
67332 (i) describe the circumstances relied upon; and
67333 (ii) specify the date when the records will be available.
67334 (c) Any person who requests a record to obtain information for a story or report for
67335 publication or broadcast to the general public is presumed to be acting to benefit the public
67336 rather than a person.
67337 (4) The following circumstances constitute "extraordinary circumstances" that allow a
67338 governmental entity to delay approval or denial by an additional period of time as specified in
67339 Subsection (5) if the governmental entity determines that due to the extraordinary
67340 circumstances it cannot respond within the time limits provided in Subsection (3):
67341 (a) another governmental entity is using the record, in which case the originating
67342 governmental entity shall promptly request that the governmental entity currently in possession
67343 return the record;
67344 (b) another governmental entity is using the record as part of an audit, and returning the
67345 record before the completion of the audit would impair the conduct of the audit;
67346 (c) (i) the request is for a voluminous quantity of records or a record series containing a
67347 substantial number of records;
67348 (ii) the requester seeks a substantial number of records or records series in requests
67349 filed within five working days of each other;
67350 (d) the governmental entity is currently processing a large number of records requests;
67351 (e) the request requires the governmental entity to review a large number of records to
67352 locate the records requested;
67353 (f) the decision to release a record involves legal issues that require the governmental
67354 entity to seek legal counsel for the analysis of statutes, rules, ordinances, regulations, or case
67355 law;
67356 (g) segregating information that the requester is entitled to inspect from information
67357 that the requester is not entitled to inspect requires extensive editing; or
67358 (h) segregating information that the requester is entitled to inspect from information
67359 that the requester is not entitled to inspect requires computer programming.

67360 (5) If one of the extraordinary circumstances listed in Subsection (4) precludes
67361 approval or denial within the time specified in Subsection (3), the following time limits apply
67362 to the extraordinary circumstances:
67363 (a) for claims under Subsection (4)(a), the governmental entity currently in possession
67364 of the record shall return the record to the originating entity within five business days of the
67365 request for the return unless returning the record would impair the holder's work;
67366 (b) for claims under Subsection (4)(b), the originating governmental entity shall notify
67367 the requester when the record is available for inspection and copying;
67368 (c) for claims under Subsections (4)(c), (d), and (e), the governmental entity shall:
67369 (i) disclose the records that it has located which the requester is entitled to inspect;
67370 (ii) provide the requester with an estimate of the amount of time it will take to finish
67371 the work required to respond to the request;
67372 (iii) complete the work and disclose those records that the requester is entitled to
67373 inspect as soon as reasonably possible; and
67374 (iv) for any person that does not establish a right to an expedited response as
67375 authorized by Subsection (3)(a), a governmental entity may choose to:
67376 (A) require the person to provide for copying of the records as provided in Subsection
67377 [~~63-2-201~~] 63G-2-201(9); or
67378 (B) treat a request for multiple records as separate record requests, and respond
67379 sequentially to each request;
67380 (d) for claims under Subsection (4)(f), the governmental entity shall either approve or
67381 deny the request within five business days after the response time specified for the original
67382 request has expired;
67383 (e) for claims under Subsection (4)(g), the governmental entity shall fulfill the request
67384 within 15 business days from the date of the original request; or
67385 (f) for claims under Subsection (4)(h), the governmental entity shall complete its
67386 programming and disclose the requested records as soon as reasonably possible.
67387 (6) (a) If a request for access is submitted to an office of a governmental entity other
67388 than that specified by rule in accordance with Subsection (2), the office shall promptly forward
67389 the request to the appropriate office.
67390 (b) If the request is forwarded promptly, the time limit for response begins when the

67391 record is received by the office specified by rule.
67392 (7) If the governmental entity fails to provide the requested records or issue a denial
67393 within the specified time period, that failure is considered the equivalent of a determination
67394 denying access to the record.
67395 Section 1324. Section **63G-2-205**, which is renumbered from Section 63-2-205 is
67396 renumbered and amended to read:
67397 **[~~63-2-205~~]. 63G-2-205. Denials.**
67398 (1) If the governmental entity denies the request in whole or part, it shall provide a
67399 notice of denial to the requester either in person or by sending the notice to the requester's
67400 address.
67401 (2) The notice of denial shall contain the following information:
67402 (a) a description of the record or portions of the record to which access was denied,
67403 provided that the description does not disclose private, controlled, or protected information or
67404 information exempt from disclosure under Subsection [~~63-2-201~~] 63G-2-201(3)(b);
67405 (b) citations to the provisions of this chapter, court rule or order, another state statute,
67406 federal statute, or federal regulation that exempt the record or portions of the record from
67407 disclosure, provided that the citations do not disclose private, controlled, or protected
67408 information or information exempt from disclosure under Subsection [~~63-2-201~~]
67409 63G-2-201(3)(b);
67410 (c) a statement that the requester has the right to appeal the denial to the chief
67411 administrative officer of the governmental entity; and
67412 (d) the time limits for filing an appeal, and the name and business address of the chief
67413 administrative officer of the governmental entity.
67414 (3) Unless otherwise required by a court or agency of competent jurisdiction, a
67415 governmental entity may not destroy or give up custody of any record to which access was
67416 denied until the period for an appeal has expired or the end of the appeals process, including
67417 judicial appeal.
67418 Section 1325. Section **63G-2-206**, which is renumbered from Section 63-2-206 is
67419 renumbered and amended to read:
67420 **[~~63-2-206~~]. 63G-2-206. Sharing records.**
67421 (1) A governmental entity may provide a record that is private, controlled, or protected

67422 to another governmental entity, a government-managed corporation, a political subdivision, the
67423 federal government, or another state if the requesting entity:
67424 (a) serves as a repository or archives for purposes of historical preservation,
67425 administrative maintenance, or destruction;
67426 (b) enforces, litigates, or investigates civil, criminal, or administrative law, and the
67427 record is necessary to a proceeding or investigation;
67428 (c) is authorized by state statute to conduct an audit and the record is needed for that
67429 purpose; or
67430 (d) is one that collects information for presentence, probationary, or parole purposes.
67431 (2) (a) A governmental entity may provide a private, controlled, or protected record or
67432 record series to another governmental entity, a political subdivision, a government-managed
67433 corporation, the federal government, or another state if the requesting entity provides written
67434 assurance:
67435 (i) that the record or record series is necessary to the performance of the governmental
67436 entity's duties and functions;
67437 (ii) that the record or record series will be used for a purpose similar to the purpose for
67438 which the information in the record or record series was collected or obtained; and
67439 (iii) that the use of the record or record series produces a public benefit that outweighs
67440 the individual privacy right that protects the record or record series.
67441 (b) A governmental entity may provide a private, controlled, or protected record or
67442 record series to a contractor or a private provider according to the requirements of Subsection
67443 (6)(b).
67444 (3) (a) A governmental entity shall provide a private, controlled, or protected record to
67445 another governmental entity, a political subdivision, a government-managed corporation, the
67446 federal government, or another state if the requesting entity:
67447 (i) is entitled by law to inspect the record;
67448 (ii) is required to inspect the record as a condition of participating in a state or federal
67449 program or for receiving state or federal funds; or
67450 (iii) is an entity described in Subsection (1)(a), (b), (c), or (d).
67451 (b) Subsection (3)(a)(iii) applies only if the record is a record described in Subsection
67452 [~~63-2-304~~] 63G-2-305(4).

67453 (4) Before disclosing a record or record series under this section to another
67454 governmental entity, another state, the United States, a foreign government, or to a contractor
67455 or private provider, the originating governmental entity shall:
67456 (a) inform the recipient of the record's classification and the accompanying restrictions
67457 on access; and
67458 (b) if the recipient is not a governmental entity to which this chapter applies, obtain the
67459 recipient's written agreement which may be by mechanical or electronic transmission that it
67460 will abide by those restrictions on access unless a statute, federal regulation, or interstate
67461 agreement otherwise governs the sharing of the record or record series.
67462 (5) A governmental entity may disclose a record to another state, the United States, or a
67463 foreign government for the reasons listed in Subsections (1) and (2) without complying with
67464 the procedures of Subsection (2) or (4) if disclosure is authorized by executive agreement,
67465 treaty, federal statute, compact, federal regulation, or state statute.
67466 (6) (a) Subject to Subsections (6)(b) and (c), an entity receiving a record under this
67467 section is subject to the same restrictions on disclosure of the record as the originating entity.
67468 (b) A contractor or a private provider may receive information under this section only
67469 if:
67470 (i) the contractor or private provider's use of the record or record series produces a
67471 public benefit that outweighs the individual privacy right that protects the record or record
67472 series;
67473 (ii) the record or record series it requests:
67474 (A) is necessary for the performance of a contract with a governmental entity;
67475 (B) will only be used for the performance of the contract with the governmental entity;
67476 (C) will not be disclosed to any other person; and
67477 (D) will not be used for advertising or solicitation purposes; and
67478 (iii) the contractor or private provider gives written assurance to the governmental
67479 entity that is providing the record or record series that it will adhere to the restrictions of this
67480 Subsection (6)(b).
67481 (c) The classification of a record already held by a governmental entity and the
67482 applicable restrictions on disclosure of that record are not affected by the governmental entity's
67483 receipt under this section of a record with a different classification that contains information

67484 that is also included in the previously held record.
67485 (7) Notwithstanding any other provision of this section, if a more specific court rule or
67486 order, state statute, federal statute, or federal regulation prohibits or requires sharing
67487 information, that rule, order, statute, or federal regulation controls.
67488 (8) The following records may not be shared under this section:
67489 (a) records held by the Division of Oil, Gas and Mining that pertain to any person and
67490 that are gathered under authority of Title 40, Chapter 6, Board and Division of Oil, Gas and
67491 Mining; and
67492 (b) records of publicly funded libraries as described in Subsection [~~63-2-302~~]
67493 63G-2-302(1)(c).
67494 (9) Records that may evidence or relate to a violation of law may be disclosed to a
67495 government prosecutor, peace officer, or auditor.
67496 Section 1326. Section **63G-2-207**, which is renumbered from Section 63-2-207 is
67497 renumbered and amended to read:
67498 **[~~63-2-207~~]. 63G-2-207. Subpoenas -- Court ordered disclosure for discovery.**
67499 (1) Subpoenas and other methods of discovery under the state or federal statutes or
67500 rules of civil, criminal, administrative, or legislative procedure are not written requests under
67501 Section [~~63-2-204~~] 63G-2-204.
67502 (2) (a) (i) Except as otherwise provided in Subsection (2)(c), in judicial or
67503 administrative proceedings in which an individual is requesting discovery of records classified
67504 private, controlled, or protected under this chapter, or otherwise restricted from access by other
67505 statutes, the court, or an administrative law judge shall follow the procedure in Subsection
67506 [~~63-2-202~~] 63G-2-202(7) before ordering disclosure.
67507 (ii) Until the court or an administrative law judge orders disclosure, these records are
67508 privileged from discovery.
67509 (b) If, the court or administrative order requires disclosure, the terms of the order may
67510 limit the requester's further use and disclosure of the record in accordance with Subsection
67511 [~~63-2-202~~] 63G-2-202(7), in order to protect the privacy interests recognized in this chapter.
67512 (c) Unless a court or administrative law judge imposes limitations in a restrictive order,
67513 this section does not limit the right to obtain:
67514 (i) records through the procedures set forth in this chapter; or

67515 (ii) medical records discoverable under state or federal court rules as authorized by
67516 Subsection [~~63-2-302~~] 63G-2-302(3).
67517 Section 1327. Section **63G-2-301**, which is renumbered from Section 63-2-301 is
67518 renumbered and amended to read:
67519 **Part 3. Classification**
67520 **[~~63-2-301~~]. 63G-2-301. Records that must be disclosed.**
67521 (1) As used in this section:
67522 (a) "Business address" means a single address of a governmental agency designated for
67523 the public to contact an employee or officer of the governmental agency.
67524 (b) "Business email address" means a single email address of a governmental agency
67525 designated for the public to contact an employee or officer of the governmental agency.
67526 (c) "Business telephone number" means a single telephone number of a governmental
67527 agency designated for the public to contact an employee or officer of the governmental agency.
67528 (2) The following records are public except to the extent they contain information
67529 expressly permitted to be treated confidentially under the provisions of Subsections [~~63-2-201~~]
67530 63G-2-201(3)(b) and (6)(a):
67531 (a) laws;
67532 (b) the name, gender, gross compensation, job title, job description, business address,
67533 business email address, business telephone number, number of hours worked per pay period,
67534 dates of employment, and relevant education, previous employment, and similar job
67535 qualifications of a current or former employee or officer of the governmental entity, excluding:
67536 (i) undercover law enforcement personnel; and
67537 (ii) investigative personnel if disclosure could reasonably be expected to impair the
67538 effectiveness of investigations or endanger any individual's safety;
67539 (c) final opinions, including concurring and dissenting opinions, and orders that are
67540 made by a governmental entity in an administrative, adjudicative, or judicial proceeding except
67541 that if the proceedings were properly closed to the public, the opinion and order may be
67542 withheld to the extent that they contain information that is private, controlled, or protected;
67543 (d) final interpretations of statutes or rules by a governmental entity unless classified as
67544 protected as provided in Subsections [~~63-2-304~~] 63G-2-305(16), (17), and (18);
67545 (e) information contained in or compiled from a transcript, minutes, or report of the

67546 open portions of a meeting of a governmental entity as provided by Title 52, Chapter 4, Open
67547 and Public Meetings Act, including the records of all votes of each member of the
67548 governmental entity;
67549 (f) judicial records unless a court orders the records to be restricted under the rules of
67550 civil or criminal procedure or unless the records are private under this chapter;
67551 (g) unless otherwise classified as private under Section [~~63-2-302.5~~] 63G-2-303,
67552 records or parts of records filed with or maintained by county recorders, clerks, treasurers,
67553 surveyors, zoning commissions, the Division of Forestry, Fire and State Lands, the School and
67554 Institutional Trust Lands Administration, the Division of Oil, Gas and Mining, the Division of
67555 Water Rights, or other governmental entities that give public notice of:
67556 (i) titles or encumbrances to real property;
67557 (ii) restrictions on the use of real property;
67558 (iii) the capacity of persons to take or convey title to real property; or
67559 (iv) tax status for real and personal property;
67560 (h) records of the Department of Commerce that evidence incorporations, mergers,
67561 name changes, and uniform commercial code filings;
67562 (i) data on individuals that would otherwise be private under this chapter if the
67563 individual who is the subject of the record has given the governmental entity written
67564 permission to make the records available to the public;
67565 (j) documentation of the compensation that a governmental entity pays to a contractor
67566 or private provider;
67567 (k) summary data; and
67568 (l) voter registration records, including an individual's voting history, except for those
67569 parts of the record that are classified as private in Subsection [~~63-2-302~~] 63G-2-302(1)(i).
67570 (3) The following records are normally public, but to the extent that a record is
67571 expressly exempt from disclosure, access may be restricted under Subsection [~~63-2-201~~]
67572 63G-2-201(3)(b), Section [~~63-2-302~~] 63G-2-302, [~~63-2-303~~] 63G-2-304, or [~~63-2-304~~]
67573 63G-2-305:
67574 (a) administrative staff manuals, instructions to staff, and statements of policy;
67575 (b) records documenting a contractor's or private provider's compliance with the terms
67576 of a contract with a governmental entity;

67577 (c) records documenting the services provided by a contractor or a private provider to
67578 the extent the records would be public if prepared by the governmental entity;
67579 (d) contracts entered into by a governmental entity;
67580 (e) any account, voucher, or contract that deals with the receipt or expenditure of funds
67581 by a governmental entity;
67582 (f) records relating to government assistance or incentives publicly disclosed,
67583 contracted for, or given by a governmental entity, encouraging a person to expand or relocate a
67584 business in Utah, except as provided in Subsection [~~63-2-304~~] 63G-2-305(35);
67585 (g) chronological logs and initial contact reports;
67586 (h) correspondence by and with a governmental entity in which the governmental entity
67587 determines or states an opinion upon the rights of the state, a political subdivision, the public,
67588 or any person;
67589 (i) empirical data contained in drafts if:
67590 (i) the empirical data is not reasonably available to the requester elsewhere in similar
67591 form; and
67592 (ii) the governmental entity is given a reasonable opportunity to correct any errors or
67593 make nonsubstantive changes before release;
67594 (j) drafts that are circulated to anyone other than:
67595 (i) a governmental entity;
67596 (ii) a political subdivision;
67597 (iii) a federal agency if the governmental entity and the federal agency are jointly
67598 responsible for implementation of a program or project that has been legislatively approved;
67599 (iv) a government-managed corporation; or
67600 (v) a contractor or private provider;
67601 (k) drafts that have never been finalized but were relied upon by the governmental
67602 entity in carrying out action or policy;
67603 (l) original data in a computer program if the governmental entity chooses not to
67604 disclose the program;
67605 (m) arrest warrants after issuance, except that, for good cause, a court may order
67606 restricted access to arrest warrants prior to service;
67607 (n) search warrants after execution and filing of the return, except that a court, for good

67608 cause, may order restricted access to search warrants prior to trial;
67609 (o) records that would disclose information relating to formal charges or disciplinary
67610 actions against a past or present governmental entity employee if:
67611 (i) the disciplinary action has been completed and all time periods for administrative
67612 appeal have expired; and
67613 (ii) the charges on which the disciplinary action was based were sustained;
67614 (p) records maintained by the Division of Forestry, Fire and State Lands, the School
67615 and Institutional Trust Lands Administration, or the Division of Oil, Gas and Mining that
67616 evidence mineral production on government lands;
67617 (q) final audit reports;
67618 (r) occupational and professional licenses;
67619 (s) business licenses; and
67620 (t) a notice of violation, a notice of agency action under Section [~~63-46b-3~~] 63G-4-201,
67621 or similar records used to initiate proceedings for discipline or sanctions against persons
67622 regulated by a governmental entity, but not including records that initiate employee discipline.
67623 (4) The list of public records in this section is not exhaustive and should not be used to
67624 limit access to records.
67625 Section 1328. Section **63G-2-302**, which is renumbered from Section 63-2-302 is
67626 renumbered and amended to read:
67627 **[~~63-2-302~~]. 63G-2-302. Private records.**
67628 (1) The following records are private:
67629 (a) records concerning an individual's eligibility for unemployment insurance benefits,
67630 social services, welfare benefits, or the determination of benefit levels;
67631 (b) records containing data on individuals describing medical history, diagnosis,
67632 condition, treatment, evaluation, or similar medical data;
67633 (c) records of publicly funded libraries that when examined alone or with other records
67634 identify a patron;
67635 (d) records received or generated for a Senate or House Ethics Committee concerning
67636 any alleged violation of the rules on legislative ethics, prior to the meeting, and after the
67637 meeting, if the ethics committee meeting was closed to the public;
67638 (e) records received or generated for a Senate confirmation committee concerning

67639 character, professional competence, or physical or mental health of an individual:
67640 (i) if prior to the meeting, the chair of the committee determines release of the records:
67641 (A) reasonably could be expected to interfere with the investigation undertaken by the
67642 committee; or
67643 (B) would create a danger of depriving a person of a right to a fair proceeding or
67644 impartial hearing; and
67645 (ii) after the meeting, if the meeting was closed to the public;
67646 (f) employment records concerning a current or former employee of, or applicant for
67647 employment with, a governmental entity that would disclose that individual's home address,
67648 home telephone number, Social Security number, insurance coverage, marital status, or payroll
67649 deductions;
67650 (g) records or parts of records under Section [~~63-2-302.5~~] 63G-2-303 that a current or
67651 former employee identifies as private according to the requirements of that section;
67652 (h) that part of a record indicating a person's Social Security number or federal
67653 employer identification number if provided under Section 31A-23a-104, 31A-25-202,
67654 31A-26-202, 58-1-301, 61-1-4, or 61-2-6;
67655 (i) that part of a voter registration record identifying a voter's driver license or
67656 identification card number, Social Security number, or last four digits of the Social Security
67657 number;
67658 (j) a record that:
67659 (i) contains information about an individual;
67660 (ii) is voluntarily provided by the individual; and
67661 (iii) goes into an electronic database that:
67662 (A) is designated by and administered under the authority of the Chief Information
67663 Officer; and
67664 (B) acts as a repository of information about the individual that can be electronically
67665 retrieved and used to facilitate the individual's online interaction with a state agency;
67666 (k) information provided to the Commissioner of Insurance under:
67667 (i) Subsection 31A-23a-115(2)(a); or
67668 (ii) Subsection 31A-23a-302(3); and
67669 (l) information obtained through a criminal background check under Title 11, Chapter

67670 40, Criminal Background Checks by Political Subdivisions Operating Water Systems.
67671 (2) The following records are private if properly classified by a governmental entity:
67672 (a) records concerning a current or former employee of, or applicant for employment
67673 with a governmental entity, including performance evaluations and personal status information
67674 such as race, religion, or disabilities, but not including records that are public under Subsection
67675 [~~63-2-301~~] 63G-2-301(2)(b) or [~~63-2-301~~] 63G-2-301(3)(o), or private under Subsection
67676 (1)(b);
67677 (b) records describing an individual's finances, except that the following are public:
67678 (i) records described in Subsection [~~63-2-301~~] 63G-2-301(2);
67679 (ii) information provided to the governmental entity for the purpose of complying with
67680 a financial assurance requirement; or
67681 (iii) records that must be disclosed in accordance with another statute;
67682 (c) records of independent state agencies if the disclosure of those records would
67683 conflict with the fiduciary obligations of the agency;
67684 (d) other records containing data on individuals the disclosure of which constitutes a
67685 clearly unwarranted invasion of personal privacy; and
67686 (e) records provided by the United States or by a government entity outside the state
67687 that are given with the requirement that the records be managed as private records, if the
67688 providing entity states in writing that the record would not be subject to public disclosure if
67689 retained by it.
67690 (3) (a) As used in this Subsection (3), "medical records" means medical reports,
67691 records, statements, history, diagnosis, condition, treatment, and evaluation.
67692 (b) Medical records in the possession of the University of Utah Hospital, its clinics,
67693 doctors, or affiliated entities are not private records or controlled records under Section
67694 [~~63-2-303~~] 63G-2-304 when the records are sought:
67695 (i) in connection with any legal or administrative proceeding in which the patient's
67696 physical, mental, or emotional condition is an element of any claim or defense; or
67697 (ii) after a patient's death, in any legal or administrative proceeding in which any party
67698 relies upon the condition as an element of the claim or defense.
67699 (c) Medical records are subject to production in a legal or administrative proceeding
67700 according to state or federal statutes or rules of procedure and evidence as if the medical

67701 records were in the possession of a nongovernmental medical care provider.
67702 Section 1329. Section **63G-2-303**, which is renumbered from Section 63-2-302.5 is
67703 renumbered and amended to read:
67704 **[~~63-2-302.5~~]. 63G-2-303. Private information concerning certain**
67705 **government employees.**
67706 (1) As used in this section:
67707 (a) "At-risk government employee" means a current or former:
67708 (i) peace officer as specified in Section 53-13-102;
67709 (ii) supreme court justice;
67710 (iii) judge of an appellate, district, or juvenile court;
67711 (iv) justice court judge;
67712 (v) judge authorized by Title 39, Chapter 6, Utah Code of Military Justice;
67713 (vi) federal judge;
67714 (vii) federal magistrate judge;
67715 (viii) judge authorized by Armed Forces, Title 10, United States Code;
67716 (ix) United States Attorney;
67717 (x) Assistant United States Attorney;
67718 (xi) a prosecutor appointed pursuant to Armed Forces, Title 10, United States Code;
67719 (xii) a law enforcement official as defined in Section 53-5-711; or
67720 (xiii) a prosecutor authorized by Title 39, Chapter 6, Utah Code of Military Justice.
67721 (b) "Family member" means the spouse, child, sibling, parent, or grandparent of an
67722 at-risk government employee who is living with the employee.
67723 (2) (a) Pursuant to Subsection [~~63-2-302~~] 63G-2-302(1)(g), an at-risk government
67724 employee may file a written application that:
67725 (i) gives notice of the employee's status to each agency of a government entity holding
67726 a record or a part of a record that would disclose the employee's or the employee's family
67727 member's home address, home telephone number, Social Security number, insurance coverage,
67728 marital status, or payroll deductions; and
67729 (ii) requests that the government agency classify those records or parts of records
67730 private.
67731 (b) An at-risk government employee desiring to file an application under this section

67732 may request assistance from the government agency to identify the individual records
67733 containing the private information specified in Subsection (2)(a)(i).
67734 (c) Each government agency shall develop a form that:
67735 (i) requires the at-risk government employee to provide evidence of qualifying
67736 employment;
67737 (ii) requires the at-risk government employee to designate each specific record or part
67738 of a record containing the employee's home address, home telephone number, Social Security
67739 number, insurance coverage, marital status, or payroll deductions that the applicant desires to
67740 be classified as private; and
67741 (iii) affirmatively requests that the government entity holding those records classify
67742 them as private.
67743 (3) A county recorder, county treasurer, county auditor, or a county tax assessor may
67744 fully satisfy the requirements of this section by:
67745 (a) providing a method for the assessment roll and index and the tax roll and index that
67746 will block public access to the home address, home telephone number, situs address, and Social
67747 Security number; and
67748 (b) providing the at-risk government employee requesting the classification with a
67749 disclaimer informing the employee that the employee may not receive official announcements
67750 affecting the employee's property, including notices about proposed annexations,
67751 incorporations, or zoning modifications.
67752 (4) A government agency holding records of an at-risk government employee classified
67753 as private under this section may release the record or part of the record if:
67754 (a) the employee or former employee gives written consent;
67755 (b) a court orders release of the records; or
67756 (c) the government agency receives a certified death certificate for the employee or
67757 former employee.
67758 (5) (a) If the government agency holding the private record receives a subpoena for the
67759 records, the government agency shall attempt to notify the at-risk government employee or
67760 former employee by mailing a copy of the subpoena to the employee's last-known mailing
67761 address together with a request that the employee either:
67762 (i) authorize release of the record; or

67763 (ii) within ten days of the date that the copy and request are mailed, deliver to the
67764 government agency holding the private record a copy of a motion to quash filed with the court
67765 who issued the subpoena.
67766 (b) The government agency shall comply with the subpoena if the government agency
67767 has:
67768 (i) received permission from the at-risk government employee or former employee to
67769 comply with the subpoena;
67770 (ii) has not received a copy of a motion to quash within ten days of the date that the
67771 copy of the subpoena was mailed; or
67772 (iii) receives a court order requiring release of the records.
67773 Section 1330. Section **63G-2-304**, which is renumbered from Section 63-2-303 is
67774 renumbered and amended to read:
67775 **[~~63-2-303~~]. 63G-2-304. Controlled records.**
67776 A record is controlled if:
67777 (1) the record contains medical, psychiatric, or psychological data about an individual;
67778 (2) the governmental entity reasonably believes that:
67779 (a) releasing the information in the record to the subject of the record would be
67780 detrimental to the subject's mental health or to the safety of any individual; or
67781 (b) releasing the information would constitute a violation of normal professional
67782 practice and medical ethics; and
67783 (3) the governmental entity has properly classified the record.
67784 Section 1331. Section **63G-2-305**, which is renumbered from Section 63-2-304 is
67785 renumbered and amended to read:
67786 **[~~63-2-304~~]. 63G-2-305. Protected records.**
67787 The following records are protected if properly classified by a governmental entity:
67788 (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret
67789 has provided the governmental entity with the information specified in Section [~~63-2-308~~]
67790 63G-2-309;
67791 (2) commercial information or nonindividual financial information obtained from a
67792 person if:
67793 (a) disclosure of the information could reasonably be expected to result in unfair

67794 competitive injury to the person submitting the information or would impair the ability of the
67795 governmental entity to obtain necessary information in the future;
67796 (b) the person submitting the information has a greater interest in prohibiting access
67797 than the public in obtaining access; and
67798 (c) the person submitting the information has provided the governmental entity with
67799 the information specified in Section [~~63-2-308~~] 63G-2-309;
67800 (3) commercial or financial information acquired or prepared by a governmental entity
67801 to the extent that disclosure would lead to financial speculations in currencies, securities, or
67802 commodities that will interfere with a planned transaction by the governmental entity or cause
67803 substantial financial injury to the governmental entity or state economy;
67804 (4) records the disclosure of which could cause commercial injury to, or confer a
67805 competitive advantage upon a potential or actual competitor of, a commercial project entity as
67806 defined in Subsection 11-13-103(4);
67807 (5) test questions and answers to be used in future license, certification, registration,
67808 employment, or academic examinations;
67809 (6) records the disclosure of which would impair governmental procurement
67810 proceedings or give an unfair advantage to any person proposing to enter into a contract or
67811 agreement with a governmental entity, except that this Subsection (6) does not restrict the right
67812 of a person to see bids submitted to or by a governmental entity after bidding has closed;
67813 (7) records that would identify real property or the appraisal or estimated value of real
67814 or personal property, including intellectual property, under consideration for public acquisition
67815 before any rights to the property are acquired unless:
67816 (a) public interest in obtaining access to the information outweighs the governmental
67817 entity's need to acquire the property on the best terms possible;
67818 (b) the information has already been disclosed to persons not employed by or under a
67819 duty of confidentiality to the entity;
67820 (c) in the case of records that would identify property, potential sellers of the described
67821 property have already learned of the governmental entity's plans to acquire the property;
67822 (d) in the case of records that would identify the appraisal or estimated value of
67823 property, the potential sellers have already learned of the governmental entity's estimated value
67824 of the property; or

67825 (e) the property under consideration for public acquisition is a single family residence
67826 and the governmental entity seeking to acquire the property has initiated negotiations to acquire
67827 the property as required under Section 78-34-4.5;
67828 (8) records prepared in contemplation of sale, exchange, lease, rental, or other
67829 compensated transaction of real or personal property including intellectual property, which, if
67830 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value
67831 of the subject property, unless:
67832 (a) the public interest in access outweighs the interests in restricting access, including
67833 the governmental entity's interest in maximizing the financial benefit of the transaction; or
67834 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of
67835 the value of the subject property have already been disclosed to persons not employed by or
67836 under a duty of confidentiality to the entity;
67837 (9) records created or maintained for civil, criminal, or administrative enforcement
67838 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if
67839 release of the records:
67840 (a) reasonably could be expected to interfere with investigations undertaken for
67841 enforcement, discipline, licensing, certification, or registration purposes;
67842 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement
67843 proceedings;
67844 (c) would create a danger of depriving a person of a right to a fair trial or impartial
67845 hearing;
67846 (d) reasonably could be expected to disclose the identity of a source who is not
67847 generally known outside of government and, in the case of a record compiled in the course of
67848 an investigation, disclose information furnished by a source not generally known outside of
67849 government if disclosure would compromise the source; or
67850 (e) reasonably could be expected to disclose investigative or audit techniques,
67851 procedures, policies, or orders not generally known outside of government if disclosure would
67852 interfere with enforcement or audit efforts;
67853 (10) records the disclosure of which would jeopardize the life or safety of an
67854 individual;
67855 (11) records the disclosure of which would jeopardize the security of governmental

67856 property, governmental programs, or governmental recordkeeping systems from damage, theft,
67857 or other appropriation or use contrary to law or public policy;
67858 (12) records that, if disclosed, would jeopardize the security or safety of a correctional
67859 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere
67860 with the control and supervision of an offender's incarceration, treatment, probation, or parole;
67861 (13) records that, if disclosed, would reveal recommendations made to the Board of
67862 Pardons and Parole by an employee of or contractor for the Department of Corrections, the
67863 Board of Pardons and Parole, or the Department of Human Services that are based on the
67864 employee's or contractor's supervision, diagnosis, or treatment of any person within the board's
67865 jurisdiction;
67866 (14) records and audit workpapers that identify audit, collection, and operational
67867 procedures and methods used by the State Tax Commission, if disclosure would interfere with
67868 audits or collections;
67869 (15) records of a governmental audit agency relating to an ongoing or planned audit
67870 until the final audit is released;
67871 (16) records prepared by or on behalf of a governmental entity solely in anticipation of
67872 litigation that are not available under the rules of discovery;
67873 (17) records disclosing an attorney's work product, including the mental impressions or
67874 legal theories of an attorney or other representative of a governmental entity concerning
67875 litigation;
67876 (18) records of communications between a governmental entity and an attorney
67877 representing, retained, or employed by the governmental entity if the communications would be
67878 privileged as provided in Section 78-24-8;
67879 (19) (a) (i) personal files of a state legislator, including personal correspondence to or
67880 from a member of the Legislature; and
67881 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of
67882 legislative action or policy may not be classified as protected under this section; and
67883 (b) (i) an internal communication that is part of the deliberative process in connection
67884 with the preparation of legislation between:
67885 (A) members of a legislative body;
67886 (B) a member of a legislative body and a member of the legislative body's staff; or

67887 (C) members of a legislative body's staff; and
67888 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of
67889 legislative action or policy may not be classified as protected under this section;
67890 (20) (a) records in the custody or control of the Office of Legislative Research and
67891 General Counsel, that, if disclosed, would reveal a particular legislator's contemplated
67892 legislation or contemplated course of action before the legislator has elected to support the
67893 legislation or course of action, or made the legislation or course of action public; and
67894 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the
67895 Office of Legislative Research and General Counsel is a public document unless a legislator
67896 asks that the records requesting the legislation be maintained as protected records until such
67897 time as the legislator elects to make the legislation or course of action public;
67898 (21) research requests from legislators to the Office of Legislative Research and
67899 General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared
67900 in response to these requests;
67901 (22) drafts, unless otherwise classified as public;
67902 (23) records concerning a governmental entity's strategy about collective bargaining or
67903 pending litigation;
67904 (24) records of investigations of loss occurrences and analyses of loss occurrences that
67905 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the
67906 Uninsured Employers' Fund, or similar divisions in other governmental entities;
67907 (25) records, other than personnel evaluations, that contain a personal recommendation
67908 concerning an individual if disclosure would constitute a clearly unwarranted invasion of
67909 personal privacy, or disclosure is not in the public interest;
67910 (26) records that reveal the location of historic, prehistoric, paleontological, or
67911 biological resources that if known would jeopardize the security of those resources or of
67912 valuable historic, scientific, educational, or cultural information;
67913 (27) records of independent state agencies if the disclosure of the records would
67914 conflict with the fiduciary obligations of the agency;
67915 (28) records of an institution within the state system of higher education defined in
67916 Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions,
67917 retention decisions, and promotions, which could be properly discussed in a meeting closed in

67918 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of
67919 the final decisions about tenure, appointments, retention, promotions, or those students
67920 admitted, may not be classified as protected under this section;
67921 (29) records of the governor's office, including budget recommendations, legislative
67922 proposals, and policy statements, that if disclosed would reveal the governor's contemplated
67923 policies or contemplated courses of action before the governor has implemented or rejected
67924 those policies or courses of action or made them public;
67925 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,
67926 revenue estimates, and fiscal notes of proposed legislation before issuance of the final
67927 recommendations in these areas;
67928 (31) records provided by the United States or by a government entity outside the state
67929 that are given to the governmental entity with a requirement that they be managed as protected
67930 records if the providing entity certifies that the record would not be subject to public disclosure
67931 if retained by it;
67932 (32) transcripts, minutes, or reports of the closed portion of a meeting of a public body
67933 except as provided in Section 52-4-206;
67934 (33) records that would reveal the contents of settlement negotiations but not including
67935 final settlements or empirical data to the extent that they are not otherwise exempt from
67936 disclosure;
67937 (34) memoranda prepared by staff and used in the decision-making process by an
67938 administrative law judge, a member of the Board of Pardons and Parole, or a member of any
67939 other body charged by law with performing a quasi-judicial function;
67940 (35) records that would reveal negotiations regarding assistance or incentives offered
67941 by or requested from a governmental entity for the purpose of encouraging a person to expand
67942 or locate a business in Utah, but only if disclosure would result in actual economic harm to the
67943 person or place the governmental entity at a competitive disadvantage, but this section may not
67944 be used to restrict access to a record evidencing a final contract;
67945 (36) materials to which access must be limited for purposes of securing or maintaining
67946 the governmental entity's proprietary protection of intellectual property rights including patents,
67947 copyrights, and trade secrets;
67948 (37) the name of a donor or a prospective donor to a governmental entity, including an

67949 institution within the state system of higher education defined in Section 53B-1-102, and other
67950 information concerning the donation that could reasonably be expected to reveal the identity of
67951 the donor, provided that:
67952 (a) the donor requests anonymity in writing;
67953 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be
67954 classified protected by the governmental entity under this Subsection (37); and
67955 (c) except for an institution within the state system of higher education defined in
67956 Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged
67957 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority
67958 over the donor, a member of the donor's immediate family, or any entity owned or controlled
67959 by the donor or the donor's immediate family;
67960 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and
67961 73-18-13;
67962 (39) a notification of workers' compensation insurance coverage described in Section
67963 34A-2-205;
67964 (40) (a) the following records of an institution within the state system of higher
67965 education defined in Section 53B-1-102, which have been developed, discovered, disclosed to,
67966 or received by or on behalf of faculty, staff, employees, or students of the institution:
67967 (i) unpublished lecture notes;
67968 (ii) unpublished notes, data, and information:
67969 (A) relating to research; and
67970 (B) of:
67971 (I) the institution within the state system of higher education defined in Section
67972 53B-1-102; or
67973 (II) a sponsor of sponsored research;
67974 (iii) unpublished manuscripts;
67975 (iv) creative works in process;
67976 (v) scholarly correspondence; and
67977 (vi) confidential information contained in research proposals;
67978 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public
67979 information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

67980 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;
67981 (41) (a) records in the custody or control of the Office of Legislative Auditor General
67982 that would reveal the name of a particular legislator who requests a legislative audit prior to the
67983 date that audit is completed and made public; and
67984 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
67985 Office of the Legislative Auditor General is a public document unless the legislator asks that
67986 the records in the custody or control of the Office of Legislative Auditor General that would
67987 reveal the name of a particular legislator who requests a legislative audit be maintained as
67988 protected records until the audit is completed and made public;
67989 (42) records that provide detail as to the location of an explosive, including a map or
67990 other document that indicates the location of:
67991 (a) a production facility; or
67992 (b) a magazine;
67993 (43) information contained in the database described in Section 62A-3-311.1;
67994 (44) information contained in the Management Information System and Licensing
67995 Information System described in Title 62A, Chapter 4a, Child and Family Services;
67996 (45) information regarding National Guard operations or activities in support of the
67997 National Guard's federal mission;
67998 (46) records provided by any pawn or secondhand business to a law enforcement
67999 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and
68000 Secondhand Merchandise Transaction Information Act;
68001 (47) information regarding food security, risk, and vulnerability assessments performed
68002 by the Department of Agriculture and Food;
68003 (48) except to the extent that the record is exempt from this chapter pursuant to Section
68004 [~~63-2-106~~] 63G-2-106, records related to an emergency plan or program prepared or
68005 maintained by the Division of Homeland Security the disclosure of which would jeopardize:
68006 (a) the safety of the general public; or
68007 (b) the security of:
68008 (i) governmental property;
68009 (ii) governmental programs; or
68010 (iii) the property of a private person who provides the Division of Homeland Security

68011 information;
68012 (49) records of the Department of Agriculture and Food relating to the National
68013 Animal Identification System or any other program that provides for the identification, tracing,
68014 or control of livestock diseases, including any program established under Title 4, Chapter 24,
68015 Utah Livestock Brand and Anti-theft Act or Title 4, Chapter 31, Livestock Inspection and
68016 Quarantine;
68017 (50) as provided in Section 26-39-109:
68018 (a) information or records held by the Department of Health related to a complaint
68019 regarding a child care program or residential child care which the department is unable to
68020 substantiate; and
68021 (b) information or records related to a complaint received by the Department of Health
68022 from an anonymous complainant regarding a child care program or residential child care; and
68023 (51) unless otherwise classified as public under Section [~~63-2-301~~] 63G-2-301 and
68024 except as provided under Section 41-1a-116, an individual's home address, home telephone
68025 number, or personal mobile phone number, if:
68026 (a) the individual is required to provide the information in order to comply with a law,
68027 ordinance, rule, or order of a government entity; and
68028 (b) the subject of the record has a reasonable expectation that this information will be
68029 kept confidential due to:
68030 (i) the nature of the law, ordinance, rule, or order; and
68031 (ii) the individual complying with the law, ordinance, rule, or order.
68032 Section 1332. Section **63G-2-306**, which is renumbered from Section 63-2-305 is
68033 renumbered and amended to read:
68034 **[~~63-2-305~~]. 63G-2-306. Procedure to determine classification.**
68035 (1) If more than one provision of this chapter could govern the classification of a
68036 record, the governmental entity shall classify the record by considering the nature of the
68037 interests intended to be protected and the specificity of the competing provisions.
68038 (2) Nothing in Subsection [~~63-2-302~~] 63G-2-302(2), Section [~~63-2-303~~] 63G-2-304, or
68039 [~~63-2-304~~] 63G-2-305 requires a governmental entity to classify a record as private, controlled,
68040 or protected.
68041 Section 1333. Section **63G-2-307**, which is renumbered from Section 63-2-306 is

68042 renumbered and amended to read:
68043 **[~~63-2-306~~]. 63G-2-307. Duty to evaluate records and make designations and**
68044 **classifications.**
68045 (1) A governmental entity shall:
68046 (a) evaluate all record series that it uses or creates;
68047 (b) designate those record series as provided by this chapter and Title 63A, Chapter 12,
68048 Part 1, Archives and Records Service; and
68049 (c) report the designations of its record series to the state archives.
68050 (2) A governmental entity may classify a particular record, record series, or
68051 information within a record at any time, but is not required to classify a particular record,
68052 record series, or information until access to the record is requested.
68053 (3) A governmental entity may redesignate a record series or reclassify a record or
68054 record series, or information within a record at any time.
68055 Section 1334. Section **63G-2-308**, which is renumbered from Section 63-2-307 is
68056 renumbered and amended to read:
68057 **[~~63-2-307~~]. 63G-2-308. Segregation of records.**
68058 Notwithstanding any other provision in this chapter, if a governmental entity receives a
68059 request for access to a record that contains both information that the requester is entitled to
68060 inspect and information that the requester is not entitled to inspect under this chapter, and, if
68061 the information the requester is entitled to inspect is intelligible, the governmental entity:
68062 (1) shall allow access to information in the record that the requester is entitled to
68063 inspect under this chapter; and
68064 (2) may deny access to information in the record if the information is exempt from
68065 disclosure to the requester, issuing a notice of denial as provided in Section [~~63-2-205~~]
68066 63G-2-205.
68067 Section 1335. Section **63G-2-309**, which is renumbered from Section 63-2-308 is
68068 renumbered and amended to read:
68069 **[~~63-2-308~~]. 63G-2-309. Confidentiality claims.**
68070 (1) (a) (i) Any person who provides to a governmental entity a record that the person
68071 believes should be protected under Subsection [~~63-2-304~~] 63G-2-305(1) or (2) or both
68072 Subsections [~~63-2-304~~] 63G-2-305(1) and (2) shall provide with the record:

68073 (A) a written claim of business confidentiality; and
68074 (B) a concise statement of reasons supporting the claim of business confidentiality.
68075 (ii) Any of the following who provides to an institution within the state system of
68076 higher education defined in Section 53B-1-102 a record that the person or governmental entity
68077 believes should be protected under Subsection [~~63-2-304~~] 63G-2-305(40)(a)(ii) or (vi) or both
68078 Subsections [~~63-2-304~~] 63G-2-305(40)(a)(ii) and (vi) shall provide the institution within the
68079 state system of higher education a written claim of business confidentiality in accordance with
68080 Section 53B-16-304:
68081 (A) a person;
68082 (B) a federal governmental entity;
68083 (C) a state governmental entity; or
68084 (D) a local governmental entity.
68085 (b) A person or governmental entity who complies with this Subsection (1) shall be
68086 notified by the governmental entity to whom the request for a record is made if:
68087 (i) a record claimed to be protected under one of the following is classified public:
68088 (A) Subsection [~~63-2-304~~] 63G-2-305(1);
68089 (B) Subsection [~~63-2-304~~] 63G-2-305(2);
68090 (C) Subsection [~~63-2-304~~] 63G-2-305(40)(a)(ii);
68091 (D) Subsection [~~63-2-304~~] 63G-2-305(40)(a)(vi); or
68092 (E) a combination of the provisions described in Subsections (1)(b)(i)(A) through (D);
68093 or
68094 (ii) the governmental entity to whom the request for a record is made determines that
68095 the record claimed to be protected under a provision listed in Subsection (1)(b)(i) should be
68096 released after balancing interests under Subsection [~~63-2-201~~] 63G-2-201(5)(b) or Subsection
68097 [~~63-2-401~~] 63G-2-401(6).
68098 (2) Except as provided by court order, the governmental entity to whom the request for
68099 a record is made may not disclose a record claimed to be protected under a provision listed in
68100 Subsection (1)(b)(i) but which the governmental entity or records committee determines should
68101 be disclosed until the period in which to bring an appeal expires or the end of the appeals
68102 process, including judicial appeal. This Subsection (2) does not apply where the claimant, after
68103 notice, has waived the claim by not appealing or intervening before the records committee.

68104 (3) Disclosure or acquisition of information under this chapter does not constitute
68105 misappropriation under Subsection 13-24-2(2).
68106 Section 1336. Section **63G-2-310**, which is renumbered from Section 63-2-909 is
68107 renumbered and amended to read:
68108 **[~~63-2-909~~]. 63G-2-310. Records made public after 75 years.**
68109 (1) The classification of a record is not permanent and a record that was not classified
68110 public under this act shall become a public record when the justification for the original or any
68111 subsequent restrictive classification no longer exists. A record shall be presumed to be public
68112 75 years after its creation, except that a record that contains information about an individual 21
68113 years old or younger at the time of the record's creation shall be presumed to be public 100
68114 years after its creation.
68115 (2) Subsection (1) does not apply to records of unclaimed property held by the state
68116 treasurer in accordance with Title 67, Chapter 4a, Unclaimed Property Act.
68117 Section 1337. Section **63G-2-401**, which is renumbered from Section 63-2-401 is
68118 renumbered and amended to read:
68119 **Part 4. Appeals**
68120 **[~~63-2-401~~]. 63G-2-401. Appeal to head of governmental entity.**
68121 (1) (a) Any person aggrieved by a governmental entity's access determination under
68122 this chapter, including a person not a party to the governmental entity's proceeding, may appeal
68123 the determination within 30 days to the chief administrative officer of the governmental entity
68124 by filing a notice of appeal.
68125 (b) If a governmental entity claims extraordinary circumstances and specifies the date
68126 when the records will be available under Subsection [~~63-2-204~~] 63G-2-204(3), and, if the
68127 requester believes the extraordinary circumstances do not exist or that the time specified is
68128 unreasonable, the requester may appeal the governmental entity's claim of extraordinary
68129 circumstances or date for compliance within 30 days after notification of a claim of
68130 extraordinary circumstances by the governmental entity, despite the lack of a "determination"
68131 or its equivalent under Subsection [~~63-2-204~~] 63G-2-204(7).
68132 (2) The notice of appeal shall contain the following information:
68133 (a) the petitioner's name, mailing address, and daytime telephone number; and
68134 (b) the relief sought.

68135 (3) The petitioner may file a short statement of facts, reasons, and legal authority in
68136 support of the appeal.
68137 (4) (a) If the appeal involves a record that is the subject of a business confidentiality
68138 claim under Section [~~63-2-308~~] 63G-2-309, the chief administrative officer shall:
68139 (i) send notice of the requester's appeal to the business confidentiality claimant within
68140 three business days after receiving notice, except that if notice under this section must be given
68141 to more than 35 persons, it shall be given as soon as reasonably possible; and
68142 (ii) send notice of the business confidentiality claim and the schedule for the chief
68143 administrative officer's determination to the requester within three business days after receiving
68144 notice of the requester's appeal.
68145 (b) The claimant shall have seven business days after notice is sent by the
68146 administrative officer to submit further support for the claim of business confidentiality.
68147 (5) (a) The chief administrative officer shall make a determination on the appeal within
68148 the following period of time:
68149 (i) within five business days after the chief administrative officer's receipt of the notice
68150 of appeal; or
68151 (ii) within twelve business days after the governmental entity sends the requester's
68152 notice of appeal to a person who submitted a claim of business confidentiality.
68153 (b) If the chief administrative officer fails to make a determination within the time
68154 specified in Subsection (5)(a), the failure shall be considered the equivalent of an order denying
68155 the appeal.
68156 (c) The provisions of this section notwithstanding, the parties participating in the
68157 proceeding may, by agreement, extend the time periods specified in this section.
68158 (6) The chief administrative officer may, upon consideration and weighing of the
68159 various interests and public policies pertinent to the classification and disclosure or
68160 nondisclosure, order the disclosure of information properly classified as private under Section
68161 [~~63-2-302~~] 63G-2-302(2) or protected under Section [~~63-2-304~~] 63G-2-305 if the interests
68162 favoring access outweigh the interests favoring restriction of access.
68163 (7) The governmental entity shall send written notice of the determination of the chief
68164 administrative officer to all participants. If the chief administrative officer affirms the denial in
68165 whole or in part, the denial shall include a statement that the requester has the right to appeal

68166 the denial to either the records committee or district court, the time limits for filing an appeal,
68167 and the name and business address of the executive secretary of the records committee.
68168 (8) A person aggrieved by a governmental entity's classification or designation
68169 determination under this chapter, but who is not requesting access to the records, may appeal
68170 that determination using the procedures provided in this section. If a nonrequester is the only
68171 appellant, the procedures provided in this section shall apply, except that the determination on
68172 the appeal shall be made within 30 days after receiving the notice of appeal.
68173 (9) The duties of the chief administrative officer under this section may be delegated.
68174 Section 1338. Section **63G-2-402**, which is renumbered from Section 63-2-402 is
68175 renumbered and amended to read:
68176 **[~~63-2-402~~]. 63G-2-402. Option for appealing a denial.**
68177 (1) If the chief administrative officer of a governmental entity denies a records request
68178 under Section [~~63-2-401~~] 63G-2-401, the requester may:
68179 (a) appeal the denial to the records committee as provided in Section [~~63-2-403~~]
68180 63G-2-403; or
68181 (b) petition for judicial review in district court as provided in Section [~~63-2-404~~]
68182 63G-2-404.
68183 (2) Any person aggrieved by a determination of the chief administrative officer of a
68184 governmental entity under this chapter, including persons who did not participate in the
68185 governmental entity's proceeding, may appeal the determination to the records committee as
68186 provided in Section [~~63-2-403~~] 63G-2-403.
68187 Section 1339. Section **63G-2-403**, which is renumbered from Section 63-2-403 is
68188 renumbered and amended to read:
68189 **[~~63-2-403~~]. 63G-2-403. Appeals to the records committee.**
68190 (1) A petitioner, including an aggrieved person who did not participate in the appeal to
68191 the governmental entity's chief administrative officer, may appeal to the records committee by
68192 filing a notice of appeal with the executive secretary no later than:
68193 (a) 30 days after the chief administrative officer of the governmental entity has granted
68194 or denied the record request in whole or in part, including a denial under Subsection [~~63-2-204~~]
68195 63G-2-204(7);
68196 (b) 45 days after the original request for a record if:

68197 (i) the circumstances described in Subsection [~~63-2-401~~] 63G-2-401(1)(b) occur; and
68198 (ii) the chief administrative officer failed to make a determination under Section
68199 [~~63-2-401~~] 63G-2-401.
68200 (2) The notice of appeal shall contain the following information:
68201 (a) the petitioner's name, mailing address, and daytime telephone number;
68202 (b) a copy of any denial of the record request; and
68203 (c) the relief sought.
68204 (3) The petitioner may file a short statement of facts, reasons, and legal authority in
68205 support of the appeal.
68206 (4) (a) Except as provided in Subsection (4)(b), no later than five business days after
68207 receiving a notice of appeal, the executive secretary of the records committee shall:
68208 (i) schedule a hearing for the records committee to discuss the appeal at the next
68209 regularly scheduled committee meeting falling at least 14 days after the date the notice of
68210 appeal is filed but no longer than 52 calendar days after the date the notice of appeal was filed
68211 except that the records committee may schedule an expedited hearing upon application of the
68212 petitioner and good cause shown;
68213 (ii) send a copy of the notice of hearing to the petitioner; and
68214 (iii) send a copy of the notice of appeal, supporting statement, and a notice of hearing
68215 to:
68216 (A) each member of the records committee;
68217 (B) the records officer and the chief administrative officer of the governmental entity
68218 from which the appeal originated;
68219 (C) any person who made a business confidentiality claim under Section [~~63-2-308~~]
68220 63G-2-309 for a record that is the subject of the appeal; and
68221 (D) all persons who participated in the proceedings before the governmental entity's
68222 chief administrative officer.
68223 (b) (i) The executive secretary of the records committee may decline to schedule a
68224 hearing if the record series that is the subject of the appeal has been found by the committee in
68225 a previous hearing involving the same government entity to be appropriately classified as
68226 private, controlled, or protected.
68227 (ii) (A) If the executive secretary of the records committee declines to schedule a

68228 hearing, the executive secretary of the records committee shall send a notice to the petitioner
68229 indicating that the request for hearing has been denied and the reason for the denial.
68230 (B) The committee shall make rules to implement this section as provided by [~~Title 63,~~
68231 ~~Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
68232 (5) (a) A written statement of facts, reasons, and legal authority in support of the
68233 governmental entity's position must be submitted to the executive secretary of the records
68234 committee not later than five business days before the hearing.
68235 (b) The governmental entity shall send a copy of the written statement to the petitioner
68236 by first class mail, postage prepaid. The executive secretary shall forward a copy of the written
68237 statement to each member of the records committee.
68238 (6) (a) No later than ten business days after the notice of appeal is sent by the executive
68239 secretary, a person whose legal interests may be substantially affected by the proceeding may
68240 file a request for intervention before the records committee.
68241 (b) Any written statement of facts, reasons, and legal authority in support of the
68242 intervener's position shall be filed with the request for intervention.
68243 (c) The person seeking intervention shall provide copies of the statement described in
68244 Subsection (6)(b) to all parties to the proceedings before the records committee.
68245 (7) The records committee shall hold a hearing within the period of time described in
68246 Subsection (4).
68247 (8) At the hearing, the records committee shall allow the parties to testify, present
68248 evidence, and comment on the issues. The records committee may allow other interested
68249 persons to comment on the issues.
68250 (9) (a) The records committee may review the disputed records. However, if the
68251 committee is weighing the various interests under Subsection (11), the committee must review
68252 the disputed records. The review shall be in camera.
68253 (b) Members of the records committee may not disclose any information or record
68254 reviewed by the committee in camera unless the disclosure is otherwise authorized by this
68255 chapter.
68256 (10) (a) Discovery is prohibited, but the records committee may issue subpoenas or
68257 other orders to compel production of necessary evidence.
68258 (b) When the subject of a records committee subpoena disobeys or fails to comply with

68259 the subpoena, the records committee may file a motion for an order to compel obedience to the
68260 subpoena with the district court.
68261 (c) The records committee's review shall be de novo.
68262 (11) (a) No later than five business days after the hearing, the records committee shall
68263 issue a signed order either granting the petition in whole or in part or upholding the
68264 determination of the governmental entity in whole or in part.
68265 (b) The records committee may, upon consideration and weighing of the various
68266 interests and public policies pertinent to the classification and disclosure or nondisclosure,
68267 order the disclosure of information properly classified as private, controlled, or protected if the
68268 public interest favoring access outweighs the interest favoring restriction of access.
68269 (c) In making a determination under Subsection (11)(b), the records committee shall
68270 consider and, where appropriate, limit the requester's use and further disclosure of the record in
68271 order to protect:
68272 (i) privacy interests in the case of a private or controlled record;
68273 (ii) business confidentiality interests in the case of a record protected under Subsection
68274 [~~63-2-304~~] 63G-2-305(1), (2), (40)(a)(ii), or (40)(a)(vi); and
68275 (iii) privacy interests or the public interest in the case of other protected records.
68276 (12) The order of the records committee shall include:
68277 (a) a statement of reasons for the decision, including citations to this chapter, court rule
68278 or order, another state statute, federal statute, or federal regulation that governs disclosure of
68279 the record, provided that the citations do not disclose private, controlled, or protected
68280 information;
68281 (b) a description of the record or portions of the record to which access was ordered or
68282 denied, provided that the description does not disclose private, controlled, or protected
68283 information or information exempt from disclosure under Subsection [~~63-2-201~~]
68284 63G-2-201(3)(b);
68285 (c) a statement that any party to the proceeding before the records committee may
68286 appeal the records committee's decision to district court; and
68287 (d) a brief summary of the appeals process, the time limits for filing an appeal, and a
68288 notice that in order to protect its rights on appeal, the party may wish to seek advice from an
68289 attorney.

68290 (13) If the records committee fails to issue a decision within 57 calendar days of the
68291 filing of the notice of appeal, that failure shall be considered the equivalent of an order denying
68292 the appeal. The petitioner shall notify the records committee in writing if the petitioner
68293 considers the appeal denied.
68294 (14) (a) Unless a notice of intent to appeal is filed under Subsection (14)(b), each party
68295 to the proceeding shall comply with the order of the records committee.
68296 (b) If a party disagrees with the order of the records committee, that party may file a
68297 notice of intent to appeal the order of the records committee.
68298 (c) If the records committee orders the governmental entity to produce a record and no
68299 appeal is filed, or if, as a result of the appeal, the governmental entity is required to produce a
68300 record, the governmental entity shall:
68301 (i) produce the record; and
68302 (ii) file a notice of compliance with the records committee.
68303 (d) (i) If the governmental entity that is ordered to produce a record fails to file a notice
68304 of compliance or a notice of intent to appeal, the records committee may do either or both of
68305 the following:
68306 (A) impose a civil penalty of up to $500 for each day of continuing noncompliance; or
68307 (B) send written notice of the governmental entity's noncompliance to:
68308 (I) the governor for executive branch entities;
68309 (II) the Legislative Management Committee for legislative branch entities; and
68310 (III) the Judicial Council for judicial branch agencies entities.
68311 (ii) In imposing a civil penalty, the records committee shall consider the gravity and
68312 circumstances of the violation, including whether the failure to comply was due to neglect or
68313 was willful or intentional.
68314 Section 1340. Section **63G-2-404**, which is renumbered from Section 63-2-404 is
68315 renumbered and amended to read:
68316 **[~~63-2-404~~]. <u>63G-2-404.</u> Judicial review.**
68317 (1) (a) Any party to a proceeding before the records committee may petition for judicial
68318 review by the district court of the records committee's order.
68319 (b) The petition shall be filed no later than 30 days after the date of the records
68320 committee's order.

68321 (c) The records committee is a necessary party to the petition for judicial review.
68322 (d) The executive secretary of the records committee shall be served with notice of the
68323 petition in accordance with the Utah Rules of Civil Procedure.
68324 (2) (a) A requester may petition for judicial review by the district court of a
68325 governmental entity's determination as specified in Subsection [~~63-2-402~~] 63G-2-402 (1)(b).
68326 (b) The requester shall file a petition no later than:
68327 (i) 30 days after the governmental entity has responded to the records request by either
68328 providing the requested records or denying the request in whole or in part;
68329 (ii) 35 days after the original request if the governmental entity failed to respond to the
68330 request; or
68331 (iii) 45 days after the original request for records if:
68332 (A) the circumstances described in Subsection [~~63-2-401~~] 63G-2-401(1)(b) occur; and
68333 (B) the chief administrative officer failed to make a determination under Section
68334 [~~63-2-401~~] 63G-2-401.
68335 (3) The petition for judicial review shall be a complaint governed by the Utah Rules of
68336 Civil Procedure and shall contain:
68337 (a) the petitioner's name and mailing address;
68338 (b) a copy of the records committee order from which the appeal is taken, if the
68339 petitioner brought a prior appeal to the records committee;
68340 (c) the name and mailing address of the governmental entity that issued the initial
68341 determination with a copy of that determination;
68342 (d) a request for relief specifying the type and extent of relief requested; and
68343 (e) a statement of the reasons why the petitioner is entitled to relief.
68344 (4) If the appeal is based on the denial of access to a protected record, the court shall
68345 allow the claimant of business confidentiality to provide to the court the reasons for the claim
68346 of business confidentiality.
68347 (5) All additional pleadings and proceedings in the district court are governed by the
68348 Utah Rules of Civil Procedure.
68349 (6) The district court may review the disputed records. The review shall be in camera.
68350 (7) The court shall:
68351 (a) make its decision de novo, but allow introduction of evidence presented to the

68352 records committee;
68353 (b) determine all questions of fact and law without a jury; and
68354 (c) decide the issue at the earliest practical opportunity.
68355 (8) (a) The court may, upon consideration and weighing of the various interests and
68356 public policies pertinent to the classification and disclosure or nondisclosure, order the
68357 disclosure of information properly classified as private, controlled, or protected if the interest
68358 favoring access outweighs the interest favoring restriction of access.
68359 (b) The court shall consider and, where appropriate, limit the requester's use and
68360 further disclosure of the record in order to protect privacy interests in the case of private or
68361 controlled records, business confidentiality interests in the case of records protected under
68362 Subsections [~~63-2-304~~] 63G-2-305(1) and (2), and privacy interests or the public interest in the
68363 case of other protected records.
68364 Section 1341. Section **63G-2-405**, which is renumbered from Section 63-2-405 is
68365 renumbered and amended to read:
68366 **[~~63-2-405~~]. 63G-2-405. Confidential treatment of records for which no**
68367 **exemption applies.**
68368 (1) A court may, on appeal or in a declaratory or other action, order the confidential
68369 treatment of records for which no exemption from disclosure applies if:
68370 (a) there are compelling interests favoring restriction of access to the record; and
68371 (b) the interests favoring restriction of access clearly outweigh the interests favoring
68372 access.
68373 (2) If a governmental entity requests a court to restrict access to a record under this
68374 section, the court shall require the governmental entity to pay the reasonable attorneys' fees
68375 incurred by the lead party in opposing the governmental entity's request, if:
68376 (a) the court finds that no statutory or constitutional exemption from disclosure could
68377 reasonably apply to the record in question; and
68378 (b) the court denies confidential treatment under this section.
68379 (3) This section does not apply to records that are specifically required to be public
68380 under statutory provisions outside of this chapter or under Section [~~63-2-301~~] 63G-2-301,
68381 except as provided in Subsection (4).
68382 (4) (a) Access to drafts and empirical data in drafts may be limited under this section,

68383 but the court may consider, in its evaluation of interests favoring restriction of access, only
68384 those interests that relate to the underlying information, and not to the deliberative nature of the
68385 record.
68386 (b) Access to original data in a computer program may be limited under this section,
68387 but the court may consider, in its evaluation of interests favoring restriction of access, only
68388 those interests that relate to the underlying information, and not to the status of that data as part
68389 of a computer program.
68390 Section 1342. Section **63G-2-501**, which is renumbered from Section 63-2-501 is
68391 renumbered and amended to read:
68392 **Part 5. State Records Committee**
68393 **[~~63-2-501~~]. 63G-2-501. State Records Committee created -- Membership --**
68394 **Terms -- Vacancies -- Expenses.**
68395 (1) There is created the State Records Committee within the Department of
68396 Administrative Services to consist of the following seven individuals:
68397 (a) an individual in the private sector whose profession requires him to create or
68398 manage records that if created by a governmental entity would be private or controlled;
68399 (b) the state auditor or the auditor's designee;
68400 (c) the director of the Division of State History or the director's designee;
68401 (d) the governor or the governor's designee;
68402 (e) one citizen member;
68403 (f) one elected official representing political subdivisions; and
68404 (g) one individual representing the news media.
68405 (2) The members specified in Subsections (1)(a), (e), (f), and (g) shall be appointed by
68406 the governor with the consent of the Senate.
68407 (3) (a) Except as required by Subsection (3)(b), as terms of current committee members
68408 expire, the governor shall appoint each new member or reappointed member to a four-year
68409 term.
68410 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the
68411 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
68412 committee members are staggered so that approximately half of the committee is appointed
68413 every two years.

68414 (c) Each appointed member is eligible for reappointment for one additional term.
68415 (4) When a vacancy occurs in the membership for any reason, the replacement shall be
68416 appointed for the unexpired term.
68417 (5) (a) (i) Members who are not government employees shall receive no compensation
68418 or benefits for their services, but may receive per diem and expenses incurred in the
68419 performance of the member's official duties at the rates established by the Division of Finance
68420 under Sections 63A-3-106 and 63A-3-107.
68421 (ii) Members may decline to receive per diem and expenses for their service.
68422 (b) (i) State government officer and employee members who do not receive salary, per
68423 diem, or expenses from their agency for their service may receive per diem and expenses
68424 incurred in the performance of their official duties from the committee at the rates established
68425 by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
68426 (ii) State government officer and employee members may decline to receive per diem
68427 and expenses for their service.
68428 (c) (i) Local government members who do not receive salary, per diem, or expenses
68429 from the entity that they represent for their service may receive per diem and expenses incurred
68430 in the performance of their official duties at the rates established by the Division of Finance
68431 under Sections 63A-3-106 and 63A-3-107.
68432 (ii) Local government members may decline to receive per diem and expenses for their
68433 service.
68434 Section 1343. Section **63G-2-502**, which is renumbered from Section 63-2-502 is
68435 renumbered and amended to read:
68436 **[~~63-2-502~~]. 63G-2-502. State Records Committee -- Duties.**
68437 (1) The records committee shall:
68438 (a) meet at least once every three months;
68439 (b) review and approve retention and disposal of records;
68440 (c) hear appeals from determinations of access as provided by Section [~~63-2-403~~]
68441 63G-2-403; and
68442 (d) appoint a chairman from among its members.
68443 (2) The records committee may:
68444 (a) make rules to govern its own proceedings as provided by [~~Title 63, Chapter 46a~~]

68445 Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
68446 (b) by order, after notice and hearing, reassign classification and designation for any
68447 record series by a governmental entity if the governmental entity's classification or designation
68448 is inconsistent with this chapter.
68449 (3) The records committee shall annually appoint an executive secretary to the records
68450 committee. The executive secretary may not serve as a voting member of the committee.
68451 (4) Five members of the records committee are a quorum for the transaction of
68452 business.
68453 (5) The state archives shall provide staff and support services for the records
68454 committee.
68455 (6) Unless otherwise reimbursed, the citizen member, the individual in the private
68456 sector, and the representative of the news media shall receive a per diem as established by the
68457 Division of Finance in Section 63A-3-106.
68458 (7) If the records committee reassigns the classification or designation of a record or
68459 record series under Subsection (2)(b), any affected governmental entity or any other interested
68460 person may appeal the reclassification or redesignation to the district court. The district court
68461 shall hear the matter de novo.
68462 (8) The Office of the Attorney General shall provide counsel to the records committee
68463 and shall review proposed retention schedules.
68464 Section 1344. Section **63G-2-601**, which is renumbered from Section 63-2-601 is
68465 renumbered and amended to read:
68466 **Part 6. Collection of Information and Accuracy of Records**
68467 **[~~63-2-601~~]. 63G-2-601. Rights of individuals on whom data is maintained --**
68468 **Classification statement -- Notice to provider of information.**
68469 (1) (a) Each governmental entity shall file with the state archivist a statement
68470 explaining the purposes for which a record series that is designated as private or controlled is
68471 collected and used by that governmental entity.
68472 (b) The statement filed under Subsection (1)(a) is a public record.
68473 (2) (a) A governmental entity shall provide notice of the following to a person that is
68474 asked to furnish information that could be classified as a private or controlled record:
68475 (i) the reasons the person is asked to furnish the information;

68476 (ii) the intended uses of the information;
68477 (iii) the consequences for refusing to provide the information; and
68478 (iv) the classes of persons and the governmental entities that currently:
68479 (A) share the information with the governmental entity; or
68480 (B) receive the information from the governmental entity on a regular or contractual
68481 basis.
68482 (b) The notice shall be:
68483 (i) posted in a prominent place at all locations where the governmental entity collects
68484 the information; or
68485 (ii) included as part of the documents or forms that are used by the governmental entity
68486 to collect the information.
68487 (3) Upon request, each governmental entity shall explain to a person:
68488 (a) the reasons the person is asked to furnish information that could be classified as a
68489 private or controlled record;
68490 (b) the intended uses of the information referred to in Subsection (3)(a);
68491 (c) the consequences for refusing to provide the information referred to in Subsection
68492 (3)(a); and
68493 (d) the reasons and circumstances under which the information referred to in
68494 Subsection (3)(a) may be shared with or provided to other persons or governmental entities.
68495 (4) A governmental entity may use private or controlled records only for those
68496 purposes:
68497 (a) given in the statement filed with the state archivist under Subsection (1); or
68498 (b) for which another governmental entity may use the record under Section [~~63-2-206~~]
68499 63G-2-206.
68500 Section 1345. Section **63G-2-602**, which is renumbered from Section 63-2-602 is
68501 renumbered and amended to read:
68502 **[~~63-2-602~~]. 63G-2-602. Disclosure to subject of records -- Context of use.**
68503 When providing records under Subsection [~~63-2-202~~] 63G-2-202(1) or when providing
68504 public records about an individual to the persons specified in Subsection [~~63-2-202~~]
68505 63G-2-202(1), a governmental entity shall, upon request, disclose the context in which the
68506 record is used.

68507 Section 1346. Section **63G-2-603**, which is renumbered from Section 63-2-603 is
68508 renumbered and amended to read:
68509 **[~~63-2-603~~]. 63G-2-603. Requests to amend a record -- Appeals.**
68510 (1) Proceedings of state agencies under this section shall be governed by [~~Title 63,~~
68511 ~~Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
68512 (2) (a) Subject to Subsection (8), an individual may contest the accuracy or
68513 completeness of any public, or private, or protected record concerning him by requesting the
68514 governmental entity to amend the record. However, this section does not affect the right of
68515 access to private or protected records.
68516 (b) The request shall contain the following information:
68517 (i) the requester's name, mailing address, and daytime telephone number; and
68518 (ii) a brief statement explaining why the governmental entity should amend the record.
68519 (3) The governmental entity shall issue an order either approving or denying the
68520 request to amend as provided in [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
68521 Procedures Act, or, if the act does not apply, no later than 30 days after receipt of the request.
68522 (4) If the governmental entity approves the request, it shall correct all of its records
68523 that contain the same incorrect information as soon as practical. A governmental entity may
68524 not disclose the record until it has amended it.
68525 (5) If the governmental entity denies the request, it shall:
68526 (a) inform the requester in writing; and
68527 (b) provide a brief statement giving its reasons for denying the request.
68528 (6) (a) If a governmental entity denies a request to amend a record, the requester may
68529 submit a written statement contesting the information in the record.
68530 (b) The governmental entity shall:
68531 (i) file the requester's statement with the disputed record if the record is in a form such
68532 that the statement can accompany the record or make the statement accessible if the record is
68533 not in a form such that the statement can accompany the record; and
68534 (ii) disclose the requester's statement along with the information in the record
68535 whenever the governmental entity discloses the disputed information.
68536 (7) The requester may appeal the denial of the request to amend a record pursuant to
68537 the Administrative Procedures Act or, if that act does not apply, to district court.

68538 (8) This section does not apply to records relating to title to real or personal property,
68539 medical records, judicial case files, or any other records that the governmental entity
68540 determines must be maintained in their original form to protect the public interest and to
68541 preserve the integrity of the record system.
68542 Section 1347. Section **63G-2-604**, which is renumbered from Section 63-2-604 is
68543 renumbered and amended to read:
68544 **[~~63-2-604~~]. 63G-2-604. Retention and disposition of records.**
68545 (1) (a) Except for a governmental entity that is permitted to maintain its own retention
68546 schedules under Part 7, Applicability to Political Subdivisions, the Judiciary, and the
68547 Legislature, each governmental entity shall file with the State Records Committee a proposed
68548 schedule for the retention and disposition of each type of material that is defined as a record
68549 under this chapter.
68550 (b) After a retention schedule is reviewed and approved by the State Records
68551 Committee under Subsection [~~63-2-502~~] 63G-2-502(1)(b), the governmental entity shall
68552 maintain and destroy records in accordance with the retention schedule.
68553 (c) If a governmental entity subject to the provisions of this section has not received an
68554 approved retention schedule for a specific type of material that is classified as a record under
68555 this chapter, the model retention schedule maintained by the state archivist shall govern the
68556 retention and destruction of that type of material.
68557 (2) A retention schedule that is filed with or approved by the State Records Committee
68558 under the requirements of this section is a public record.
68559 Section 1348. Section **63G-2-701**, which is renumbered from Section 63-2-701 is
68560 renumbered and amended to read:
68561 **Part 7. Applicability to Political Subdivisions, the Judiciary, and the Legislature**
68562 **[~~63-2-701~~]. 63G-2-701. Political subdivisions may adopt ordinances in**
68563 **compliance with chapter.**
68564 (1) (a) Each political subdivision may adopt an ordinance or a policy applicable
68565 throughout its jurisdiction relating to information practices including classification,
68566 designation, access, denials, segregation, appeals, management, retention, and amendment of
68567 records.
68568 (b) The ordinance or policy shall comply with the criteria set forth in this section.

68569 (c) If any political subdivision does not adopt and maintain an ordinance or policy, then
68570 that political subdivision is subject to this chapter.
68571 (d) Notwithstanding the adoption of an ordinance or policy, each political subdivision
68572 is subject to Parts 1 and 3, and Sections [~~63-2-201~~] 63G-2-201, [~~63-2-202~~] 63G-2-202,
68573 [~~63-2-205~~] 63G-2-205, [~~63-2-206~~] 63G-2-206, [~~63-2-601~~] 63G-2-601, [~~63-2-602~~] 63G-2-602,
68574 [~~63-2-905~~] 63A-12-105, and [~~63-2-907~~] 63A-12-107.
68575 (e) Every ordinance, policy, or amendment to the ordinance or policy shall be filed
68576 with the state archives no later than 30 days after its effective date.
68577 (f) The political subdivision shall also report to the state archives all retention
68578 schedules, and all designations and classifications applied to record series maintained by the
68579 political subdivision.
68580 (g) The report required by Subsection (f) is notification to state archives of the political
68581 subdivision's retention schedules, designations, and classifications. The report is not subject to
68582 approval by state archives. If state archives determines that a different retention schedule is
68583 needed for state purposes, state archives shall notify the political subdivision of the state's
68584 retention schedule for the records and shall maintain the records if requested to do so under
68585 Subsection [~~63-2-905~~] 63A-12-105(2).
68586 (2) Each ordinance or policy relating to information practices shall:
68587 (a) provide standards for the classification and designation of the records of the
68588 political subdivision as public, private, controlled, or protected in accordance with Part 3 of
68589 this chapter;
68590 (b) require the classification of the records of the political subdivision in accordance
68591 with those standards;
68592 (c) provide guidelines for establishment of fees in accordance with Section [~~63-2-203~~]
68593 63G-2-203; and
68594 (d) provide standards for the management and retention of the records of the political
68595 subdivision comparable to Section [~~63-2-903~~] 63A-12-103.
68596 (3) (a) Each ordinance or policy shall establish access criteria, procedures, and
68597 response times for requests to inspect, obtain, or amend records of the political subdivision,
68598 and time limits for appeals consistent with this chapter.
68599 (b) In establishing response times for access requests and time limits for appeals, the

68600 political subdivision may establish reasonable time frames different than those set out in
68601 Section [~~63-2-204~~] 63G-2-204 and Part 4 of this chapter if it determines that the resources of
68602 the political subdivision are insufficient to meet the requirements of those sections.
68603 (4) (a) The political subdivision shall establish an appeals process for persons
68604 aggrieved by classification, designation or access decisions.
68605 (b) The policy or ordinance shall provide for:
68606 (i) an appeals board composed of the governing body of the political subdivision; or
68607 (ii) a separate appeals board composed of members of the governing body and the
68608 public, appointed by the governing body.
68609 (5) If the requester concurs, the political subdivision may also provide for an additional
68610 level of administrative review to the records committee in accordance with Section [~~63-2-403~~]
68611 63G-2-403.
68612 (6) Appeals of the decisions of the appeals boards established by political subdivisions
68613 shall be by petition for judicial review to the district court. The contents of the petition for
68614 review and the conduct of the proceeding shall be in accordance with Sections [~~63-2-402~~]
68615 63G-2-402 and [~~63-2-404~~] 63G-2-404.
68616 (7) Any political subdivision that adopts an ordinance or policy under Subsection (1)
68617 shall forward to state archives a copy and summary description of the ordinance or policy.
68618 Section 1349. Section **63G-2-702**, which is renumbered from Section 63-2-702 is
68619 renumbered and amended to read:
68620 **[~~63-2-702~~]. 63G-2-702. Applicability to the judiciary.**
68621 (1) The judiciary is subject to the provisions of this chapter except as provided in this
68622 section.
68623 (2) (a) The judiciary is not subject to Part 4, Appeals, except as provided in Subsection
68624 (5).
68625 (b) The judiciary is not subject to Parts 5, State Records Committee, and 6, Collection
68626 of Information and Accuracy of Records.
68627 (c) The judiciary is subject to only the following sections in Part 9, Archives and
68628 Records Service: Sections [~~63-2-905~~] 63A-12-105 and [~~63-2-906~~] 63A-12-106.
68629 (3) The Judicial Council, the Administrative Office of the Courts, the courts, and other
68630 administrative units in the judicial branch shall designate and classify their records in

68631 accordance with Sections [~~63-2-301~~] 63G-2-301 through [~~63-2-304~~] 63G-2-305.
68632 (4) Substantially consistent with the provisions of this chapter, the Judicial Council
68633 shall:
68634 (a) make rules governing requests for access, fees, classification, designation,
68635 segregation, management, retention, denials and appeals of requests for access and retention,
68636 and amendment of judicial records;
68637 (b) establish an appellate board to handle appeals from denials of requests for access
68638 and provide that a requester who is denied access by the appellate board may file a lawsuit in
68639 district court; and
68640 (c) provide standards for the management and retention of judicial records substantially
68641 consistent with Section [~~63-2-903~~] 63A-12-103.
68642 (5) Rules governing appeals from denials of requests for access shall substantially
68643 comply with the time limits provided in Section [~~63-2-204~~] 63G-2-204 and Part 4, Appeals.
68644 (6) Upon request, the state archivist shall:
68645 (a) assist with and advise concerning the establishment of a records management
68646 program in the judicial branch; and
68647 (b) as required by the judiciary, provide program services similar to those available to
68648 the executive and legislative branches of government as provided in this chapter and Title 63A,
68649 Chapter 12, Part 1, Archives and Records Service.
68650 Section 1350. Section **63G-2-703**, which is renumbered from Section 63-2-703 is
68651 renumbered and amended to read:
68652 **[~~63-2-703~~]. 63G-2-703. Applicability to the Legislature.**
68653 (1) The Legislature and its staff offices shall designate and classify records in
68654 accordance with Sections [~~63-2-301~~] 63G-2-301 through [~~63-2-304~~] 63G-2-305 as public,
68655 private, controlled, or protected.
68656 (2) (a) The Legislature and its staff offices are not subject to Section [~~63-2-203~~]
68657 63G-2-203 or to Part 4, Appeals, 5, State Records Committee, or 6, Collection of Information
68658 and Accuracy of Records.
68659 (b) The Legislature is subject to only the following sections in Part 9, Archives and
68660 Records Service: Sections [~~63-2-902~~] 63A-12-102, [~~63-2-906~~] 63A-12-106, and [~~63-2-909~~]
68661 63G-2-310.

68662 (3) The Legislature, through the Legislative Management Committee:
68663 (a) shall establish policies to handle requests for classification, designation, fees,
68664 access, denials, segregation, appeals, management, retention, and amendment of records; and
68665 (b) may establish an appellate board to hear appeals from denials of access.
68666 (4) Policies shall include reasonable times for responding to access requests consistent
68667 with the provisions of Part 2, Access to Records, fees, and reasonable time limits for appeals.
68668 (5) Upon request, the state archivist shall:
68669 (a) assist with and advise concerning the establishment of a records management
68670 program in the Legislature; and
68671 (b) as required by the Legislature, provide program services similar to those available
68672 to the executive branch of government, as provided in this chapter and Title 63A, Chapter 12,
68673 Part 1, Archives and Records Service.
68674 Section 1351. Section **63G-2-801**, which is renumbered from Section 63-2-801 is
68675 renumbered and amended to read:
68676 **Part 8. Remedies**
68677 **[~~63-2-801~~]. 63G-2-801. Criminal penalties.**
68678 (1) (a) A public employee or other person who has lawful access to any private,
68679 controlled, or protected record under this chapter, and who intentionally discloses, provides a
68680 copy of, or improperly uses a private, controlled, or protected record knowing that the
68681 disclosure or use is prohibited under this chapter, is guilty of a class B misdemeanor.
68682 (b) It is a defense to prosecution under Subsection (1)(a) that the actor used or released
68683 private, controlled, or protected information in the reasonable belief that the use or disclosure
68684 of the information was necessary to expose a violation of law involving government
68685 corruption, abuse of office, or misappropriation of public funds or property.
68686 (c) It is a defense to prosecution under Subsection (1)(a) that the record could have
68687 lawfully been released to the recipient if it had been properly classified.
68688 (2) (a) A person who by false pretenses, bribery, or theft, gains access to or obtains a
68689 copy of any private, controlled, or protected record to which [~~he~~] the person is not legally
68690 entitled is guilty of a class B misdemeanor.
68691 (b) No person shall be guilty under Subsection (2)(a) who receives the record,
68692 information, or copy after the fact and without prior knowledge of or participation in the false

68693 pretenses, bribery, or theft.
68694 (3) A public employee who intentionally refuses to release a record the disclosure of
68695 which the employee knows is required by law or by final unappealed order from a
68696 governmental entity, the records committee, or a court, is guilty of a class B misdemeanor.
68697 Section 1352. Section **63G-2-802**, which is renumbered from Section 63-2-802 is
68698 renumbered and amended to read:
68699 **[~~63-2-802~~]. 63G-2-802. Injunction -- Attorneys' fees.**
68700 (1) A district court in this state may enjoin any governmental entity or political
68701 subdivision that violates or proposes to violate the provisions of this chapter.
68702 (2) (a) A district court may assess against any governmental entity or political
68703 subdivision reasonable attorneys' fees and other litigation costs reasonably incurred in
68704 connection with a judicial appeal of a denial of a records request if the requester substantially
68705 prevails.
68706 (b) In determining whether to award attorneys' fees under this section, the court shall
68707 consider:
68708 (i) the public benefit derived from the case;
68709 (ii) the nature of the requester's interest in the records; and
68710 (iii) whether the governmental entity's or political subdivision's actions had a
68711 reasonable basis.
68712 (c) Attorneys' fees shall not ordinarily be awarded if the purpose of the litigation is
68713 primarily to benefit the requester's financial or commercial interest.
68714 (3) Neither attorneys' fees nor costs shall be awarded for fees or costs incurred during
68715 administrative proceedings.
68716 (4) Notwithstanding Subsection (2), a court may only award fees and costs incurred in
68717 connection with appeals to district courts under Subsection [~~63-2-404~~] 63G-2-404(2) if the fees
68718 and costs were incurred 20 or more days after the requester provided to the governmental entity
68719 or political subdivision a statement of position that adequately explains the basis for the
68720 requester's position.
68721 (5) Claims for attorneys' fees as provided in this section or for damages are subject to
68722 [~~Title 63, Chapter 30d~~] Title 63G, Chapter 7, Governmental Immunity Act of Utah.
68723 Section 1353. Section **63G-2-803**, which is renumbered from Section 63-2-803 is

68724 renumbered and amended to read:
68725 **[~~63-2-803~~]. 63G-2-803. No liability for certain decisions of a governmental**
68726 **entity or a political subdivision.**
68727 (1) Neither the governmental entity or political subdivision, nor any officer or
68728 employee of the governmental entity or political subdivision, is liable for damages resulting
68729 from the release of a record where the person or government requesting the record presented
68730 evidence of authority to obtain the record even if it is subsequently determined that the
68731 requester had no authority.
68732 (2) Neither the governmental entity or political subdivision, nor any officer or
68733 employee of the governmental entity or political subdivision, is liable for damages arising from
68734 the negligent disclosure of records classified as private under Subsection [~~63-2-302~~]
68735 63G-2-302(1)(f) unless:
68736 (a) the disclosure was of employment records maintained by the governmental entity;
68737 or
68738 (b) the current or former government employee had previously filed the notice required
68739 by Section [~~63-2-302.5~~] 63G-2-303 and:
68740 (i) the government entity did not take reasonable steps to preclude access or
68741 distribution of the record; or
68742 (ii) the release of the record was otherwise willfully or grossly negligent.
68743 (3) A mailing from a government agency to an individual who has filed an application
68744 under Section [~~63-2-302.5~~] 63G-2-303 is not a wrongful disclosure under this chapter.
68745 Section 1354. Section **63G-2-804**, which is renumbered from Section 63-2-804 is
68746 renumbered and amended to read:
68747 **[~~63-2-804~~]. 63G-2-804. Disciplinary action.**
68748 A governmental entity or political subdivision may take disciplinary action which may
68749 include suspension or discharge against any employee of the governmental entity or political
68750 subdivision who intentionally violates any provision of this chapter.
68751 Section 1355. Section **63G-2-901**, which is renumbered from Section 63-2-1001 is
68752 renumbered and amended to read:
68753 **Part 9. Public Associations**
68754 **[~~63-2-1001~~]. 63G-2-901. Definitions -- Public associations subject to act.**

68755 (1) As used in this section:
68756 (a) "Public association" means any association, organization, or society whose
68757 members include elected or appointed public officials and for which public funds are used or
68758 paid to the public association for membership dues or for other support for the official's
68759 participation in the public association.
68760 (b) (i) "Public funds" means any monies received by a public entity from
68761 appropriations, taxes, fees, interest, or other returns on investment.
68762 (ii) "Public funds" does not include monies donated to a public entity by a person or
68763 entity.
68764 (2) The budget documents and financial statements of a public association shall be
68765 released pursuant to a written request if 50% or more of the public association's:
68766 (a) members are elected or appointed public officials from this state; and
68767 (b) membership dues or other financial support come from public funds from this state.
68768 Section 1356. Section **63G-3-101**, which is renumbered from Section 63-46a-1 is
68769 renumbered and amended to read:

68770 **CHAPTER 3. UTAH ADMINISTRATIVE RULEMAKING ACT**

68771 **Part 1. General Provisions**

68772 **[~~63-46a-1~~]. 63G-3-101. Title.**
68773 This [~~act~~] chapter is known as the "Utah Administrative Rulemaking Act."
68774 Section 1357. Section **63G-3-102**, which is renumbered from Section 63-46a-2 is
68775 renumbered and amended to read:
68776 **[~~63-46a-2~~]. 63G-3-102. Definitions.**
68777 As used in this chapter:
68778 (1) "Administrative record" means information an agency relies upon when making a
68779 rule under this chapter including:
68780 (a) the proposed rule, change in the proposed rule, and the rule analysis form;
68781 (b) the public comment received and recorded by the agency during the public
68782 comment period;
68783 (c) the agency's response to the public comment;
68784 (d) the agency's analysis of the public comment; and
68785 (e) the agency's report of its decision-making process.

68786 (2) "Agency" means each state board, authority, commission, institution, department,
68787 division, officer, or other state government entity other than the Legislature, its committees, the
68788 political subdivisions of the state, or the courts, which is authorized or required by law to make
68789 rules, adjudicate, grant or withhold licenses, grant or withhold relief from legal obligations, or
68790 perform other similar actions or duties delegated by law.
68791 (3) "Bulletin" means the Utah State Bulletin.
68792 (4) "Catchline" means a short summary of each section, part, rule, or title of the code
68793 that follows the section, part, rule, or title reference placed before the text of the rule and serves
68794 the same function as boldface in legislation as described in Section 68-3-13.
68795 (5) "Code" means the body of all effective rules as compiled and organized by the
68796 division and entitled "Utah Administrative Code."
68797 (6) "Director" means the director of the Division of Administrative Rules.
68798 (7) "Division" means the Division of Administrative Rules.
68799 (8) "Effective" means operative and enforceable.
68800 (9) (a) "File" means to submit a document to the division as prescribed by the division.
68801 (b) "Filing date" means the day and time the document is recorded as received by the
68802 division.
68803 (10) "Interested person" means any person affected by or interested in a proposed rule,
68804 amendment to an existing rule, or a nonsubstantive change made under Section [~~63-46a-10~~]
68805 63G-3-402.
68806 (11) "Order" means an agency action that determines the legal rights, duties, privileges,
68807 immunities, or other interests of one or more specific persons, but not a class of persons.
68808 (12) "Person" means any individual, partnership, corporation, association,
68809 governmental entity, or public or private organization of any character other than an agency.
68810 (13) "Publication" or "publish" means making a rule available to the public by
68811 including the rule or a summary of the rule in the bulletin.
68812 (14) "Publication date" means the inscribed date of the bulletin.
68813 (15) "Register" may include an electronic database.
68814 (16) (a) "Rule" means an agency's written statement that:
68815 (i) is explicitly or implicitly required by state or federal statute or other applicable law;
68816 (ii) implements or interprets a state or federal legal mandate; and

68817 (iii) applies to a class of persons or another agency.
68818 (b) "Rule" includes the amendment or repeal of an existing rule.
68819 (c) "Rule" does not mean:
68820 (i) orders;
68821 (ii) an agency's written statement that applies only to internal management and that
68822 does not restrict the legal rights of a public class of persons or another agency;
68823 (iii) the governor's executive orders or proclamations;
68824 (iv) opinions issued by the attorney general's office;
68825 (v) declaratory rulings issued by the agency according to Section [~~63-46b-21~~]
68826 63G-4-503 except as required by Section [~~63-46a-3~~] 63G-3-201;
68827 (vi) rulings by an agency in adjudicative proceedings, except as required by Subsection
68828 [~~63-46a-3~~] 63G-3-201(6); or
68829 (vii) an agency written statement that is in violation of any state or federal law.
68830 (17) "Rule analysis" means the format prescribed by the division to summarize and
68831 analyze rules.
68832 (18) "Small business" means a business employing fewer than 50 persons.
68833 (19) "Substantive change" means a change in a rule that affects the application or
68834 results of agency actions.
68835 Section 1358. Section **63G-3-201**, which is renumbered from Section 63-46a-3 is
68836 renumbered and amended to read:
68837 **Part 2. Circumstances Requiring Rulemaking - Status of Administrative Rules**
68838 **[~~63-46a-3~~]. 63G-3-201. When rulemaking is required.**
68839 (1) Each agency shall:
68840 (a) maintain a current version of its rules; and
68841 (b) make it available to the public for inspection during its regular business hours.
68842 (2) In addition to other rulemaking required by law, each agency shall make rules when
68843 agency action:
68844 (a) authorizes, requires, or prohibits an action;
68845 (b) provides or prohibits a material benefit;
68846 (c) applies to a class of persons or another agency; and
68847 (d) is explicitly or implicitly authorized by statute.

68848 (3) Rulemaking is also required when an agency issues a written interpretation of a
68849 state or federal legal mandate.
68850 (4) Rulemaking is not required when:
68851 (a) agency action applies only to internal agency management, inmates or residents of a
68852 state correctional, diagnostic, or detention facility, persons under state legal custody, patients
68853 admitted to a state hospital, members of the state retirement system, or students enrolled in a
68854 state education institution;
68855 (b) a standardized agency manual applies only to internal fiscal or administrative
68856 details of governmental entities supervised under statute;
68857 (c) an agency issues policy or other statements that are advisory, informative, or
68858 descriptive, and do not conform to the requirements of Subsections (2) and (3); or
68859 (d) an agency makes nonsubstantive changes in a rule, except that the agency shall file
68860 all nonsubstantive changes in a rule with the division.
68861 (5) A rule shall enumerate any penalty authorized by statute that may result from its
68862 violation.
68863 (6) Each agency shall enact rules incorporating the principles of law not already in its
68864 rules that are established by final adjudicative decisions within 120 days after the decision is
68865 announced in its cases.
68866 (7) (a) Each agency may enact a rule that incorporates by reference:
68867 (i) all or any part of another code, rule, or regulation that has been adopted by a federal
68868 agency, an agency or political subdivision of this state, an agency of another state, or by a
68869 nationally recognized organization or association;
68870 (ii) state agency implementation plans mandated by the federal government for
68871 participation in the federal program;
68872 (iii) lists, tables, illustrations, or similar materials that are subject to frequent change,
68873 fully described in the rule, and are available for public inspection; or
68874 (iv) lists, tables, illustrations, or similar materials that the director determines are too
68875 expensive to reproduce in the administrative code.
68876 (b) Rules incorporating materials by reference shall:
68877 (i) be enacted according to the procedures outlined in this chapter;
68878 (ii) state that the referenced material is incorporated by reference;

68879 (iii) state the date, issue, or version of the material being incorporated; and
68880 (iv) define specifically what material is incorporated by reference and identify any
68881 agency deviations from it.
68882 (c) The agency shall identify any substantive changes in the material incorporated by
68883 reference by following the rulemaking procedures of this chapter.
68884 (d) The agency shall maintain a complete and current copy of the referenced material
68885 available for public review at the agency and at the division.
68886 (8) (a) This chapter is not intended to inhibit the exercise of agency discretion within
68887 the limits prescribed by statute or agency rule.
68888 (b) An agency may enact a rule creating a justified exception to a rule.
68889 (9) An agency may obtain assistance from the attorney general to ensure that its rules
68890 meet legal and constitutional requirements.
68891 Section 1359. Section **63G-3-202**, which is renumbered from Section 63-46a-3.5 is
68892 renumbered and amended to read:
68893 **[~~63-46a-3.5~~]. 63G-3-202. Rules having the effect of law.**
68894 (1) An agency's written statement is a rule if it conforms to the definition of a rule
68895 under Section [~~63-46a-2~~] 63G-3-102, but the written statement is not enforceable unless it is
68896 made as a rule in accordance with the requirements of this chapter.
68897 (2) An agency's written statement that is made as a rule in accordance with the
68898 requirements of this chapter is enforceable and has the effect of law.
68899 Section 1360. Section **63G-3-301**, which is renumbered from Section 63-46a-4 is
68900 renumbered and amended to read:
68901 **Part 3. Rulemaking Procedures**
68902 **[~~63-46a-4~~]. 63G-3-301. Rulemaking procedure.**
68903 (1) An agency authorized to make rules is also authorized to amend or repeal those
68904 rules.
68905 (2) Except as provided in Sections [~~63-46a-6~~] 63G-3-303 and [~~63-46a-7~~] 63G-3-304,
68906 when making, amending, or repealing a rule agencies shall comply with:
68907 (a) the requirements of this section;
68908 (b) consistent procedures required by other statutes;
68909 (c) applicable federal mandates; and

68910 (d) rules made by the division to implement this chapter.
68911 (3) Subject to the requirements of this chapter, each agency shall develop and use
68912 flexible approaches in drafting rules that meet the needs of the agency and that involve persons
68913 affected by the agency's rules.
68914 (4) (a) Each agency shall file its proposed rule and rule analysis with the division.
68915 (b) Rule amendments shall be marked with new language underlined and deleted
68916 language struck out.
68917 (c) (i) The division shall publish the information required under [~~this~~] Subsection [~~(4)~~]
68918 (6) on the rule analysis and the text of the proposed rule in the next issue of the bulletin.
68919 (ii) For rule amendments, only the section or subsection of the rule being amended
68920 need be printed.
68921 (iii) If the director determines that the rule is too long to publish, the director shall
68922 publish the rule analysis and shall publish the rule by reference to a copy on file with the
68923 division.
68924 (5) Prior to filing a rule with the division, the department head shall consider and
68925 comment on the fiscal impact a rule may have on businesses.
68926 (6) The rule analysis shall contain:
68927 (a) a summary of the rule or change;
68928 (b) the purpose of the rule or reason for the change;
68929 (c) the statutory authority or federal requirement for the rule;
68930 (d) the anticipated cost or savings to:
68931 (i) the state budget;
68932 (ii) local governments;
68933 (iii) small businesses; and
68934 (iv) persons other than small businesses, businesses, or local governmental entities;
68935 (e) the compliance cost for affected persons;
68936 (f) how interested persons may review the full text of the rule;
68937 (g) how interested persons may present their views on the rule;
68938 (h) the time and place of any scheduled public hearing;
68939 (i) the name and telephone number of an agency employee who may be contacted
68940 about the rule;

68941 (j) the name of the agency head or designee who authorized the rule;
68942 (k) the date on which the rule may become effective following the public comment
68943 period; and
68944 (l) comments by the department head on the fiscal impact the rule may have on
68945 businesses.
68946 (7) (a) For a rule being repealed and reenacted, the rule analysis shall contain a
68947 summary that generally includes the following:
68948 (i) a summary of substantive provisions in the repealed rule which are eliminated from
68949 the enacted rule; and
68950 (ii) a summary of new substantive provisions appearing only in the enacted rule.
68951 (b) The summary required under this Subsection (7) is to aid in review and may not be
68952 used to contest any rule on the ground of noncompliance with the procedural requirements of
68953 this chapter.
68954 (8) A copy of the rule analysis shall be mailed to all persons who have made timely
68955 request of the agency for advance notice of its rulemaking proceedings and to any other person
68956 who, by statutory or federal mandate or in the judgment of the agency, should also receive
68957 notice.
68958 (9) (a) Following the publication date, the agency shall allow at least 30 days for public
68959 comment on the rule.
68960 (b) The agency shall review and evaluate all public comments submitted in writing
68961 within the time period under Subsection (9)(a) or presented at public hearings conducted by the
68962 agency within the time period under Subsection (9)(a).
68963 (10) (a) Except as provided in Sections [~~63-46a-6~~] 63G-3-303 and [~~63-46a-7~~]
68964 63G-3-304, a proposed rule becomes effective on any date specified by the agency that is no
68965 fewer than seven calendar days after the close of the public comment period under Subsection
68966 (9), nor more than 120 days after the publication date.
68967 (b) The agency shall provide notice of the rule's effective date to the division in the
68968 form required by the division.
68969 (c) The notice of effective date may not provide for an effective date prior to the date it
68970 is received by the division.
68971 (d) The division shall publish notice of the effective date of the rule in the next issue of

68972 the bulletin.
68973 (e) A proposed rule lapses if a notice of effective date or a change to a proposed rule is
68974 not filed with the division within 120 days of publication.
68975 (11) (a) As used in this Subsection (11), "initiate rulemaking proceedings" means the
68976 filing, for the purposes of publication in accordance with Subsection (4), of an agency's
68977 proposed rule that is required by state statute.
68978 (b) A state agency shall initiate rulemaking proceedings no later than 180 days after the
68979 effective date of the statutory provision that requires the rulemaking.
68980 (c) If a state agency does not initiate rulemaking proceedings in accordance with the
68981 time requirements in Subsection (11)(b), the state agency shall appear before the legislative
68982 Administrative Rules Review Committee and provide the reasons for the delay.
68983 Section 1361. Section **63G-3-302**, which is renumbered from Section 63-46a-5 is
68984 renumbered and amended to read:
68985 **[~~63-46a-5~~]. 63G-3-302. Public hearings.**
68986 (1) Each agency may hold a public hearing on a proposed rule, amendment to a rule, or
68987 repeal of a rule during the public comment period.
68988 (2) Each agency shall hold a public hearing on a proposed rule, amendment to a rule, or
68989 repeal of a rule if:
68990 (a) a public hearing is required by state or federal mandate;
68991 (b) (i) another state agency, ten interested persons, or an interested association having
68992 not fewer than ten members request a public hearing; and
68993 (ii) the agency receives the request in writing not more than 15 days after the
68994 publication date of the proposed rule.
68995 (3) The agency shall hold the hearing:
68996 (a) before the rule becomes effective; and
68997 (b) no less than seven days nor more than 30 days after receipt of the request for
68998 hearing.
68999 Section 1362. Section **63G-3-303**, which is renumbered from Section 63-46a-6 is
69000 renumbered and amended to read:
69001 **[~~63-46a-6~~]. 63G-3-303. Changes in rules.**
69002 (1) (a) To change a proposed rule already published in the bulletin, an agency shall file

69003 with the division:
69004 (i) the text of the changed rule; and
69005 (ii) a rule analysis containing a description of the change and the information required
69006 by Section [~~63-46a-4~~] 63G-3-301.
69007 (b) A change to a proposed rule may not be filed more than 120 days after publication
69008 of the rule being changed.
69009 (c) The division shall publish the rule analysis for the changed rule in the bulletin.
69010 (d) The changed proposed rule and its associated proposed rule will become effective
69011 on a date specified by the agency, not less than 30 days or more than 120 days after publication
69012 of the last change in proposed rule.
69013 (e) A changed proposed rule and its associated proposed rule lapse if a notice of
69014 effective date or another change to a proposed rule is not filed with the division within 120
69015 days of publication of the last change in proposed rule.
69016 (2) If the rule change is nonsubstantive:
69017 (a) the agency need not comply with the requirements of Subsection (1); and
69018 (b) the agency shall notify the division of the change in writing.
69019 (3) If the rule is effective, the agency shall amend the rule according to the procedures
69020 specified in Section [~~63-46a-4~~] 63G-3-301.
69021 Section 1363. Section **63G-3-304**, which is renumbered from Section 63-46a-7 is
69022 renumbered and amended to read:
69023 **[~~63-46a-7~~]. 63G-3-304. Emergency rulemaking procedure.**
69024 (1) All agencies shall comply with the rulemaking procedures of Section [~~63-46a-4~~]
69025 63G-3-301 unless an agency finds that these procedures would:
69026 (a) cause an imminent peril to the public health, safety, or welfare;
69027 (b) cause an imminent budget reduction because of budget restraints or federal
69028 requirements; or
69029 (c) place the agency in violation of federal or state law.
69030 (2) (a) When finding that its rule is excepted from regular rulemaking procedures by
69031 this section, the agency shall file with the division:
69032 (i) the text of the rule; and
69033 (ii) a rule analysis that includes the specific reasons and justifications for its findings.

69034 (b) The division shall publish the rule in the bulletin as provided in Subsection
69035 [~~63-46a-4~~] 63G-3-301(4).
69036 (c) The agency shall notify interested persons as provided in Subsection [~~63-46a-4~~]
69037 63G-3-301(8).
69038 (d) The rule becomes effective for a period not exceeding 120 days on the date of filing
69039 or any later date designated in the rule.
69040 (3) If the agency intends the rule to be effective beyond 120 days, the agency shall also
69041 comply with the procedures of Section [~~63-46a-4~~] 63G-3-301.
69042 Section 1364. Section **63G-3-305**, which is renumbered from Section 63-46a-9 is
69043 renumbered and amended to read:
69044 **[~~63-46a-9~~]. 63G-3-305. Agency review of rules -- Schedule of filings -- Limited**
69045 **exemption for certain rules.**
69046 (1) Each agency shall review each of its rules within five years of the rule's original
69047 effective date or within five years of the filing of the last five-year review, whichever is later.
69048 Rules effective prior to 1992 need not be reviewed until 1997.
69049 (2) An agency may consider any substantial review of a rule to be a five-year review.
69050 If the agency chooses to consider a review a five-year review, it shall follow the procedures
69051 outlined in Subsection (3).
69052 (3) At the conclusion of its review, the agency shall file a notice of review on or before
69053 the anniversary date indicating its intent to continue, amend, or repeal the rule.
69054 (a) If the agency continues the rule, it shall file a statement which includes:
69055 (i) a concise explanation of the particular statutory provisions under which the rule is
69056 enacted and how these provisions authorize or require the rule;
69057 (ii) a summary of written comments received during and since the last five-year review
69058 of the rule from interested persons supporting or opposing the rule; and
69059 (iii) a reasoned justification for continuation of the rule, including reasons why the
69060 agency disagrees with comments in opposition to the rule, if any.
69061 (b) If the agency repeals the rule, it shall comply with Section [~~63-46a-4~~] 63G-3-301.
69062 (c) If the agency amends and continues the rule, it shall comply with the requirements
69063 of Section [~~63-46a-4~~] 63G-3-301 and file the statement required in Subsection (3)(a).
69064 (4) (a) The division shall publish the notice and statement in the bulletin.

69065 (b) The division may schedule the publication of agency notices and statements,
69066 provided that no notice and statement shall be published more than one year after the review
69067 deadline established under Subsection (1).
69068 (5) The division shall notify an agency of rules due for review at least 180 days prior to
69069 the anniversary date.
69070 (6) If an agency finds that it will not meet the deadline established in Subsection (1):
69071 (a) the agency may file an extension prior to the anniversary date with the division
69072 indicating the reason for the extension; and
69073 (b) the division shall publish notice of the extension in the next issue of the bulletin.
69074 (7) An extension permits the agency to file a notice no more than 120 days after the
69075 anniversary date.
69076 (8) If an agency fails to file a notice of review or extension on or before the date
69077 specified in the notice mandated in Subsection (5), the division shall:
69078 (a) publish a notice in the next issue of the bulletin that the rule has expired and is no
69079 longer enforceable;
69080 (b) remove the rule from the code; and
69081 (c) notify the agency that the rule has expired.
69082 (9) After a rule expires, an agency must comply with the requirements of Section
69083 [~~63-46a-4~~] 63G-3-301 to reenact the rule.
69084 (10) (a) Rules issued under the following provisions related to the Department of
69085 Workforce Services or Labor Commission that are in effect on July 1, 1997, are not subject to
69086 the requirements of this section until July 1, 1998:
69087 (i) Title 34, Labor in General;
69088 (ii) Title 34A, Utah Labor Code;
69089 (iii) Title 35A, Utah Workforce Services Code;
69090 (iv) Title 40, Chapter 2, Coal Mines; and
69091 (v) Title 57, Chapter 21, Utah Fair Housing Act.
69092 (b) Any rule described in Subsection (10)(a) that would have expired on or after July 1,
69093 1997 but before July 1, 1998, expires July 1, 1998, unless for that rule the Department of
69094 Workforce Services or Labor Commission files:
69095 (i) the notice of review, described in Subsection (3); or

69096 (ii) an extension described in Subsection (6).
69097 Section 1365. Section **63G-3-401**, which is renumbered from Section 63-46a-9.5 is
69098 renumbered and amended to read:
69099 **Part 4. Division of Administrative Rules**
69100 **[~~63-46a-9.5~~]. 63G-3-401. Division of Administrative Rules created --**
69101 **Appointment of director.**
69102 (1) There is created within the Department of Administrative Services the Division of
69103 Administrative Rules, to be administered by a director.
69104 (2) The director of administrative rules shall be appointed by the executive director
69105 with the approval of the governor.
69106 Section 1366. Section **63G-3-402**, which is renumbered from Section 63-46a-10 is
69107 renumbered and amended to read:
69108 **[~~63-46a-10~~]. 63G-3-402. Division of Administrative Rules -- Duties**
69109 **generally.**
69110 (1) The Division of Administrative Rules shall:
69111 (a) establish all filing, publication, and hearing procedures necessary to make rules
69112 under this chapter;
69113 (b) record in a register the receipt of all agency rules, rule analysis forms, and notices
69114 of effective dates;
69115 (c) make the register, copies of all proposed rules, and rulemaking documents available
69116 for public inspection;
69117 (d) publish all proposed rules, rule analyses, notices of effective dates, and review
69118 notices in the bulletin at least monthly, except that the division may publish the complete text
69119 of any proposed rule that the director determines is too long to print or too expensive to publish
69120 by reference to the text maintained by the division;
69121 (e) compile, format, number, and index all effective rules in an administrative code,
69122 and periodically publish that code and supplements or revisions to it;
69123 (f) publish a digest of all rules and notices contained in the most recent bulletin;
69124 (g) publish at least annually an index of all changes to the administrative code and the
69125 effective date of each change;
69126 (h) print, or contract to print, all rulemaking publications the division determines

69127 necessary to implement this chapter;
69128 (i) distribute without charge the bulletin and administrative code to state-designated
69129 repositories, the Administrative Rules Review Committee, the Office of Legislative Research
69130 and General Counsel, and the two houses of the Legislature;
69131 (j) distribute without charge the digest and index to state legislators, agencies, political
69132 subdivisions on request, and the Office of Legislative Research and General Counsel;
69133 (k) distribute, at prices covering publication costs, all paper rulemaking publications to
69134 all other requesting persons and agencies;
69135 (l) provide agencies assistance in rulemaking; and
69136 (m) administer this chapter and require state agencies to comply with filing,
69137 publication, and hearing procedures.
69138 (2) The division may after notifying the agency make nonsubstantive changes to rules
69139 filed with the division or published in the bulletin or code by:
69140 (a) implementing a uniform system of formatting, punctuation, capitalization,
69141 organization, numbering, and wording;
69142 (b) correcting obvious errors and inconsistencies in punctuation, capitalization,
69143 numbering, referencing, and wording;
69144 (c) changing a catchline to more accurately reflect the substance of each section, part,
69145 rule, or title;
69146 (d) updating or correcting annotations associated with a section, part, rule, or title; and
69147 (e) merging or determining priority of any amendment, enactment, or repeal to the
69148 same rule or section made effective by an agency.
69149 (3) In addition, the division may make the following nonsubstantive changes with the
69150 concurrence of the agency:
69151 (a) eliminate duplication within rules;
69152 (b) eliminate obsolete and redundant words; and
69153 (c) correcting defective or inconsistent section and paragraph structure in arrangement
69154 of the subject matter of rules.
69155 (4) For nonsubstantive changes made in accordance with Subsection (2) or (3) after
69156 publication of the rule in the bulletin, the division shall publish a list of nonsubstantive changes
69157 in the bulletin. For each nonsubstantive change, the list shall include:

69158 (a) the affected code citation;
69159 (b) a brief description of the change; and
69160 (c) the date the change was made.
69161 (5) All funds appropriated or collected for publishing the division's publications shall
69162 be nonlapsing.
69163 Section 1367. Section **63G-3-403**, which is renumbered from Section 63-46a-10.5 is
69164 renumbered and amended to read:
69165 **[~~63-46a-10.5~~]. 63G-3-403. Repeal and reenactment of Utah Administrative**
69166 **Code.**
69167 (1) When the director determines that the Utah Administrative Code requires extensive
69168 revision and reorganization, the division may repeal the code and reenact a new code according
69169 to the requirements of this section.
69170 (2) The division may:
69171 (a) reorganize, reformat, and renumber the code;
69172 (b) require each agency to review its rules and make any organizational or substantive
69173 changes according to the requirements of Section [~~63-46a-6~~] 63G-3-303; and
69174 (c) require each agency to prepare a brief summary of all substantive changes made by
69175 the agency.
69176 (3) The division may make nonsubstantive changes in the code by:
69177 (a) adopting a uniform system of punctuation, capitalization, numbering, and wording;
69178 (b) eliminating duplication;
69179 (c) correcting defective or inconsistent section and paragraph structure in arrangement
69180 of the subject matter of rules;
69181 (d) eliminating all obsolete or redundant words;
69182 (e) correcting obvious errors and inconsistencies in punctuation, capitalization,
69183 numbering, referencing, and wording;
69184 (f) changing a catchline to more accurately reflect the substance of each section, part,
69185 rule, or title;
69186 (g) updating or correcting annotations associated with a section, part, rule, or title; and
69187 (h) merging or determining priority of any amendment, enactment, or repeal to the
69188 same rule or section made effective by an agency.

69189 (4) (a) To inform the public about the proposed code reenactment, the division shall
69190 publish in the bulletin:
69191 (i) notice of the code reenactment;
69192 (ii) the date, time, and place of a public hearing where members of the public may
69193 comment on the proposed reenactment of the code;
69194 (iii) locations where the proposed reenactment of the code may be reviewed; and
69195 (iv) agency summaries of substantive changes in the reenacted code.
69196 (b) To inform the public about substantive changes in agency rules contained in the
69197 proposed reenactment, each agency shall:
69198 (i) make the text of their reenacted rules available:
69199 (A) for public review during regular business hours; and
69200 (B) in an electronic version; and
69201 (ii) comply with the requirements of Subsection [~~63-46a-4~~] 63G-3-301(8).
69202 (5) The division shall hold a public hearing on the proposed code reenactment no fewer
69203 than 30 days nor more than 45 days after the publication required by Subsection (4)(a).
69204 (6) The division shall distribute complete text of the proposed code reenactment
69205 without charge to:
69206 (a) state-designated repositories in Utah;
69207 (b) the Administrative Rules Review Committee; and
69208 (c) the Office of Legislative Research and General Counsel.
69209 (7) The former code is repealed and the reenacted code is effective at noon on a date
69210 designated by the division that is not fewer than 45 days nor more than 90 days after the
69211 publication date required by this section.
69212 (8) Repeal and reenactment of the code meets the requirements of Section [~~63-46a-9~~]
69213 63G-3-305 for a review of all agency rules.
69214 Section 1368. Section **63G-3-501**, which is renumbered from Section 63-46a-11 is
69215 renumbered and amended to read:
69216 **Part 5. Legislative Oversight**
69217 **[~~63-46a-11~~]. 63G-3-501. Administrative Rules Review Committee.**
69218 (1) (a) There is created an Administrative Rules Review Committee of ten permanent
69219 members and four ex officio members.

69220 (b) (i) The committee's permanent members shall be composed of five members of the
69221 Senate, appointed by the president of the Senate, and five members of the House, appointed by
69222 the speaker of the House, with no more than three senators and three representatives from the
69223 same political party.
69224 (ii) The permanent members shall convene at least once each month as a committee to
69225 review new agency rules, amendments to existing agency rules, and repeals of existing agency
69226 rules. Meetings may be suspended at the discretion of the committee chairs.
69227 (iii) Members shall serve for two-year terms or until their successors are appointed.
69228 (iv) A vacancy exists whenever a committee member ceases to be a member of the
69229 Legislature, or when a member resigns from the committee. Vacancies shall be filled by the
69230 appointing authority, and the replacement shall serve out the unexpired term.
69231 (c) When the committee reviews existing rules, the committee's permanent members
69232 shall invite the Senate and House chairmen of the standing committee and the Senate and
69233 House chairmen of the appropriation subcommittee that have jurisdiction over the agency
69234 whose existing rules are being reviewed to participate as nonvoting, ex officio members with
69235 the committee.
69236 (d) Three representatives and three senators from the permanent members are a quorum
69237 for the transaction of business at any meeting.
69238 (2) Each agency rule as defined in Section [~~63-46a-2~~] 63G-3-102 shall be submitted to
69239 the committee at the same time public notice is given under Section [~~63-46a-4~~] 63G-3-301.
69240 (3) (a) The committee shall exercise continuous oversight of the process of rulemaking.
69241 (b) The committee shall examine rules submitted by each agency to determine:
69242 (i) whether or not they are authorized by statute;
69243 (ii) whether or not they comply with legislative intent;
69244 (iii) their impact on the economy and the government operations of the state and local
69245 political subdivisions; and
69246 (iv) their impact on affected persons.
69247 (c) To carry out these duties, the committee may examine any other issues that it
69248 considers necessary. The committee may also notify and refer rules to the chairmen of the
69249 interim committee which has jurisdiction over a particular agency when the committee
69250 determines that an issue involved in an agency's rules may be more appropriately addressed by

69251 that committee.
69252 (d) In reviewing the rules, the committee shall follow generally accepted principles of
69253 statutory construction.
69254 (4) The committee may request that the Office of the Legislative Fiscal Analyst prepare
69255 a fiscal note on any rule.
69256 (5) In order to accomplish its oversight functions, the committee has all the powers
69257 granted to legislative interim committees as set forth in Section 36-12-11.
69258 (6) (a) The committee may prepare written findings of its review of each rule and may
69259 include any recommendations, including legislative action.
69260 (b) The committee shall provide to the agency that enacted the rule:
69261 (i) its findings, if any; and
69262 (ii) a request that the agency notify the committee of any changes it makes in the rule.
69263 (c) The committee shall provide its findings to any member of the Legislature and to
69264 any person affected by the rule who requests the findings.
69265 (d) The committee shall provide its findings to the presiding officers of both the House
69266 and the Senate, Senate and House chairs of the standing committee, and the Senate and House
69267 chairs of the Appropriation Subcommittee that have jurisdiction over the agency whose rules
69268 are the subject of the findings.
69269 (7) (a) The committee may submit a report on its review of state agency rules to each
69270 member of the Legislature at each regular session.
69271 (b) The report shall include:
69272 (i) the findings and recommendations made by the committee under Subsection (6);
69273 (ii) any action taken by an agency in response to committee recommendations; and
69274 (iii) any recommendations by the committee for legislation.
69275 Section 1369. Section **63G-3-502**, which is renumbered from Section 63-46a-11.5 is
69276 renumbered and amended to read:
69277 **[~~63-46a-11.5~~]. 63G-3-502. Legislative reauthorization of agency rules --**
69278 **Extension of rules by governor.**
69279 (1) All grants of rulemaking power from the Legislature to a state agency in any statute
69280 are made subject to the provisions of this section.
69281 (2) (a) Except as provided in Subsection (2)(b), every agency rule that is in effect on

69282 February 28 of any calendar year expires on May 1 of that year unless it has been reauthorized
69283 by the Legislature.
69284 (b) Notwithstanding the provisions of Subsection (2)(a), an agency's rules do not expire
69285 if:
69286 (i) the rule is explicitly mandated by a federal law or regulation; or
69287 (ii) a provision of Utah's constitution vests the agency with specific constitutional
69288 authority to regulate.
69289 (3) (a) The Administrative Rules Review Committee shall have omnibus legislation
69290 prepared for consideration by the Legislature during its annual general session.
69291 (b) The omnibus legislation shall be substantially in the following form: "All rules of
69292 Utah state agencies are reauthorized except for the following:".
69293 (c) Before sending the legislation to the governor for [~~his~~] the governor's action, the
69294 Administrative Rules Review Committee may send a letter to the governor and to the agency
69295 explaining specifically why the committee believes any rule should not be reauthorized.
69296 (d) For the purpose of this section, the entire rule, a single section, or any complete
69297 paragraph of a rule may be excepted for reauthorization in the omnibus legislation considered
69298 by the Legislature.
69299 (4) The Legislature's reauthorization of a rule by legislation does not constitute
69300 legislative approval of the rule, nor is it admissible in any proceeding as evidence of legislative
69301 intent.
69302 (5) (a) If an agency believes that a rule that has not been reauthorized by the
69303 Legislature or that will be allowed to expire should continue in full force and effect and is a
69304 rule within their authorized rulemaking power, the agency may seek the governor's declaration
69305 extending the rule beyond the expiration date.
69306 (b) In seeking the extension, the agency shall submit a petition to the governor that
69307 affirmatively states:
69308 (i) that the rule is necessary; and
69309 (ii) a citation to the source of its authority to make the rule.
69310 (c) (i) If the governor finds that the necessity does exist, and that the agency has the
69311 authority to make the rule, [~~he~~] the governor may declare the rule to be extended by publishing
69312 that declaration in the Administrative Rules Bulletin on or before April 15 of that year.

69313 (ii) The declaration shall set forth the rule to be extended, the reasons the extension is
69314 necessary, and a citation to the source of the agency's authority to make the rule.
69315 (d) If the omnibus bill required by Subsection (3) fails to pass both houses of the
69316 Legislature or is found to have a technical legal defect preventing reauthorization of
69317 administrative rules intended to be reauthorized by the Legislature, the governor may declare
69318 all rules to be extended by publishing a single declaration in the Administrative Rules Bulletin
69319 on or before June 15 without meeting requirements of Subsections (5)(b) and (c).
69320 Section 1370. Section **63G-3-601**, which is renumbered from Section 63-46a-12 is
69321 renumbered and amended to read:
69322 **Part 6. Judicial Review**
69323 **[~~63-46a-12~~]. 63G-3-601. Interested parties -- Petition for agency action.**
69324 (1) As used in this section, "initiate rulemaking proceedings" means the filing, for the
69325 purposes of publication in accordance with Subsection [~~63-46a-4~~] 63G-3-301(4), of an
69326 agency's proposed rule to implement a petition for the making, amendment, or repeal of a rule
69327 as provided in this section.
69328 (2) An interested person may petition an agency to request the making, amendment, or
69329 repeal of a rule.
69330 (3) The division shall prescribe by rule the form for petitions and the procedure for
69331 their submission, consideration, and disposition.
69332 (4) A statement shall accompany the proposed rule, or proposed amendment or repeal
69333 of a rule, demonstrating that the proposed action is within the jurisdiction of the agency and
69334 appropriate to the powers of the agency.
69335 (5) Within 60 days after submission of a petition, the agency shall either deny the
69336 petition in writing, stating its reasons for the denial, or initiate rulemaking proceedings.
69337 (6) (a) If the petition is submitted to a board that has been granted rulemaking authority
69338 by the Legislature, the board shall, within 45 days of the submission of the petition, place the
69339 petition on its agenda for review.
69340 (b) Within 80 days of the submission of the petition, the board shall either:
69341 (i) deny the petition in writing stating its reasons for denial; or
69342 (ii) initiate rulemaking proceedings.
69343 (7) If the agency or board has not provided the petitioner written notice that the agency

69344 has denied the petition or initiated rulemaking proceedings within the time limitations specified
69345 in Subsection (5) or (6) respectively, the petitioner may seek a writ of mandamus in state
69346 district court.
69347 Section 1371. Section **63G-3-602**, which is renumbered from Section 63-46a-12.1 is
69348 renumbered and amended to read:
69349 **[~~63-46a-12.1~~]. 63G-3-602. Judicial challenge to administrative rules.**
69350 (1) (a) Any person aggrieved by a rule may obtain judicial review of the rule by filing a
69351 complaint with the county clerk in the district court where the person resides or in the district
69352 court in Salt Lake County.
69353 (b) Any person aggrieved by an agency's failure to comply with Section [~~63-46a-3~~]
69354 63G-3-201 may obtain judicial review of the agency's failure to comply by filing a complaint
69355 with the clerk of the district court where the person resides or in the district court in Salt Lake
69356 County.
69357 (2) (a) Except as provided in Subsection (2)(b), a person seeking judicial review under
69358 this section shall exhaust that person's administrative remedies by complying with the
69359 requirements of Section [~~63-46a-12~~] 63G-3-601 before filing the complaint.
69360 (b) When seeking judicial review of a rule, the person need not exhaust that person's
69361 administrative remedies if:
69362 (i) less than six months has passed since the date that the rule became effective and the
69363 person had submitted verbal or written comments on the rule to the agency during the public
69364 comment period;
69365 (ii) a statute granting rulemaking authority expressly exempts rules made under
69366 authority of that statute from compliance with Section [~~63-46a-12~~] 63G-3-601; or
69367 (iii) compliance with Section [~~63-46a-12~~] 63G-3-601 would cause the person
69368 irreparable harm.
69369 (3) (a) In addition to the information required by the Utah Rules of Civil Procedure, a
69370 complaint filed under this section shall contain:
69371 (i) the name and mailing address of the plaintiff;
69372 (ii) the name and mailing address of the defendant agency;
69373 (iii) the name and mailing address of any other party joined in the action as a
69374 defendant;

69375 (iv) the text of the rule or proposed rule, if any;
69376 (v) an allegation that the person filing the complaint has either exhausted the
69377 administrative remedies by complying with Section [~~63-46a-12~~] 63G-3-601 or met the
69378 requirements for waiver of exhaustion of administrative remedies established by Subsection
69379 (2)(b);
69380 (vi) the relief sought; and
69381 (vii) factual and legal allegations supporting the relief sought.
69382 (b) (i) The plaintiff shall serve a summons and a copy of the complaint as required by
69383 the Utah Rules of Civil Procedure.
69384 (ii) The defendants shall file a responsive pleading as required by the Utah Rules of
69385 Civil Procedures.
69386 (iii) The agency shall file the administrative record of the rule, if any, with its
69387 responsive pleading.
69388 (4) The district court may grant relief to the petitioner by:
69389 (a) declaring the rule invalid, if the court finds that:
69390 (i) the rule violates constitutional or statutory law or the agency does not have legal
69391 authority to make the rule;
69392 (ii) the rule is not supported by substantial evidence when viewed in light of the whole
69393 administrative record; or
69394 (iii) the agency did not follow proper rulemaking procedure;
69395 (b) declaring the rule nonapplicable to the petitioner;
69396 (c) remanding the matter to the agency for compliance with proper rulemaking
69397 procedures or further fact-finding;
69398 (d) ordering the agency to comply with Section [~~63-46a-3~~] 63G-3-201;
69399 (e) issuing a judicial stay or injunction to enjoin the agency from illegal action or
69400 action that would cause irreparable harm to the petitioner; or
69401 (f) any combination of Subsections (4)(a) through (e).
69402 (5) If the plaintiff meets the requirements of Subsection (2)(b), the district court may
69403 review and act on a complaint under this section whether or not the plaintiff has requested the
69404 agency review under Section [~~63-46a-12~~] 63G-3-601.
69405 Section 1372. Section **63G-3-603**, which is renumbered from Section 63-46a-14 is

69406 renumbered and amended to read:
69407 **[~~63-46a-14~~]. 63G-3-603. Time for contesting a rule -- Statute of**
69408 **limitations.**
69409 (1) A proceeding to contest any rule on the ground of noncompliance with the
69410 procedural requirements of this chapter shall commence within two years of the effective date
69411 of the rule.
69412 (2) A proceeding to contest any rule on the ground of not being supported by
69413 substantial evidence when viewed in light of the whole administrative record shall commence
69414 within four years of the effective date of the challenged action.
69415 (3) A proceeding to contest any rule on the basis that a change to the rule made under
69416 Subsection [~~63-46a-10~~] 63G-3-402(2) or (3) substantively changed the rule shall be
69417 commenced within two years of the date the change was made.
69418 Section 1373. Section **63G-3-701**, which is renumbered from Section 63-46a-16 is
69419 renumbered and amended to read:
69420 **Part 7. Official Compilation of Administrative Rules**
69421 **[~~63-46a-16~~]. 63G-3-701. Utah Administrative Code as official compilation**
69422 **of rules -- Judicial notice.**
69423 The code shall be received by all the judges, public officers, commissions, and
69424 departments of the state government as evidence of the administrative law of the state of Utah
69425 and as an authorized compilation of the administrative law of Utah. All courts shall take
69426 judicial notice of the code and its provisions.
69427 Section 1374. Section **63G-3-702**, which is renumbered from Section 63-46a-9.6 is
69428 renumbered and amended to read:
69429 **[~~63-46a-9.6~~]. 63G-3-702. Utah Administrative Code -- Organization --**
69430 **Official compilation.**
69431 (1) The Utah Administrative Code shall be divided into three parts:
69432 (a) titles, whose number shall begin with "R";
69433 (b) rules; and
69434 (c) sections.
69435 (2) All sections contained in the code are referenced by a three-part number indicating
69436 its location in the code.

69437 (3) The division shall maintain the official compilation of the code and is the
69438 state-designated repository for administrative rules. If a dispute arises in which there is more
69439 than one version of a rule, the latest effective version on file with the division is considered the
69440 correct, current version.
69441 Section 1375. Section **63G-4-101**, which is renumbered from Section 63-46b-0.5 is
69442 renumbered and amended to read:
69443 **CHAPTER 4. ADMINISTRATIVE PROCEDURES ACT**
69444 **Part 1. General Provisions**
69445 **[~~63-46b-0.5~~]. 63G-4-101. Title.**
69446 This [~~act~~] chapter is known as the "Administrative Procedures Act."
69447 Section 1376. Section **63G-4-102**, which is renumbered from Section 63-46b-1 is
69448 renumbered and amended to read:
69449 **[~~63-46b-1~~]. 63G-4-102. Scope and applicability of chapter.**
69450 (1) Except as set forth in Subsection (2), and except as otherwise provided by a statute
69451 superseding provisions of this chapter by explicit reference to this chapter, the provisions of
69452 this chapter apply to every agency of the state and govern:
69453 (a) state agency action that determines the legal rights, duties, privileges, immunities,
69454 or other legal interests of an identifiable person, including agency action to grant, deny, revoke,
69455 suspend, modify, annul, withdraw, or amend an authority, right, or license; and
69456 (b) judicial review of the action.
69457 (2) This chapter does not govern:
69458 (a) the procedure for making agency rules, or judicial review of the procedure or rules;
69459 (b) the issuance of a notice of a deficiency in the payment of a tax, the decision to
69460 waive a penalty or interest on taxes, the imposition of and penalty or interest on taxes, or the
69461 issuance of a tax assessment, except that this chapter governs an agency action commenced by
69462 a taxpayer or by another person authorized by law to contest the validity or correctness of the
69463 action;
69464 (c) state agency action relating to extradition, to the granting of a pardon or parole, a
69465 commutation or termination of a sentence, or to the rescission, termination, or revocation of
69466 parole or probation, to the discipline of, resolution of a grievance of, supervision of,
69467 confinement of, or the treatment of an inmate or resident of a correctional facility, the Utah

69468 State Hospital, the Utah State Developmental Center, or a person in the custody or jurisdiction
69469 of the Division of Substance Abuse and Mental Health, or a person on probation or parole, or
69470 judicial review of the action;
69471 (d) state agency action to evaluate, discipline, employ, transfer, reassign, or promote a
69472 student or teacher in a school or educational institution, or judicial review of the action;
69473 (e) an application for employment and internal personnel action within an agency
69474 concerning its own employees, or judicial review of the action;
69475 (f) the issuance of a citation or assessment under Title 34A, Chapter 6, Utah
69476 Occupational Safety and Health Act, and Title 58, Chapter 3a, Architects Licensing Act,
69477 Chapter 11a, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing
69478 Act, Chapter 17b, Pharmacy Practice Act, Chapter 22, Professional Engineers and Professional
69479 Land Surveyors Licensing Act, Chapter 53, Landscape Architects Licensing Act, Chapter 55,
69480 Utah Construction Trades Licensing Act, Chapter 63, Security Personnel Licensing Act, and
69481 Chapter 76, Professional Geologist Licensing Act, except that this chapter governs an agency
69482 action commenced by the employer, licensee, or other person authorized by law to contest the
69483 validity or correctness of the citation or assessment;
69484 (g) state agency action relating to management of state funds, the management and
69485 disposal of school and institutional trust land assets, and contracts for the purchase or sale of
69486 products, real property, supplies, goods, or services by or for the state, or by or for an agency of
69487 the state, except as provided in those contracts, or judicial review of the action;
69488 (h) state agency action under Title 7, Chapter 1, Article 3, Powers and Duties of
69489 Commissioner of Financial Institutions, Title 7, Chapter 2, Possession of Depository Institution
69490 by Commissioner, Title 7, Chapter 19, Acquisition of Failing Depository Institutions or
69491 Holding Companies, and [~~Title 63, Chapter 30d~~] Title 63G, Chapter 7, Governmental
69492 Immunity Act of Utah, or judicial review of the action;
69493 (i) the initial determination of a person's eligibility for unemployment benefits, the
69494 initial determination of a person's eligibility for benefits under Title 34A, Chapter 2, Workers'
69495 Compensation Act, and Title 34A, Chapter 3, Utah Occupational Disease Act, or the initial
69496 determination of a person's unemployment tax liability;
69497 (j) state agency action relating to the distribution or award of a monetary grant to or
69498 between governmental units, or for research, development, or the arts, or judicial review of the

69499 action;
69500 (k) the issuance of a notice of violation or order under Title 26, Chapter 8a, Utah
69501 Emergency Medical Services System Act, Title 19, Chapter 2, Air Conservation Act, Title 19,
69502 Chapter 3, Radiation Control Act, Title 19, Chapter 4, Safe Drinking Water Act, Title 19,
69503 Chapter 5, Water Quality Act, Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act,
69504 Title 19, Chapter 6, Part 4, Underground Storage Tank Act, or Title 19, Chapter 6, Part 7, Used
69505 Oil Management Act, or Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, except
69506 that this chapter governs an agency action commenced by a person authorized by law to contest
69507 the validity or correctness of the notice or order;
69508 (l) state agency action, to the extent required by federal statute or regulation, to be
69509 conducted according to federal procedures;
69510 (m) the initial determination of a person's eligibility for government or public
69511 assistance benefits;
69512 (n) state agency action relating to wildlife licenses, permits, tags, and certificates of
69513 registration;
69514 (o) a license for use of state recreational facilities;
69515 (p) state agency action under [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government
69516 Records Access and Management Act, except as provided in Section [~~63-2-603~~] 63G-2-603;
69517 (q) state agency action relating to the collection of water commissioner fees and
69518 delinquency penalties, or judicial review of the action;
69519 (r) state agency action relating to the installation, maintenance, and repair of headgates,
69520 caps, values, or other water controlling works and weirs, flumes, meters, or other water
69521 measuring devices, or judicial review of the action;
69522 (s) the issuance and enforcement of an initial order under Section 73-2-25;
69523 (t) (i) a hearing conducted by the Division of Securities under Section 61-1-11.1; and
69524 (ii) an action taken by the Division of Securities pursuant to a hearing conducted under
69525 Section 61-1-11.1, including a determination regarding the fairness of an issuance or exchange
69526 of securities described in Subsection 61-1-11.1(1); and
69527 (u) state agency action relating to water well driller licenses, water well drilling
69528 permits, water well driller registration, or water well drilling construction standards, or judicial
69529 review of the action.

69530 (3) This chapter does not affect a legal remedy otherwise available to:
69531 (a) compel an agency to take action; or
69532 (b) challenge an agency's rule.
69533 (4) This chapter does not preclude an agency, prior to the beginning of an adjudicative
69534 proceeding, or the presiding officer during an adjudicative proceeding from:
69535 (a) requesting or ordering a conference with parties and interested persons to:
69536 (i) encourage settlement;
69537 (ii) clarify the issues;
69538 (iii) simplify the evidence;
69539 (iv) facilitate discovery; or
69540 (v) expedite the proceeding; or
69541 (b) granting a timely motion to dismiss or for summary judgment if the requirements of
69542 Rule 12(b) or Rule 56 of the Utah Rules of Civil Procedure are met by the moving party,
69543 except to the extent that the requirements of those rules are modified by this chapter.
69544 (5) (a) A declaratory proceeding authorized by Section [~~63-46b-21~~] 63G-4-503 is not
69545 governed by this chapter, except as explicitly provided in that section.
69546 (b) Judicial review of a declaratory proceeding authorized by Section [~~63-46b-21~~]
69547 63G-4-503 is governed by this chapter.
69548 (6) This chapter does not preclude an agency from enacting a rule affecting or
69549 governing an adjudicative proceeding or from following the rule, if the rule is enacted
69550 according to the procedures outlined in [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
69551 Administrative Rulemaking Act, and if the rule conforms to the requirements of this chapter.
69552 (7) (a) If the attorney general issues a written determination that a provision of this
69553 chapter would result in the denial of funds or services to an agency of the state from the federal
69554 government, the applicability of the provision to that agency shall be suspended to the extent
69555 necessary to prevent the denial.
69556 (b) The attorney general shall report the suspension to the Legislature at its next
69557 session.
69558 (8) Nothing in this chapter may be interpreted to provide an independent basis for
69559 jurisdiction to review final agency action.
69560 (9) Nothing in this chapter may be interpreted to restrict a presiding officer, for good

69561 cause shown, from lengthening or shortening a time period prescribed in this chapter, except
69562 the time period established for judicial review.
69563 Section 1377. Section **63G-4-103**, which is renumbered from Section 63-46b-2 is
69564 renumbered and amended to read:
69565 **[~~63-46b-2~~]. 63G-4-103. Definitions.**
69566 (1) As used in this chapter:
69567 (a) "Adjudicative proceeding" means an agency action or proceeding described in
69568 Section [~~63-46b-1~~] 63G-4-102.
69569 (b) "Agency" means a board, commission, department, division, officer, council,
69570 office, committee, bureau, or other administrative unit of this state, including the agency head,
69571 agency employees, or other persons acting on behalf of or under the authority of the agency
69572 head, but does not mean the Legislature, the courts, the governor, any political subdivision of
69573 the state, or any administrative unit of a political subdivision of the state.
69574 (c) "Agency head" means an individual or body of individuals in whom the ultimate
69575 legal authority of the agency is vested by statute.
69576 (d) "Declaratory proceeding" means a proceeding authorized and governed by Section
69577 [~~63-46b-21~~] 63G-4-503.
69578 (e) "License" means a franchise, permit, certification, approval, registration, charter, or
69579 similar form of authorization required by statute.
69580 (f) "Party" means the agency or other person commencing an adjudicative proceeding,
69581 all respondents, all persons permitted by the presiding officer to intervene in the proceeding,
69582 and all persons authorized by statute or agency rule to participate as parties in an adjudicative
69583 proceeding.
69584 (g) "Person" means an individual, group of individuals, partnership, corporation,
69585 association, political subdivision or its units, governmental subdivision or its units, public or
69586 private organization or entity of any character, or another agency.
69587 (h) (i) "Presiding officer" means an agency head, or an individual or body of
69588 individuals designated by the agency head, by the agency's rules, or by statute to conduct an
69589 adjudicative proceeding.
69590 (ii) If fairness to the parties is not compromised, an agency may substitute one
69591 presiding officer for another during any proceeding.

69592 (iii) A person who acts as a presiding officer at one phase of a proceeding need not
69593 continue as presiding officer through all phases of a proceeding.
69594 (i) "Respondent" means a person against whom an adjudicative proceeding is initiated,
69595 whether by an agency or any other person.
69596 (j) "Superior agency" means an agency required or authorized by law to review the
69597 orders of another agency.
69598 (2) This section does not prohibit an agency from designating by rule the names or
69599 titles of the agency head or the presiding officers with responsibility for adjudicative
69600 proceedings before the agency.
69601 Section 1378. Section **63G-4-104**, which is renumbered from Section 63-46b-2.1 is
69602 renumbered and amended to read:
69603 **[~~63-46b-2.1~~]. 63G-4-104. Bases for certain recommendations and decisions**
69604 **limited.**
69605 (1) Except as provided in Subsection (2), no agency may recommend or rule on the
69606 custody, placement, including foster placement, or other disposition alternative for a minor, or
69607 the termination of parental rights, based on the fact that a parent or guardian of the minor
69608 lawfully does one or more of the following:
69609 (a) legally possesses or uses a firearm or other weapon;
69610 (b) espouses particular religious beliefs; or
69611 (c) schools the minor or other minors outside the public education system or is
69612 otherwise sympathetic to schooling a minor outside the public education system.
69613 (2) Subsection (1) does not prohibit a recommendation or ruling based on the
69614 compatibility of a minor with a particular custody, placement, or other disposition alternative
69615 as determined by the presence of any of the factors in Subsections (1)(a) through (1)(c).
69616 Section 1379. Section **63G-4-105**, which is renumbered from Section 63-46b-22 is
69617 renumbered and amended to read:
69618 **[~~63-46b-22~~]. 63G-4-105. Transition procedures.**
69619 (1) The procedures for agency action, agency review, and judicial review contained in
69620 this chapter are applicable to all agency adjudicative proceedings commenced by or before an
69621 agency on or after January 1, 1988.
69622 (2) Statutes and rules governing agency action, agency review, and judicial review that

69623 are in effect on December 31, 1987, govern all agency adjudicative proceedings commenced by
69624 or before an agency on or before December 31, 1987, even if those proceedings are still
69625 pending before an agency or a court on January 1, 1988.
69626 Section 1380. Section **63G-4-201**, which is renumbered from Section 63-46b-3 is
69627 renumbered and amended to read:
69628 **Part 2. Adjudicative Proceedings**
69629 **[~~63-46b-3~~]. 63G-4-201. Commencement of adjudicative proceedings.**
69630 (1) Except as otherwise permitted by Section [~~63-46b-20~~] 63G-4-502, all adjudicative
69631 proceedings shall be commenced by either:
69632 (a) a notice of agency action, if proceedings are commenced by the agency; or
69633 (b) a request for agency action, if proceedings are commenced by persons other than
69634 the agency.
69635 (2) A notice of agency action shall be filed and served according to the following
69636 requirements:
69637 (a) The notice of agency action shall be in writing, signed by a presiding officer, and
69638 shall include:
69639 (i) the names and mailing addresses of all persons to whom notice is being given by the
69640 presiding officer, and the name, title, and mailing address of any attorney or employee who has
69641 been designated to appear for the agency;
69642 (ii) the agency's file number or other reference number;
69643 (iii) the name of the adjudicative proceeding;
69644 (iv) the date that the notice of agency action was mailed;
69645 (v) a statement of whether the adjudicative proceeding is to be conducted informally
69646 according to the provisions of rules adopted under Sections [~~63-46b-4~~] 63G-4-202 and
69647 [~~63-46b-5~~] 63G-4-203, or formally according to the provisions of Sections [~~63-46b-6~~]
69648 63G-4-204 through [~~63-46b-11~~] 63G-4-209;
69649 (vi) if the adjudicative proceeding is to be formal, a statement that each respondent
69650 must file a written response within 30 days of the mailing date of the notice of agency action;
69651 (vii) if the adjudicative proceeding is to be formal, or if a hearing is required by statute
69652 or rule, a statement of the time and place of any scheduled hearing, a statement of the purpose
69653 for which the hearing is to be held, and a statement that a party who fails to attend or

69654 participate in the hearing may be held in default;
69655 (viii) if the adjudicative proceeding is to be informal and a hearing is required by
69656 statute or rule, or if a hearing is permitted by rule and may be requested by a party within the
69657 time prescribed by rule, a statement that the parties may request a hearing within the time
69658 provided by the agency's rules;
69659 (ix) a statement of the legal authority and jurisdiction under which the adjudicative
69660 proceeding is to be maintained;
69661 (x) the name, title, mailing address, and telephone number of the presiding officer; and
69662 (xi) a statement of the purpose of the adjudicative proceeding and, to the extent known
69663 by the presiding officer, the questions to be decided.
69664 (b) When adjudicative proceedings are commenced by the agency, the agency shall:
69665 (i) mail the notice of agency action to each party;
69666 (ii) publish the notice of agency action, if required by statute; and
69667 (iii) mail the notice of agency action to any other person who has a right to notice
69668 under statute or rule.
69669 (3) (a) Where the law applicable to the agency permits persons other than the agency to
69670 initiate adjudicative proceedings, that person's request for agency action shall be in writing and
69671 signed by the person invoking the jurisdiction of the agency, or by that person's representative,
69672 and shall include:
69673 (i) the names and addresses of all persons to whom a copy of the request for agency
69674 action is being sent;
69675 (ii) the agency's file number or other reference number, if known;
69676 (iii) the date that the request for agency action was mailed;
69677 (iv) a statement of the legal authority and jurisdiction under which agency action is
69678 requested;
69679 (v) a statement of the relief or action sought from the agency; and
69680 (vi) a statement of the facts and reasons forming the basis for relief or agency action.
69681 (b) The person requesting agency action shall file the request with the agency and shall
69682 mail a copy to each person known to have a direct interest in the requested agency action.
69683 (c) An agency may, by rule, prescribe one or more forms eliciting the information
69684 required by Subsection (3)(a) to serve as the request for agency action when completed and

69685 filed by the person requesting agency action.
69686 (d) The presiding officer shall promptly review a request for agency action and shall:
69687 (i) notify the requesting party in writing that the request is granted and that the
69688 adjudicative proceeding is completed;
69689 (ii) notify the requesting party in writing that the request is denied and, if the
69690 proceeding is a formal adjudicative proceeding, that the party may request a hearing before the
69691 agency to challenge the denial; or
69692 (iii) notify the requesting party that further proceedings are required to determine the
69693 agency's response to the request.
69694 (e) (i) Any notice required by Subsection (3)(d)(ii) shall contain the information
69695 required by Subsection [~~63-46b-5~~] 63G-4-203(1)(i) in addition to disclosure required by
69696 Subsection (3)(d)(ii).
69697 (ii) The agency shall mail any notice required by Subsection (3)(d) to all parties, except
69698 that any notice required by Subsection (3)(d)(iii) may be published when publication is
69699 required by statute.
69700 (iii) The notice required by Subsection (3)(d)(iii) shall:
69701 (A) give the agency's file number or other reference number;
69702 (B) give the name of the proceeding;
69703 (C) designate whether the proceeding is one of a category to be conducted informally
69704 according to the provisions of rules enacted under Sections [~~63-46b-4~~] 63G-4-202 and
69705 [~~63-46b-5~~] 63G-4-203, with citation to the applicable rule authorizing that designation, or
69706 formally according to Sections [~~63-46b-6~~] 63G-4-204 through [~~63-46b-11~~] 63G-4-209;
69707 (D) in the case of a formal adjudicative proceeding, and where respondent parties are
69708 known, state that a written response must be filed within 30 days of the date of the agency's
69709 notice if mailed, or within 30 days of the last publication date of the agency's notice, if
69710 published;
69711 (E) if the adjudicative proceeding is to be formal, or if a hearing is to be held in an
69712 informal adjudicative proceeding, state the time and place of any scheduled hearing, the
69713 purpose for which the hearing is to be held, and that a party who fails to attend or participate in
69714 a scheduled and noticed hearing may be held in default;
69715 (F) if the adjudicative proceeding is to be informal, and a hearing is required by statute

69716 or rule, or if a hearing is permitted by rule and may be requested by a party within the time
69717 prescribed by rule, state the parties' right to request a hearing and the time within which a
69718 hearing may be requested under the agency's rules; and
69719 (G) give the name, title, mailing address, and telephone number of the presiding
69720 officer.
69721 (4) When initial agency determinations or actions are not governed by this chapter, but
69722 agency and judicial review of those initial determinations or actions are subject to the
69723 provisions of this chapter, the request for agency action seeking review must be filed with the
69724 agency within the time prescribed by the agency's rules.
69725 (5) For designated classes of adjudicative proceedings, an agency may, by rule, provide
69726 for a longer response time than allowed by this section, and may provide for a shorter response
69727 time if required or permitted by applicable federal law.
69728 (6) Unless the agency provides otherwise by rule or order, an application for a package
69729 agency, license, permit, or certificate of approval filed under authority of Title 32A, Alcoholic
69730 Beverage Control Act, is not considered to be a request for agency action under this chapter.
69731 (7) If the purpose of the adjudicative proceeding is to award a license or other privilege
69732 as to which there are multiple competing applicants, the agency may, by rule or order, conduct
69733 a single adjudicative proceeding to determine the award of that license or privilege.
69734 Section 1381. Section **63G-4-202**, which is renumbered from Section 63-46b-4 is
69735 renumbered and amended to read:
69736 **[~~63-46b-4~~]. 63G-4-202. Designation of adjudicative proceedings as informal --**
69737 **Standards -- Undesignated proceedings formal.**
69738 (1) The agency may, by rule, designate categories of adjudicative proceedings to be
69739 conducted informally according to the procedures set forth in rules enacted under the authority
69740 of this chapter if:
69741 (a) the use of the informal procedures does not violate any procedural requirement
69742 imposed by a statute other than this chapter;
69743 (b) in the view of the agency, the rights of the parties to the proceedings will be
69744 reasonably protected by the informal procedures;
69745 (c) in the view of the agency, the agency's administrative efficiency will be enhanced
69746 by categorizations; and

69747 (d) the cost of formal adjudicative proceedings outweighs the potential benefits to the
69748 public of a formal adjudicative proceeding.
69749 (2) Subject to the provisions of Subsection (3), all agency adjudicative proceedings not
69750 specifically designated as informal proceedings by the agency's rules shall be conducted
69751 formally in accordance with the requirements of this chapter.
69752 (3) Any time before a final order is issued in any adjudicative proceeding, the presiding
69753 officer may convert a formal adjudicative proceeding to an informal adjudicative proceeding,
69754 or an informal adjudicative proceeding to a formal adjudicative proceeding if:
69755 (a) conversion of the proceeding is in the public interest; and
69756 (b) conversion of the proceeding does not unfairly prejudice the rights of any party.
69757 Section 1382. Section **63G-4-203**, which is renumbered from Section 63-46b-5 is
69758 renumbered and amended to read:
69759 **[~~63-46b-5~~]. 63G-4-203. Procedures for informal adjudicative proceedings.**
69760 (1) If an agency enacts rules designating one or more categories of adjudicative
69761 proceedings as informal adjudicative proceedings, the agency shall, by rule, prescribe
69762 procedures for informal adjudicative proceedings that include the following:
69763 (a) Unless the agency by rule provides for and requires a response, no answer or other
69764 pleading responsive to the allegations contained in the notice of agency action or the request
69765 for agency action need be filed.
69766 (b) The agency shall hold a hearing if a hearing is required by statute or rule, or if a
69767 hearing is permitted by rule and is requested by a party within the time prescribed by rule.
69768 (c) In any hearing, the parties named in the notice of agency action or in the request for
69769 agency action shall be permitted to testify, present evidence, and comment on the issues.
69770 (d) Hearings will be held only after timely notice to all parties.
69771 (e) Discovery is prohibited, but the agency may issue subpoenas or other orders to
69772 compel production of necessary evidence.
69773 (f) All parties shall have access to information contained in the agency's files and to all
69774 materials and information gathered in any investigation, to the extent permitted by law.
69775 (g) Intervention is prohibited, except that the agency may enact rules permitting
69776 intervention where a federal statute or rule requires that a state permit intervention.
69777 (h) All hearings shall be open to all parties.

69778 (i) Within a reasonable time after the close of an informal adjudicative proceeding, the
69779 presiding officer shall issue a signed order in writing that states the following:
69780 (i) the decision;
69781 (ii) the reasons for the decision;
69782 (iii) a notice of any right of administrative or judicial review available to the parties;
69783 and
69784 (iv) the time limits for filing an appeal or requesting a review.
69785 (j) The presiding officer's order shall be based on the facts appearing in the agency's
69786 files and on the facts presented in evidence at any hearings.
69787 (k) A copy of the presiding officer's order shall be promptly mailed to each of the
69788 parties.
69789 (2) (a) The agency may record any hearing.
69790 (b) Any party, at [~~his~~] the party's own expense, may have a reporter approved by the
69791 agency prepare a transcript from the agency's record of the hearing.
69792 (3) Nothing in this section restricts or precludes any investigative right or power given
69793 to an agency by another statute.
69794 Section 1383. Section **63G-4-204**, which is renumbered from Section 63-46b-6 is
69795 renumbered and amended to read:
69796 **[~~63-46b-6~~]. 63G-4-204. Procedures for formal adjudicative proceedings --**
69797 **Responsive pleadings.**
69798 (1) In all formal adjudicative proceedings, unless modified by rule according to
69799 Subsection [~~63-46b-3~~] 63G-4-201(5), the respondent, if any, shall file and serve a written
69800 response signed by the respondent or the respondent's representative within 30 days of the
69801 mailing date or last date of publication of the notice of agency action or the notice under
69802 Subsection [~~63-46b-3~~] 63G-4-201(3)(d), which shall include:
69803 (a) the agency's file number or other reference number;
69804 (b) the name of the adjudicative proceeding;
69805 (c) a statement of the relief that the respondent seeks;
69806 (d) a statement of the facts; and
69807 (e) a statement summarizing the reasons that the relief requested should be granted.
69808 (2) The respondent shall send a copy of the response filed under Subsection (1) to each

69809 party.
69810 (3) The presiding officer, or the agency by rule, may permit or require pleadings in
69811 addition to the notice of agency action, the request for agency action, and the response. All
69812 documents permitted or required to be filed shall be filed with the agency and one copy shall be
69813 sent to each party.
69814 Section 1384. Section **63G-4-205**, which is renumbered from Section 63-46b-7 is
69815 renumbered and amended to read:
69816 **[~~63-46b-7~~]. 63G-4-205. Procedures for formal adjudicative proceedings --**
69817 **Discovery and subpoenas.**
69818 (1) In formal adjudicative proceedings, the agency may, by rule, prescribe means of
69819 discovery adequate to permit the parties to obtain all relevant information necessary to support
69820 their claims or defenses. If the agency does not enact rules under this section, the parties may
69821 conduct discovery according to the Utah Rules of Civil Procedure.
69822 (2) Subpoenas and other orders to secure the attendance of witnesses or the production
69823 of evidence in formal adjudicative proceedings shall be issued by the presiding officer when
69824 requested by any party, or may be issued by the presiding officer on [~~his~~] the presiding officer's
69825 own motion.
69826 (3) Nothing in this section restricts or precludes any investigative right or power given
69827 to an agency by another statute.
69828 Section 1385. Section **63G-4-206**, which is renumbered from Section 63-46b-8 is
69829 renumbered and amended to read:
69830 **[~~63-46b-8~~]. 63G-4-206. Procedures for formal adjudicative proceedings --**
69831 **Hearing procedure.**
69832 (1) Except as provided in Subsections [~~63-46b-3~~] 63G-4-201(3)(d)(i) and (ii), in all
69833 formal adjudicative proceedings, a hearing shall be conducted as follows:
69834 (a) The presiding officer shall regulate the course of the hearing to obtain full
69835 disclosure of relevant facts and to afford all the parties reasonable opportunity to present their
69836 positions.
69837 (b) On [~~his~~] the presiding officer's own motion or upon objection by a party, the
69838 presiding officer:
69839 (i) may exclude evidence that is irrelevant, immaterial, or unduly repetitious;

69840 (ii) shall exclude evidence privileged in the courts of Utah;
69841 (iii) may receive documentary evidence in the form of a copy or excerpt if the copy or
69842 excerpt contains all pertinent portions of the original document; and
69843 (iv) may take official notice of any facts that could be judicially noticed under the Utah
69844 Rules of Evidence, of the record of other proceedings before the agency, and of technical or
69845 scientific facts within the agency's specialized knowledge.
69846 (c) The presiding officer may not exclude evidence solely because it is hearsay.
69847 (d) The presiding officer shall afford to all parties the opportunity to present evidence,
69848 argue, respond, conduct cross-examination, and submit rebuttal evidence.
69849 (e) The presiding officer may give persons not a party to the adjudicative proceeding
69850 the opportunity to present oral or written statements at the hearing.
69851 (f) All testimony presented at the hearing, if offered as evidence to be considered in
69852 reaching a decision on the merits, shall be given under oath.
69853 (g) The hearing shall be recorded at the agency's expense.
69854 (h) Any party, at [~~his~~] the party's own expense, may have a person approved by the
69855 agency prepare a transcript of the hearing, subject to any restrictions that the agency is
69856 permitted by statute to impose to protect confidential information disclosed at the hearing.
69857 (i) All hearings shall be open to all parties.
69858 (2) This section does not preclude the presiding officer from taking appropriate
69859 measures necessary to preserve the integrity of the hearing.
69860 Section 1386. Section **63G-4-207**, which is renumbered from Section 63-46b-9 is
69861 renumbered and amended to read:
69862 **[~~63-46b-9~~]. 63G-4-207. Procedures for formal adjudicative proceedings --**
69863 **Intervention.**
69864 (1) Any person not a party may file a signed, written petition to intervene in a formal
69865 adjudicative proceeding with the agency. The person who wishes to intervene shall mail a
69866 copy of the petition to each party. The petition shall include:
69867 (a) the agency's file number or other reference number;
69868 (b) the name of the proceeding;
69869 (c) a statement of facts demonstrating that the petitioner's legal rights or interests are
69870 substantially affected by the formal adjudicative proceeding, or that the petitioner qualifies as

69871 an intervenor under any provision of law; and
69872 (d) a statement of the relief that the petitioner seeks from the agency.
69873 (2) The presiding officer shall grant a petition for intervention if the presiding officer
69874 determines that:
69875 (a) the petitioner's legal interests may be substantially affected by the formal
69876 adjudicative proceeding; and
69877 (b) the interests of justice and the orderly and prompt conduct of the adjudicative
69878 proceedings will not be materially impaired by allowing the intervention.
69879 (3) (a) Any order granting or denying a petition to intervene shall be in writing and
69880 mailed to the petitioner and each party.
69881 (b) An order permitting intervention may impose conditions on the intervenor's
69882 participation in the adjudicative proceeding that are necessary for a just, orderly, and prompt
69883 conduct of the adjudicative proceeding.
69884 (c) The presiding officer may impose the conditions at any time after the intervention.
69885 Section 1387. Section **63G-4-208**, which is renumbered from Section 63-46b-10 is
69886 renumbered and amended to read:
69887 **[~~63-46b-10~~]. 63G-4-208. Procedures for formal adjudicative proceedings**
69888 **-- Orders.**
69889 In formal adjudicative proceedings:
69890 (1) Within a reasonable time after the hearing, or after the filing of any posthearing
69891 documents permitted by the presiding officer, or within the time required by any applicable
69892 statute or rule of the agency, the presiding officer shall sign and issue an order that includes:
69893 (a) a statement of the presiding officer's findings of fact based exclusively on the
69894 evidence of record in the adjudicative proceedings or on facts officially noted;
69895 (b) a statement of the presiding officer's conclusions of law;
69896 (c) a statement of the reasons for the presiding officer's decision;
69897 (d) a statement of any relief ordered by the agency;
69898 (e) a notice of the right to apply for reconsideration;
69899 (f) a notice of any right to administrative or judicial review of the order available to
69900 aggrieved parties; and
69901 (g) the time limits applicable to any reconsideration or review.

69902 (2) The presiding officer may use the presiding officer's experience, technical
69903 competence, and specialized knowledge to evaluate the evidence.
69904 (3) A finding of fact that was contested may not be based solely on hearsay evidence
69905 unless that evidence is admissible under the Utah Rules of Evidence.
69906 (4) This section does not preclude the presiding officer from issuing interim orders to:
69907 (a) notify the parties of further hearings;
69908 (b) notify the parties of provisional rulings on a portion of the issues presented; or
69909 (c) otherwise provide for the fair and efficient conduct of the adjudicative proceeding.
69910 Section 1388. Section **63G-4-209**, which is renumbered from Section 63-46b-11 is
69911 renumbered and amended to read:
69912 **[~~63-46b-11~~]. 63G-4-209. Default.**
69913 (1) The presiding officer may enter an order of default against a party if:
69914 (a) a party in an informal adjudicative proceeding fails to participate in the adjudicative
69915 proceeding;
69916 (b) a party to a formal adjudicative proceeding fails to attend or participate in a
69917 properly scheduled hearing after receiving proper notice; or
69918 (c) a respondent in a formal adjudicative proceeding fails to file a response under
69919 Section [~~63-46b-6~~] 63G-4-204.
69920 (2) An order of default shall include a statement of the grounds for default and shall be
69921 mailed to all parties.
69922 (3) (a) A defaulted party may seek to have the agency set aside the default order, and
69923 any order in the adjudicative proceeding issued subsequent to the default order, by following
69924 the procedures outlined in the Utah Rules of Civil Procedure.
69925 (b) A motion to set aside a default and any subsequent order shall be made to the
69926 presiding officer.
69927 (c) A defaulted party may seek agency review under Section [~~63-46b-12~~] 63G-4-301,
69928 or reconsideration under Section [~~63-46b-13~~] 63G-4-302, only on the decision of the presiding
69929 officer on the motion to set aside the default.
69930 (4) (a) In an adjudicative proceeding begun by the agency, or in an adjudicative
69931 proceeding begun by a party that has other parties besides the party in default, the presiding
69932 officer shall, after issuing the order of default, conduct any further proceedings necessary to

69933 complete the adjudicative proceeding without the participation of the party in default and shall
69934 determine all issues in the adjudicative proceeding, including those affecting the defaulting
69935 party.
69936 (b) In an adjudicative proceeding that has no parties other than the agency and the party
69937 in default, the presiding officer shall, after issuing the order of default, dismiss the proceeding.
69938 Section 1389. Section **63G-4-301**, which is renumbered from Section 63-46b-12 is
69939 renumbered and amended to read:
69940 **Part 3. Agency Review**
69941 **[~~63-46b-12~~]. 63G-4-301. Agency review -- Procedure.**
69942 (1) (a) If a statute or the agency's rules permit parties to any adjudicative proceeding to
69943 seek review of an order by the agency or by a superior agency, the aggrieved party may file a
69944 written request for review within 30 days after the issuance of the order with the person or
69945 entity designated for that purpose by the statute or rule.
69946 (b) The request shall:
69947 (i) be signed by the party seeking review;
69948 (ii) state the grounds for review and the relief requested;
69949 (iii) state the date upon which it was mailed; and
69950 (iv) be mailed to the presiding officer and to each party.
69951 (2) (a) Within 15 days of the mailing date of the request for review, or within the time
69952 period provided by agency rule, whichever is longer, any party may file a response with the
69953 person designated by statute or rule to receive the response.
69954 (b) The party who files a response under Subsection (2)(a) shall mail a copy of the
69955 response to each of the parties and to the presiding officer.
69956 (3) If a statute or the agency's rules require review of an order by the agency or a
69957 superior agency, the agency or superior agency shall review the order within a reasonable time
69958 or within the time required by statute or the agency's rules.
69959 (4) To assist in review, the agency or superior agency may by order or rule permit the
69960 parties to file briefs or other documents, or to conduct oral argument.
69961 (5) Notice of hearings on review shall be mailed to all parties.
69962 (6) (a) Within a reasonable time after the filing of any response, other filings, or oral
69963 argument, or within the time required by statute or applicable rules, the agency or superior

69964 agency shall issue a written order on review.
69965 (b) The order on review shall be signed by the agency head or by a person designated
69966 by the agency for that purpose and shall be mailed to each party.
69967 (c) The order on review shall contain:
69968 (i) a designation of the statute or rule permitting or requiring review;
69969 (ii) a statement of the issues reviewed;
69970 (iii) findings of fact as to each of the issues reviewed;
69971 (iv) conclusions of law as to each of the issues reviewed;
69972 (v) the reasons for the disposition;
69973 (vi) whether the decision of the presiding officer or agency is to be affirmed, reversed,
69974 or modified, and whether all or any portion of the adjudicative proceeding is to be remanded;
69975 (vii) a notice of any right of further administrative reconsideration or judicial review
69976 available to aggrieved parties; and
69977 (viii) the time limits applicable to any appeal or review.
69978 Section 1390. Section **63G-4-302**, which is renumbered from Section 63-46b-13 is
69979 renumbered and amended to read:
69980 **[~~63-46b-13~~]. 63G-4-302. Agency review -- Reconsideration.**
69981 (1) (a) Within 20 days after the date that an order is issued for which review by the
69982 agency or by a superior agency under Section [~~63-46b-12~~] 63G-4-301 is unavailable, and if the
69983 order would otherwise constitute final agency action, any party may file a written request for
69984 reconsideration with the agency, stating the specific grounds upon which relief is requested.
69985 (b) Unless otherwise provided by statute, the filing of the request is not a prerequisite
69986 for seeking judicial review of the order.
69987 (2) The request for reconsideration shall be filed with the agency and one copy shall be
69988 mailed to each party by the person making the request.
69989 (3) (a) The agency head, or a person designated for that purpose, shall issue a written
69990 order granting the request or denying the request.
69991 (b) If the agency head or the person designated for that purpose does not issue an order
69992 within 20 days after the filing of the request, the request for reconsideration shall be considered
69993 to be denied.
69994 Section 1391. Section **63G-4-401**, which is renumbered from Section 63-46b-14 is

69995 renumbered and amended to read:

69996 **Part 4. Judicial Review**

69997 **[~~63-46b-14~~]. 63G-4-401. Judicial review -- Exhaustion of administrative**
69998 **remedies.**

69999 (1) A party aggrieved may obtain judicial review of final agency action, except in
70000 actions where judicial review is expressly prohibited by statute.

70001 (2) A party may seek judicial review only after exhausting all administrative remedies
70002 available, except that:

70003 (a) a party seeking judicial review need not exhaust administrative remedies if this
70004 chapter or any other statute states that exhaustion is not required;

70005 (b) the court may relieve a party seeking judicial review of the requirement to exhaust
70006 any or all administrative remedies if:

70007 (i) the administrative remedies are inadequate; or

70008 (ii) exhaustion of remedies would result in irreparable harm disproportionate to the
70009 public benefit derived from requiring exhaustion.

70010 (3) (a) A party shall file a petition for judicial review of final agency action within 30
70011 days after the date that the order constituting the final agency action is issued or is considered
70012 to have been issued under Subsection [~~63-46b-13~~] 63G-4-302 (3) (b).

70013 (b) The petition shall name the agency and all other appropriate parties as respondents
70014 and shall meet the form requirements specified in this chapter.

70015 Section 1392. Section **63G-4-402**, which is renumbered from Section 63-46b-15 is
70016 renumbered and amended to read:

70017 **[~~63-46b-15~~]. 63G-4-402. Judicial review -- Informal adjudicative**
70018 **proceedings.**

70019 (1) (a) The district courts have jurisdiction to review by trial de novo all final agency
70020 actions resulting from informal adjudicative proceedings, except that the juvenile courts have
70021 jurisdiction over all state agency actions relating to:

70022 (i) the removal or placement of children in state custody;

70023 (ii) the support of children under Subsection (1)(a)(i) as determined administratively
70024 under Section 78-3a-906; and

70025 (iii) substantiated findings of abuse or neglect made by the Division of Child and

70026 Family Services, after an evidentiary hearing.
70027 (b) Venue for judicial review of informal adjudicative proceedings shall be as provided
70028 in the statute governing the agency or, in the absence of such a venue provision, in the county
70029 where the petitioner resides or maintains the petitioner's principal place of business.
70030 (2) (a) The petition for judicial review of informal adjudicative proceedings shall be a
70031 complaint governed by the Utah Rules of Civil Procedure and shall include:
70032 (i) the name and mailing address of the party seeking judicial review;
70033 (ii) the name and mailing address of the respondent agency;
70034 (iii) the title and date of the final agency action to be reviewed, together with a copy,
70035 summary, or brief description of the agency action;
70036 (iv) identification of the persons who were parties in the informal adjudicative
70037 proceedings that led to the agency action;
70038 (v) a copy of the written agency order from the informal proceeding;
70039 (vi) facts demonstrating that the party seeking judicial review is entitled to obtain
70040 judicial review;
70041 (vii) a request for relief, specifying the type and extent of relief requested; and
70042 (viii) a statement of the reasons why the petitioner is entitled to relief.
70043 (b) All additional pleadings and proceedings in the district court are governed by the
70044 Utah Rules of Civil Procedure.
70045 (3) (a) The district court, without a jury, shall determine all questions of fact and law
70046 and any constitutional issue presented in the pleadings.
70047 (b) The Utah Rules of Evidence apply in judicial proceedings under this section.
70048 Section 1393. Section **63G-4-403**, which is renumbered from Section 63-46b-16 is
70049 renumbered and amended to read:
70050 **[~~63-46b-16~~]. 63G-4-403. Judicial review -- Formal adjudicative**
70051 **proceedings.**
70052 (1) As provided by statute, the Supreme Court or the Court of Appeals has jurisdiction
70053 to review all final agency action resulting from formal adjudicative proceedings.
70054 (2) (a) To seek judicial review of final agency action resulting from formal adjudicative
70055 proceedings, the petitioner shall file a petition for review of agency action with the appropriate
70056 appellate court in the form required by the appellate rules of the appropriate appellate court.

70057 (b) The appellate rules of the appropriate appellate court shall govern all additional
70058 filings and proceedings in the appellate court.
70059 (3) The contents, transmittal, and filing of the agency's record for judicial review of
70060 formal adjudicative proceedings are governed by the Utah Rules of Appellate Procedure,
70061 except that:
70062 (a) all parties to the review proceedings may stipulate to shorten, summarize, or
70063 organize the record;
70064 (b) the appellate court may tax the cost of preparing transcripts and copies for the
70065 record:
70066 (i) against a party who unreasonably refuses to stipulate to shorten, summarize, or
70067 organize the record; or
70068 (ii) according to any other provision of law.
70069 (4) The appellate court shall grant relief only if, on the basis of the agency's record, it
70070 determines that a person seeking judicial review has been substantially prejudiced by any of the
70071 following:
70072 (a) the agency action, or the statute or rule on which the agency action is based, is
70073 unconstitutional on its face or as applied;
70074 (b) the agency has acted beyond the jurisdiction conferred by any statute;
70075 (c) the agency has not decided all of the issues requiring resolution;
70076 (d) the agency has erroneously interpreted or applied the law;
70077 (e) the agency has engaged in an unlawful procedure or decision-making process, or
70078 has failed to follow prescribed procedure;
70079 (f) the persons taking the agency action were illegally constituted as a decision-making
70080 body or were subject to disqualification;
70081 (g) the agency action is based upon a determination of fact, made or implied by the
70082 agency, that is not supported by substantial evidence when viewed in light of the whole record
70083 before the court;
70084 (h) the agency action is:
70085 (i) an abuse of the discretion delegated to the agency by statute;
70086 (ii) contrary to a rule of the agency;
70087 (iii) contrary to the agency's prior practice, unless the agency justifies the inconsistency

70088 by giving facts and reasons that demonstrate a fair and rational basis for the inconsistency; or
70089 (iv) otherwise arbitrary or capricious.
70090 Section 1394. Section **63G-4-404**, which is renumbered from Section 63-46b-17 is
70091 renumbered and amended to read:
70092 **[~~63-46b-17~~]. 63G-4-404. Judicial review -- Type of relief.**
70093 (1) (a) In either the review of informal adjudicative proceedings by the district court or
70094 the review of formal adjudicative proceedings by an appellate court, the court may award
70095 damages or compensation only to the extent expressly authorized by statute.
70096 (b) In granting relief, the court may:
70097 (i) order agency action required by law;
70098 (ii) order the agency to exercise its discretion as required by law;
70099 (iii) set aside or modify agency action;
70100 (iv) enjoin or stay the effective date of agency action; or
70101 (v) remand the matter to the agency for further proceedings.
70102 (2) Decisions on petitions for judicial review of final agency action are reviewable by a
70103 higher court, if authorized by statute.
70104 Section 1395. Section **63G-4-405**, which is renumbered from Section 63-46b-18 is
70105 renumbered and amended to read:
70106 **[~~63-46b-18~~]. 63G-4-405. Judicial review -- Stay and other temporary**
70107 **remedies pending final disposition.**
70108 (1) Unless precluded by another statute, the agency may grant a stay of its order or
70109 other temporary remedy during the pendency of judicial review, according to the agency's rules.
70110 (2) Parties shall petition the agency for a stay or other temporary remedies unless
70111 extraordinary circumstances require immediate judicial intervention.
70112 (3) If the agency denies a stay or denies other temporary remedies requested by a party,
70113 the agency's order of denial shall be mailed to all parties and shall specify the reasons why the
70114 stay or other temporary remedy was not granted.
70115 (4) If the agency has denied a stay or other temporary remedy to protect the public
70116 health, safety, or welfare against a substantial threat, the court may not grant a stay or other
70117 temporary remedy unless it finds that:
70118 (a) the agency violated its own rules in denying the stay; or

70119 (b) (i) the party seeking judicial review is likely to prevail on the merits when the court
70120 finally disposes of the matter;
70121 (ii) the party seeking judicial review will suffer irreparable injury without immediate
70122 relief;
70123 (iii) granting relief to the party seeking review will not substantially harm other parties
70124 to the proceedings; and
70125 (iv) the threat to the public health, safety, or welfare relied upon by the agency is not
70126 sufficiently serious to justify the agency's action under the circumstances.
70127 Section 1396. Section **63G-4-501**, which is renumbered from Section 63-46b-19 is
70128 renumbered and amended to read:
70129 **Part 5. Orders and Enforcement**
70130 **[~~63-46b-19~~]. 63G-4-501. Civil enforcement.**
70131 (1) (a) In addition to other remedies provided by law, an agency may seek enforcement
70132 of an order by seeking civil enforcement in the district courts.
70133 (b) The action seeking civil enforcement of an agency's order must name, as
70134 defendants, each alleged violator against whom the agency seeks to obtain civil enforcement.
70135 (c) Venue for an action seeking civil enforcement of an agency's order shall be
70136 determined by the requirements of the Utah Rules of Civil Procedure.
70137 (d) The action may request, and the court may grant, any of the following:
70138 (i) declaratory relief;
70139 (ii) temporary or permanent injunctive relief;
70140 (iii) any other civil remedy provided by law; or
70141 (iv) any combination of the foregoing.
70142 (2) (a) Any person whose interests are directly impaired or threatened by the failure of
70143 an agency to enforce an agency's order may timely file a complaint seeking civil enforcement
70144 of that order, but the action may not be commenced:
70145 (i) until at least 30 days after the plaintiff has given notice of [~~his~~] the plaintiff's intent
70146 to seek civil enforcement of the alleged violation to the agency head, the attorney general, and
70147 to each alleged violator against whom the petitioner seeks civil enforcement;
70148 (ii) if the agency has filed and is diligently prosecuting a complaint seeking civil
70149 enforcement of the same order against the same or a similarly situated defendant; or

70150 (iii) if a petition for judicial review of the same order has been filed and is pending in
70151 court.
70152 (b) The complaint seeking civil enforcement of an agency's order must name, as
70153 defendants, the agency whose order is sought to be enforced, the agency that is vested with the
70154 power to enforce the order, and each alleged violator against whom the plaintiff seeks civil
70155 enforcement.
70156 (c) Except to the extent expressly authorized by statute, a complaint seeking civil
70157 enforcement of an agency's order may not request, and the court may not grant, any monetary
70158 payment apart from taxable costs.
70159 (3) In a proceeding for civil enforcement of an agency's order, in addition to any other
70160 defenses allowed by law, a defendant may defend on the ground that:
70161 (a) the order sought to be enforced was issued by an agency without jurisdiction to
70162 issue the order;
70163 (b) the order does not apply to the defendant;
70164 (c) the defendant has not violated the order; or
70165 (d) the defendant violated the order but has subsequently complied.
70166 (4) Decisions on complaints seeking civil enforcement of an agency's order are
70167 reviewable in the same manner as other civil cases.
70168 Section 1397. Section **63G-4-502**, which is renumbered from Section 63-46b-20 is
70169 renumbered and amended to read:
70170 **[~~63-46b-20~~]. 63G-4-502. Emergency adjudicative proceedings.**
70171 (1) An agency may issue an order on an emergency basis without complying with the
70172 requirements of this chapter if:
70173 (a) the facts known by the agency or presented to the agency show that an immediate
70174 and significant danger to the public health, safety, or welfare exists; and
70175 (b) the threat requires immediate action by the agency.
70176 (2) In issuing its emergency order, the agency shall:
70177 (a) limit its order to require only the action necessary to prevent or avoid the danger to
70178 the public health, safety, or welfare;
70179 (b) issue promptly a written order, effective immediately, that includes a brief
70180 statement of findings of fact, conclusions of law, and reasons for the agency's utilization of

70181 emergency adjudicative proceedings; and
70182 (c) give immediate notice to the persons who are required to comply with the order.
70183 (3) If the emergency order issued under this section will result in the continued
70184 infringement or impairment of any legal right or interest of any party, the agency shall
70185 commence a formal adjudicative proceeding in accordance with the other provisions of this
70186 chapter.
70187 Section 1398. Section **63G-4-503**, which is renumbered from Section 63-46b-21 is
70188 renumbered and amended to read:
70189 **[~~63-46b-21~~]. 63G-4-503. Declaratory orders.**
70190 (1) Any person may file a request for agency action, requesting that the agency issue a
70191 declaratory order determining the applicability of a statute, rule, or order within the primary
70192 jurisdiction of the agency to specified circumstances.
70193 (2) Each agency shall issue rules that:
70194 (a) provide for the form, contents, and filing of petitions for declaratory orders;
70195 (b) provide for the disposition of the petitions;
70196 (c) define the classes of circumstances in which the agency will not issue a declaratory
70197 order;
70198 (d) are consistent with the public interest and with the general policy of this chapter;
70199 and
70200 (e) facilitate and encourage agency issuance of reliable advice.
70201 (3) (a) An agency may not issue a declaratory order if:
70202 (i) the request is one of a class of circumstances that the agency has by rule defined as
70203 being exempt from declaratory orders; or
70204 (ii) the person requesting the declaratory order participated in an adjudicative
70205 proceeding concerning the same issue within 12 months of the date of the present request.
70206 (b) An agency may issue a declaratory order that would substantially prejudice the
70207 rights of a person who would be a necessary party, only if that person consents in writing to the
70208 determination of the matter by a declaratory proceeding.
70209 (4) Persons may intervene in declaratory proceedings if:
70210 (a) they meet the requirements of Section [~~63-46b-9~~] 63G-4-207; and
70211 (b) they file timely petitions for intervention according to agency rules.

70212 (5) An agency may provide, by rule or order, that other provisions of Sections
70213 [~~63-46b-4~~] 63G-4-202 through [~~63-46b-13~~] 63G-4-302 apply to declaratory proceedings.
70214 (6) (a) After receipt of a petition for a declaratory order, the agency may issue a written
70215 order:
70216 (i) declaring the applicability of the statute, rule, or order in question to the specified
70217 circumstances;
70218 (ii) setting the matter for adjudicative proceedings;
70219 (iii) agreeing to issue a declaratory order within a specified time; or
70220 (iv) declining to issue a declaratory order and stating the reasons for its action.
70221 (b) A declaratory order shall contain:
70222 (i) the names of all parties to the proceeding on which it is based;
70223 (ii) the particular facts on which it is based; and
70224 (iii) the reasons for its conclusion.
70225 (c) A copy of all orders issued in response to a request for a declaratory proceeding
70226 shall be mailed promptly to the petitioner and any other parties.
70227 (d) A declaratory order has the same status and binding effect as any other order issued
70228 in an adjudicative proceeding.
70229 (7) Unless the petitioner and the agency agree in writing to an extension, if an agency
70230 has not issued a declaratory order within 60 days after receipt of the petition for a declaratory
70231 order, the petition is denied.
70232 Section 1399. Section **63G-4-601**, which is renumbered from Section 63-46b-23 is
70233 renumbered and amended to read:
70234 **Part 6. Electronic Records**
70235 **[~~63-46b-23~~]. 63G-4-601. Electronic records and conversion of written**
70236 **records by governmental agencies.**
70237 A governmental agency may make rules regarding electronic records and conversion of
70238 written records as prescribed by Title 46, Chapter 4, Part 5, Electronic Records in Government
70239 Agencies.
70240 Section 1400. Section **63G-5-101**, which is renumbered from Section 63-46c-101 is
70241 renumbered and amended to read:
70242 **CHAPTER 5. GOVERNMENTAL DISPUTE RESOLUTION ACT**

70243 **Part 1. General Provisions**

70244 **[~~63-46c-101~~]. 63G-5-101. Title.**

70245 This chapter is known as the "Governmental Dispute Resolution Act."

70246 Section 1401. Section **63G-5-102**, which is renumbered from Section 63-46c-102 is
70247 renumbered and amended to read:

70248 **[~~63-46c-102~~]. 63G-5-102. Definitions.**

70249 As used in this chapter:

70250 (1) "Agency" is defined in Section [~~63-46b-2~~] 63G-4-103.

70251 (2) "Alternative dispute resolution" or "ADR" means a process other than litigation
70252 used to resolve disputes including mediation, arbitration, facilitation, regulatory negotiation,
70253 fact-finding, conciliation, early neutral evaluation, and policy dialogues.

70254 (3) "ADR organization" is defined in Section 78-31b-2.

70255 (4) (a) "ADR provider" means a neutral person who:

70256 (i) meets the qualifications established by Judicial Council rules authorized under
70257 Section 78-31b-5; and

70258 (ii) conducts an ADR procedure.

70259 (b) "ADR provider" includes an arbitrator, mediator, and early neutral evaluator and
70260 may be an employee or an independent contractor.

70261 (5) "Arbitration" means a private hearing before an ADR provider or panel of ADR
70262 providers who hear the evidence, consider the contentions of the parties, and enter a written
70263 award to resolve the issues presented.

70264 (6) "Mediation" is defined in Section 78-31b-2.

70265 (7) "Neutral" means a person who holds himself out to the public as a qualified person
70266 trained to use alternative dispute resolution techniques to resolve conflicts.

70267 Section 1402. Section **63G-5-201**, which is renumbered from Section 63-46c-103 is
70268 renumbered and amended to read:

70269 **Part 2. Alternative Dispute Resolution**

70270 **[~~63-46c-103~~]. 63G-5-201. Alternative dispute resolution -- Authorization --**
70271 **Procedures -- Agency coordinators -- Contracts.**

70272 (1) An agency may use an ADR procedure to resolve any dispute, issue, or controversy
70273 involving any of the agency's operations, programs, or functions, including formal and informal

70274 adjudications, rulemakings, enforcement actions, permitting, certifications, licensing, policy
70275 development, and contract administration only with the consent of all the interested parties.
70276 (2) (a) An agency may develop and adopt an ADR procedure governed by rules,
70277 adopted in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
70278 Rulemaking Act.
70279 (b) In developing and adopting an ADR procedure under Subsection (2)(a), an agency
70280 shall consider:
70281 (i) public interest in maintaining open access to and neutrality of an ADR provider or
70282 neutral;
70283 (ii) providing a broad selection of ADR providers or neutrals; and
70284 (iii) creating objective criteria for an ADR provider or neutral to become qualified to
70285 conduct an agency ADR procedure.
70286 (3) ADR procedures developed and used by an agency must be consistent with the
70287 requirements of [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
70288 (4) ADR procedures are voluntary and may be used:
70289 (a) at the discretion of the agency; or
70290 (b) with an agency that has adopted an ADR procedure under Subsection (2), at the
70291 request of an interested party to a dispute.
70292 (5) An agency that chooses to use an ADR procedure shall develop an agreement with
70293 interested parties that provides:
70294 (a) (i) for the appointment of an ADR provider or a neutral;
70295 (ii) whose appointment is agreed upon by all parties to the dispute;
70296 (b) specifies any limitation periods applicable to the commencement or conclusion of
70297 formal administrative or judicial proceedings and, if applicable, specifies any time periods that
70298 the parties have agreed to waive; and
70299 (c) sets forth how costs and expenses shall be apportioned among the parties.
70300 (6) (a) An ADR provider or neutral agreed upon in Subsection (5) shall have no
70301 official, financial, or personal conflict of interest with any issue or party in controversy unless
70302 the conflict of interest is fully disclosed in writing to all of the parties and all of the parties
70303 agree that the person may continue to serve.
70304 (b) An agency may make rules in accordance with [~~Title 63, Chapter 46a~~] Title 63G,

70305 Chapter 3, Utah Administrative Rulemaking Act, to develop standards to assure the neutrality
70306 of an ADR provider or neutral.
70307 (7) An agreement developed in accordance with Subsection (5) may be included in an
70308 enforcement order, stipulation, contract, permit, or other document entered into or issued by the
70309 agency.
70310 (8) (a) The administrative head of an agency may designate an employee as the ADR
70311 coordinator for that agency.
70312 (b) The agency ADR coordinator shall:
70313 (i) make recommendations to the agency's executive staff on issues and disputes that
70314 are suitable for alternative dispute resolution;
70315 (ii) analyze the agency's enabling statutes and rules to determine whether they contain
70316 impediments to the use of ADR procedures and suggest any modifications;
70317 (iii) monitor the agency's use of ADR procedures;
70318 (iv) arrange for training of agency staff in ADR procedures; and
70319 (v) provide information about the agency's ADR procedures to the agency's staff and to
70320 the public.
70321 (9) In order to implement the purposes of this chapter, an agency may employ or
70322 contract with a neutral, an ADR provider, an ADR organization, another agency, or a private
70323 entity for any service necessary on a case-by-case basis, on a service basis, or on a program
70324 basis.
70325 (10) ADR procedures developed and used under this chapter are subject to the
70326 confidentiality requirements of Section 78-31b-8.
70327 Section 1403. Section **63G-5-301**, which is renumbered from Section 63-46c-104 is
70328 renumbered and amended to read:
70329 **Part 3. Application**
70330 **[~~63-46c-104~~]. 63G-5-301. Effect on other laws.**
70331 Nothing in this chapter or in the agreements and procedures developed in Section
70332 [~~63-46c-103~~] 63G-5-201 shall:
70333 (1) limit other dispute resolution procedures available to an agency; and
70334 (2) deny a person a right granted under federal or other state law, including a right to an
70335 administrative or judicial hearing.

70336 Section 1404. Section **63G-6-101** is enacted to read:

70337 **CHAPTER 6. UTAH PROCUREMENT CODE**

70338 **Part 1. General Provisions**

70339 **63G-6-101. Title.**

70340 This chapter is known as the "Utah Procurement Code."

70341 Section 1405. Section **63G-6-102**, which is renumbered from Section 63-56-101 is
70342 renumbered and amended to read:

70343 **[~~63-56-101~~]. 63G-6-102. Purpose of chapter.**

70344 The underlying purposes and policies of this chapter are:

70345 (1) to simplify, clarify, and modernize the law governing procurement by this state;

70346 (2) to ensure the fair and equitable treatment of all persons who deal with the
70347 procurement system of this state;

70348 (3) to provide increased economy in state procurement activities; and

70349 (4) to foster effective broad-based competition within the free enterprise system.

70350 Section 1406. Section **63G-6-103**, which is renumbered from Section 63-56-105 is
70351 renumbered and amended to read:

70352 **[~~63-56-105~~]. 63G-6-103. Definitions.**

70353 As used in this chapter:

70354 (1) "Architect-engineer services" are those professional services within the scope of the
70355 practice of architecture as defined in Section 58-3a-102, or professional engineering as defined
70356 in Section 58-22-102.

70357 (2) "Business" means any corporation, partnership, individual, sole proprietorship,
70358 joint stock company, joint venture, or any other private legal entity.

70359 (3) "Change order" means a written order signed by the procurement officer, directing
70360 the contractor to suspend work or make changes, which the appropriate clauses of the contract
70361 authorize the procurement officer to order without the consent of the contractor or any written
70362 alteration in specifications, delivery point, rate of delivery, period of performance, price,
70363 quantity, or other provisions of any contract accomplished by mutual action of the parties to the
70364 contract.

70365 (4) (a) "Construction" means the process of building, renovation, alteration,
70366 improvement, or repair of any public building or public work.

70367 (b) "Construction" does not mean the routine operation, routine repair, or routine
70368 maintenance of existing structures, buildings, or real property.
70369 (5) (a) "Construction Manager/General Contractor" means any contractor who enters
70370 into a contract for the management of a construction project when that contract allows the
70371 contractor to subcontract for additional labor and materials that were not included in the
70372 contractor's cost proposal submitted at the time of the procurement of the Construction
70373 Manager/General Contractor's services.
70374 (b) "Construction Manager/General Contractor" does not mean a contractor whose only
70375 subcontract work not included in the contractor's cost proposal submitted as part of the
70376 procurement of construction is to meet subcontracted portions of change orders approved
70377 within the scope of the project.
70378 (6) "Contract" means any state agreement for the procurement or disposal of supplies,
70379 services, or construction.
70380 (7) "Cooperative purchasing" means procurement conducted by, or on behalf of, more
70381 than one public procurement unit, or by a public procurement unit with an external
70382 procurement unit.
70383 (8) "Cost-reimbursement contract" means a contract under which a contractor is
70384 reimbursed for costs which are allowed and allocated in accordance with the contract terms and
70385 the provisions of this chapter, and a fee, if any.
70386 (9) (a) "Design-build" means the procurement of architect-engineer services and
70387 construction by the use of a single contract with the design-build provider.
70388 (b) This method of design and construction can include the design-build provider
70389 supplying the site as part of the contract.
70390 (10) "Established catalogue price" means the price included in a catalogue, price list,
70391 schedule, or other form that:
70392 (a) is regularly maintained by a manufacturer or contractor;
70393 (b) is either published or otherwise available for inspection by customers; and
70394 (c) states prices at which sales are currently or were last made to a significant number
70395 of any category of buyers or buyers constituting the general buying public for the supplies or
70396 services involved.
70397 (11) "External procurement unit" means any buying organization not located in this

70398 state which, if located in this state, would qualify as a public procurement unit. An agency of
70399 the United States is an external procurement unit.
70400 (12) "Grant" means the furnishing by the state or by any other public or private source
70401 assistance, whether financial or otherwise, to any person to support a program authorized by
70402 law. It does not include an award whose primary purpose is to procure an end product, whether
70403 in the form of supplies, services, or construction. A contract resulting from the award is not a
70404 grant but a procurement contract.
70405 (13) "Invitation for bids" means all documents, whether attached or incorporated by
70406 reference, utilized for soliciting bids.
70407 (14) "Local public procurement unit" means any political subdivision or institution of
70408 higher education of the state or public agency of any subdivision, public authority, educational,
70409 health, or other institution, and to the extent provided by law, any other entity which expends
70410 public funds for the procurement of supplies, services, and construction, but not counties,
70411 municipalities, political subdivisions created by counties or municipalities under the Interlocal
70412 Cooperation Act, the Utah Housing Corporation, or the Legislature and its staff offices. It
70413 includes two or more local public procurement units acting under legislation which authorizes
70414 intergovernmental cooperation.
70415 (15) "Person" means any business, individual, union, committee, club, other
70416 organization, or group of individuals, not including a state agency or a local public
70417 procurement unit.
70418 (16) "Policy board" means the procurement policy board created by Section
70419 [~~63-56-201~~] 63G-6-201.
70420 (17) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference
70421 under the requirements of this chapter.
70422 (18) "Procurement" means buying, purchasing, renting, leasing, leasing with an option
70423 to purchase, or otherwise acquiring any supplies, services, or construction. It also includes all
70424 functions that pertain to the obtaining of any supply, service, or construction, including
70425 description of requirements, selection, and solicitation of sources, preparation, and award of a
70426 contract, and all phases of contract administration.
70427 (19) "Procurement officer" means any person or board duly authorized to enter into and
70428 administer contracts and make written determinations with respect thereto. It also includes an

70429 authorized representative acting within the limits of authority.
70430 (20) "Public procurement unit" means either a local public procurement unit or a state
70431 public procurement unit.
70432 (21) "Purchase description" means the words used in a solicitation to describe the
70433 supplies, services, or construction to be purchased, and includes specifications attached to or
70434 made a part of the solicitation.
70435 (22) "Purchasing agency" means any state agency other than the Division of Purchasing
70436 and General Services that is authorized by this chapter or its implementing regulations, or by
70437 delegation from the chief procurement officer, to enter into contracts.
70438 (23) "Request for proposals" means all documents, whether attached or incorporated by
70439 reference, used for soliciting proposals.
70440 (24) "Responsible bidder or offeror" means a person who has the capability in all
70441 respects to perform fully the contract requirements and who has the integrity and reliability
70442 which will assure good faith performance.
70443 (25) "Responsive bidder" means a person who has submitted a bid which conforms in
70444 all material respects to the invitation for bids.
70445 (26) "Sealed" does not preclude acceptance of electronically sealed and submitted bids
70446 or proposals in addition to bids or proposals manually sealed and submitted.
70447 (27) "Services" means the furnishing of labor, time, or effort by a contractor, not
70448 involving the delivery of a specific end product other than reports which are merely incidental
70449 to the required performance. It does not include employment agreements or collective
70450 bargaining agreements.
70451 (28) "Specification" means any description of the physical or functional characteristics,
70452 or of the nature of a supply, service, or construction item. It may include a description of any
70453 requirement for inspecting, testing, or preparing a supply, service, or construction item for
70454 delivery.
70455 (29) "State agency" or "the state" means any department, division, commission,
70456 council, board, bureau, committee, institution, government corporation, or other establishment,
70457 official, or employee of this state.
70458 (30) "State public procurement unit" means the Division of Purchasing and General
70459 Services and any other purchasing agency of this state.

70460 (31) "Supplies" means all property, including equipment, materials, and printing.
70461 (32) "Using agency" means any state agency which utilizes any supplies, services, or
70462 construction procured under this chapter.
70463 Section 1407. Section **63G-6-104**, which is renumbered from Section 63-56-102 is
70464 renumbered and amended to read:
70465 **[~~63-56-102~~]. 63G-6-104. Application of chapter.**
70466 (1) This chapter applies only to contracts solicited or entered into after the effective
70467 date of this chapter unless the parties agree to its application to a contract solicited or entered
70468 into prior to the effective date.
70469 (2) Except as provided in Section [~~63-56-103~~] 63G-6-105, this chapter shall apply to
70470 every expenditure of public funds irrespective of their source, including federal assistance, by
70471 any state agency under any contract.
70472 (3) (a) Only the following sections shall apply to local public procurement units:
70473 Sections [~~63-56-103~~] 63G-6-103, [~~63-56-105~~] 63G-6-105, [~~63-56-301~~] 63G-6-301,
70474 [~~63-56-303~~] 63G-6-303 through [~~63-56-420~~] 63G-6-420, [~~63-56-422~~] 63G-6-422, [~~63-56-501~~]
70475 63G-6-501 through [~~63-56-602~~] 63G-6-602, [~~63-56-801~~] 63G-6-801 through [~~63-56-806~~]
70476 63G-6-806, and [~~63-56-815~~] 63G-6-815 through [~~63-56-819~~] 63G-6-819; provided, however,
70477 that, except as provided in Sections [~~63-56-906~~] 63G-6-906 and [~~63-56-907~~] 63G-6-907, the
70478 jurisdiction of the procurement appeals board is limited to matters involving state agencies.
70479 (b) Subsections [~~63-56-208~~] 63G-6-208(1)(b), [~~63-56-503~~] 63G-6-504(4), and
70480 [~~63-56-504~~] 63G-6-505(2) also apply to local public procurement units.
70481 (c) For the purpose of application of those sections and subsections to a local public
70482 procurement unit, "state" shall mean "local public procurement unit," "chief procurement
70483 officer" or "head of a purchasing agency" shall mean any person conducting procurement for a
70484 local public procurement unit, and "rules and regulations" shall mean ordinances and rules and
70485 regulations promulgated by a local public procurement unit to implement or supplement those
70486 sections.
70487 (d) In addition to the sections and subsections listed above and except as provided in
70488 Subsection 17B-1-108(3) relating to local districts, each local public procurement unit shall
70489 adopt ordinances relating to the procurement of architect-engineer services not inconsistent
70490 with the provisions of Part 7, Architect-Engineer Services.

70491 (e) Any other section of this chapter, or its implementing regulations, may be adopted
70492 by any local public procurement unit.
70493 (f) Any other implementing regulations adopted by local public procurement units may
70494 not be inconsistent with the provisions of this chapter.
70495 (4) Unless otherwise provided by statute, this chapter does not apply to procurement of
70496 real property.
70497 Section 1408. Section **63G-6-105**, which is renumbered from Section 63-56-103 is
70498 renumbered and amended to read:
70499 **[~~63-56-103~~]. 63G-6-105. Exemptions from chapter -- Compliance with**
70500 **federal law.**
70501 (1) This chapter is not applicable to funds administered under the Percent-for-Art
70502 Program of the Utah Percent-for-Art Act.
70503 (2) This chapter is not applicable to grants awarded by the state or contracts between
70504 the state and local public procurement units except as provided in Part 9, Intergovernmental
70505 Relations.
70506 (3) This chapter shall not prevent the state or a local public procurement unit from
70507 complying with the terms and conditions of any grant, gift, or bequest that is otherwise
70508 consistent with law.
70509 (4) When a procurement involves the expenditure of federal assistance or contract
70510 funds, the chief procurement officer or head of a purchasing agency shall comply with
70511 mandatory applicable federal law and regulations not reflected in this chapter.
70512 (5) This chapter may not supersede the requirements for retention or withholding of
70513 construction proceeds and release of construction proceeds as provided in Section 13-8-5.
70514 Section 1409. Section **63G-6-106**, which is renumbered from Section 63-56-104 is
70515 renumbered and amended to read:
70516 **[~~63-56-104~~]. 63G-6-106. Records.**
70517 (1) All procurement records shall be retained and disposed of in accordance with [~~Title~~
70518 ~~63, Chapter 2~~] Title 63G, Chapter 2, Government Records Access and Management Act.
70519 (2) Written determinations required by this chapter shall also be retained in the
70520 appropriate official contract file of the Division of Purchasing and General Services or the
70521 purchasing agency.

70522 Section 1410. Section **63G-6-201**, which is renumbered from Section 63-56-201 is
70523 renumbered and amended to read:
70524 **Part 2. Procurement Organization**
70525 **[~~63-56-201~~]. 63G-6-201. Creation of procurement policy board.**
70526 (1) (a) There is created a state procurement policy board.
70527 (b) The policy board shall consist of eight members who shall be appointed as follows:
70528 (i) an employee of a state institution of higher education, appointed by the board of
70529 regents;
70530 (ii) an employee of the Department of Human Services, appointed by the executive
70531 director of that department;
70532 (iii) an employee of the Department of Transportation, appointed by the executive
70533 director of that department;
70534 (iv) an employee of a school district appointed by a cooperative purchasing entity for
70535 school districts;
70536 (v) an employee of the Division of Facilities Construction and Management appointed
70537 by the director of that division;
70538 (vi) an employee of a county, appointed by the Utah Association of Counties;
70539 (vii) an employee of a city, appointed by the Utah League of Cities and Towns; and
70540 (viii) an employee of a local district or special service district, appointed by the Utah
70541 Association of Special Districts.
70542 (c) Members of the policy board shall be knowledgeable and experienced in, and have
70543 supervisory responsibility for, procurement in their official positions.
70544 (2) Members shall be appointed to four-year staggered terms.
70545 (3) When a vacancy occurs in the membership for any reason, the replacement shall be
70546 appointed for the unexpired term.
70547 (4) (a) The policy board shall:
70548 (i) adopt rules of procedure for conducting its business; and
70549 (ii) elect a chair to serve for one year.
70550 (b) The chair may be elected to succeeding terms.
70551 (c) The chief procurement officer shall serve as the nonvoting secretary to the policy
70552 board.

70553 (5) (a) (i) Members who are not government employees shall receive no compensation
70554 or benefits for their services, but may receive per diem and expenses incurred in the
70555 performance of the member's official duties at the rates established by the Division of Finance
70556 under Sections 63A-3-106 and 63A-3-107.
70557 (ii) Members may decline to receive per diem and expenses for their service.
70558 (b) (i) State government officer and employee members who do not receive salary, per
70559 diem, or expenses from their agency for their service may receive per diem and expenses
70560 incurred in the performance of their official duties from the board at the rates established by the
70561 Division of Finance under Sections 63A-3-106 and 63A-3-107.
70562 (ii) State government officer and employee members may decline to receive per diem
70563 and expenses for their service.
70564 (c) (i) Higher education members who do not receive salary, per diem, or expenses
70565 from the entity that they represent for their service may receive per diem and expenses incurred
70566 in the performance of their official duties from the committee at the rates established by the
70567 Division of Finance under Sections 63A-3-106 and 63A-3-107.
70568 (ii) Higher education members may decline to receive per diem and expenses for their
70569 service.
70570 (d) (i) Local government members who do not receive salary, per diem, or expenses
70571 from the entity that they represent for their service may receive per diem and expenses incurred
70572 in the performance of their official duties at the rates established by the Division of Finance
70573 under Sections 63A-3-106 and 63A-3-107.
70574 (ii) Local government members may decline to receive per diem and expenses for their
70575 service.
70576 Section 1411. Section **63G-6-202**, which is renumbered from Section 63-56-202 is
70577 renumbered and amended to read:
70578 **[~~63-56-202~~]. 63G-6-202. Powers and duties of board.**
70579 (1) Except as otherwise provided in Sections [~~63-56-102~~] 63G-6-104 and [~~63-56-208~~]
70580 63G-6-208, the policy board shall:
70581 (a) make rules, consistent with this chapter, governing the procurement, management,
70582 and control of any and all supplies, services, and construction to be procured by the state; and
70583 (b) consider and decide matters of policy within the provisions of this chapter,

70584 including those referred to it by the chief procurement officer.
70585 (2) (a) The policy board may:
70586 (i) audit and monitor the implementation of its rules and the requirements of this
70587 chapter;
70588 (ii) upon the request of a local public procurement unit, review that procurement unit's
70589 proposed rules to ensure that they are not inconsistent with the provisions of this chapter; and
70590 (iii) approve the use of innovative procurement methods proposed by local public
70591 procurement units.
70592 (b) The policy board may not exercise authority over the award or administration of:
70593 (i) any particular contact; or
70594 (ii) over any dispute, claim, or litigation pertaining to any particular contract.
70595 Section 1412. Section **63G-6-203**, which is renumbered from Section 63-56-203 is
70596 renumbered and amended to read:
70597 **[~~63-56-203~~]. 63G-6-203. Chief procurement officer -- Appointment --**
70598 **Qualifications.**
70599 (1) The executive director of the Department of Administrative Services, with the
70600 consent of the governor, shall appoint the chief procurement officer after considering
70601 recommendations from the policy board.
70602 (2) The chief procurement officer shall:
70603 (a) have a minimum of eight years' experience in the large-scale procurement of
70604 supplies and services or services and construction, at least five years of which shall have been
70605 in public or comparable private procurement within 12 years preceding the date of
70606 appointment; and
70607 (b) be a person with demonstrated executive and organizational ability.
70608 (3) The chief procurement officer is also the director of the Division of Purchasing and
70609 General Services.
70610 Section 1413. Section **63G-6-204**, which is renumbered from Section 63-56-204 is
70611 renumbered and amended to read:
70612 **[~~63-56-204~~]. 63G-6-204. Duties of chief procurement officer.**
70613 Except as otherwise specifically provided in this chapter, the chief procurement officer
70614 serves as the central procurement officer of the state and shall:

70615 (1) adopt office policies governing the internal functions of the Division of Purchasing
70616 and General Services;
70617 (2) procure or supervise the procurement of all supplies, services, and construction
70618 needed by the state;
70619 (3) exercise general supervision and control over all inventories or supplies belonging
70620 to the state;
70621 (4) establish and maintain programs for the inspection, testing, and acceptance of
70622 supplies, services, and construction;
70623 (5) prepare statistical data concerning the procurement and usage of all supplies,
70624 services, and construction;
70625 (6) before June 1, 1990, notify all public procurement units of the requirements of
70626 Section [~~63-56-406~~] 63G-6-406 regarding purchases of recycled paper and recycled paper
70627 products, recycling requirements, and provide guidelines on the availability of recycled paper
70628 and paper products, including the sources of supply and the potential uses of various grades of
70629 recycled paper;
70630 (7) before July 1, 1992:
70631 (a) establish standards and specifications for determining which supplies are
70632 considered recycled, based upon [~~his~~] the chief procurement officer's review of current
70633 definitions and standards employed by national procurement, product recycling, and other
70634 relevant organizations and the federal Environmental Protection Agency;
70635 (b) compile and update as necessary the specifications, a list of recycled supplies
70636 available on state contract, and sources where the supplies may be obtained;
70637 (c) make the compiled information under Subsection (7)(b) available to:
70638 (i) all local government entities under Section 11-37-101;
70639 (ii) all local health departments under Section 26A-1-108.7;
70640 (iii) all procurement officers or other persons responsible for purchasing supplies
70641 within the public school system under Title 53A, State System of Public Education;
70642 (iv) all procurement officers or other persons responsible for purchasing supplies
70643 within the state system of higher education under Title 53B, State System of Higher Education;
70644 and
70645 (v) all procurement officers or other persons responsible for purchasing supplies for all

70646 public procurement units as defined in Section [~~63-56-105~~] 63G-6-103; and
70647 (d) present a written report to the Natural Resources, Agriculture, and Environment
70648 Interim Committee annually prior to November 30 regarding the purchases of recycled goods
70649 on state contracts during the prior fiscal year; and
70650 (8) ensure that:
70651 (a) before approving a purchase, lease, or rental not covered by an existing statewide
70652 contract for information technology or telecommunications supplies or services, the chief
70653 information officer and the agency have provided in writing to the division, that the needs
70654 analysis required in Section 63F-1-205 was completed; and
70655 (b) the oversight authority required by Subsection (8)(a) is not delegated outside the
70656 Division of Purchasing and General Services.
70657 Section 1414. Section **63G-6-205**, which is renumbered from Section 63-56-205 is
70658 renumbered and amended to read:
70659 **[~~63-56-205~~]. 63G-6-205. Delegation of authority.**
70660 Subject to rules and regulations, the chief procurement officer may delegate authority to
70661 designees or to any department, agency, or official.
70662 Section 1415. Section **63G-6-206**, which is renumbered from Section 63-56-206 is
70663 renumbered and amended to read:
70664 **[~~63-56-206~~]. 63G-6-206. Transfer of power to policy board.**
70665 Except as otherwise provided in this chapter, all rights, powers, duties, and authority
70666 relating to the procurement of supplies, services, and construction, and the management,
70667 control, warehousing, and sale of supplies, services, and construction vested in or exercised by
70668 any state agency on the effective date are transferred to the policy board as they relate to its
70669 duties and to the Division of Purchasing and General Services as they relate to its duties.
70670 Section 1416. Section **63G-6-207**, which is renumbered from Section 63-56-207 is
70671 renumbered and amended to read:
70672 **[~~63-56-207~~]. 63G-6-207. Specific statutory authority.**
70673 (1) The authority to procure certain supplies, services, and construction given the
70674 public procurement units governed by the following provisions shall be retained:
70675 (a) Title 53B, State System of Higher Education;
70676 (b) Title 63A, Chapter 5, State Building Board - Division of Facilities Construction

70677 and Management;
70678 (c) Title 67, Chapter 5, Attorney General;
70679 (d) Title 72, Transportation; and
70680 (e) Title 78, Chapter 3, District Courts.
70681 (2) This authority extends only to supplies, services, and construction to the extent
70682 provided in the cited chapters. Except as otherwise provided in Sections [~~63-56-102~~]
70683 63G-6-104 and [~~63-56-103~~] 63G-6-105, the respective purchasing agencies shall procure
70684 supplies, services, and construction in accordance with this chapter.
70685 (3) (a) The Department of Transportation may make rules governing the procurement
70686 of highway construction or improvement.
70687 (b) This Subsection (3) supersedes Subsections (1) and (2).
70688 (4) The Legislature may procure supplies and services for its own needs.
70689 Section 1417. Section **63G-6-208**, which is renumbered from Section 63-56-208 is
70690 renumbered and amended to read:
70691 **[~~63-56-208~~]. 63G-6-208. Rules and regulations of policy board and**
70692 **building board.**
70693 (1) (a) Except as provided in Subsection (2), the policy board shall make rules
70694 governing state procurement by complying with the procedures and requirements of [~~Title 63,~~
70695 ~~Chapter 46a~~] Title 63G, Chapter 3, the Utah Administrative Rulemaking Act.
70696 (b) The procurement rules adopted by the policy board under this section apply to all
70697 local public procurement units unless the local public procurement unit's legislative body has
70698 adopted separate rules governing procurement.
70699 (2) The State Building Board rules governing procurement of construction,
70700 architect-engineer services, and leases apply to the procurement of construction,
70701 architect-engineer services, and leases of real property by the Division of Facilities
70702 Construction and Management.
70703 Section 1418. Section **63G-6-209**, which is renumbered from Section 63-56-209 is
70704 renumbered and amended to read:
70705 **[~~63-56-209~~]. 63G-6-209. Procurement Advisory Council.**
70706 (1) The policy board may establish a Procurement Advisory Council, which shall meet
70707 at least once a year for the discussion of problems and recommendations for improvement of

70708 the procurement process. When requested by the policy board, the Procurement Advisory
70709 Council may conduct studies, research, analyses, and make reports and recommendations with
70710 respect to subjects or matters within the jurisdiction of the policy board. The Procurement
70711 Advisory Council shall consist of representatives of state and local government and any other
70712 persons the policy board considers desirable.
70713 (2) The chief procurement officer may appoint advisory groups to provide advice
70714 regarding any matters within the authority of the chief procurement officer.
70715 (3) Members of the Procurement Advisory Council and other advisory groups may be
70716 reimbursed for expenses incurred in the performance of their duties, as provided by the policy
70717 board.
70718 Section 1419. Section **63G-6-301**, which is renumbered from Section 63-56-301 is
70719 renumbered and amended to read:
70720 **Part 3. Specifications**
70721 **[~~63-56-301~~]. 63G-6-301. Rules and regulations for specifications of**
70722 **supplies.**
70723 Rules and regulations shall be promulgated to govern the preparation, maintenance, and
70724 content of specifications for supplies, services, and construction required by the state. Rules
70725 and regulations shall determine the extent to which a nonemployee who has prepared
70726 specifications for use by the state may participate in any state procurement using such
70727 specifications.
70728 Section 1420. Section **63G-6-302**, which is renumbered from Section 63-56-302 is
70729 renumbered and amended to read:
70730 **[~~63-56-302~~]. 63G-6-302. Duty of chief procurement officer in maintaining**
70731 **specifications of supplies.**
70732 The chief procurement officer shall prepare, issue, revise, maintain, and monitor the use
70733 of specifications for supplies, services, and construction required by the state. The chief
70734 procurement officer shall obtain expert advice and assistance from personnel of using agencies
70735 in the development of specifications and may delegate in writing to a using agency the
70736 authority to prepare and utilize its own specifications.
70737 Section 1421. Section **63G-6-303**, which is renumbered from Section 63-56-303 is
70738 renumbered and amended to read:

70739 **[~~63-56-303~~]. 63G-6-303. Purpose of specifications.**
70740 All specifications shall seek to promote overall economy and best use for the purposes
70741 intended and encourage competition in satisfying the state's needs, and shall not be unduly
70742 restrictive. The requirements of this part regarding the purposes and nonrestrictiveness of
70743 specifications shall apply to all specifications, including, but not limited to, those prepared by
70744 architects, engineers, designers, and draftsmen for public contracts.
70745 Section 1422. Section **63G-6-401**, which is renumbered from Section 63-56-401 is
70746 renumbered and amended to read:
70747 **Part 4. Source Selections and Contract Formation**
70748 **[~~63-56-401~~]. 63G-6-401. Contracts awarded by sealed bidding --**
70749 **Procedure.**
70750 (1) Contracts shall be awarded by competitive sealed bidding except as otherwise
70751 provided by this chapter.
70752 (2) (a) An invitation for bids shall be issued when a contract is to be awarded by
70753 competitive sealed bidding.
70754 (b) The invitation shall include a purchase description and all contractual terms and
70755 conditions applicable to the procurement.
70756 (3) (a) Public notice of the invitation for bids shall be given a reasonable time before
70757 the date set forth in the invitation for the opening of bids, in accordance with rules.
70758 (b) The notice may include publication in a newspaper of general circulation a
70759 reasonable time before bid opening.
70760 (4) (a) Bids shall be opened publicly in the presence of one or more witnesses at the
70761 time and place designated in the invitation for bids.
70762 (b) The amount of each bid and any other relevant information specified by rules,
70763 together with the name of each bidder, shall be recorded.
70764 (c) The record and each bid shall be open to public inspection.
70765 (5) (a) Bids shall be unconditionally accepted without alteration or correction, except
70766 as authorized in this chapter.
70767 (b) (i) Bids shall be evaluated based on the requirements set forth in the invitation for
70768 bids, which may include criteria to determine acceptability such as inspection, testing, quality,
70769 workmanship, delivery, and suitability for a particular purpose.

70770 (ii) Those criteria that will affect the bid price and be considered in evaluation for
70771 award shall be objectively measurable.
70772 (iii) The criteria may include discounts, transportation costs, and total or life cycle
70773 costs.
70774 (c) No criteria may be used in bid evaluation that are not set forth in the invitation for
70775 bids.
70776 (6) (a) Correction or withdrawal of inadvertently erroneous bids before or after award,
70777 or cancellation of awards or contracts based on the bid mistakes, shall be permitted in
70778 accordance with rules.
70779 (b) After bid opening, no changes in bid prices or other provisions of bids prejudicial
70780 to the interest of the state or fair competition may be permitted.
70781 (c) Except as otherwise provided by rule, all decisions to permit the correction or
70782 withdrawal of bids or to cancel awards or contracts based on bid mistakes shall be supported by
70783 a written determination made by the chief procurement officer or the head of a purchasing
70784 agency.
70785 (7) (a) The contract shall be awarded with reasonable promptness by written notice to
70786 the lowest responsive and responsible bidder whose bid meets the requirements and criteria set
70787 forth in the invitation for bids.
70788 (b) (i) If all bids for a construction project exceed available funds as certified by the
70789 appropriate fiscal officer, and the low responsive and responsible bid does not exceed those
70790 funds by more than 5%, the chief procurement officer or the head of a purchasing agency may,
70791 in situations where time or economic considerations preclude resolicitation of work of a
70792 reduced scope, negotiate an adjustment of the bid price, including changes in the bid
70793 requirements, with the low responsive and responsible bidder in order to bring the bid within
70794 the amount of available funds.
70795 (ii) If the State Building Board establishes alternative procedures by rule under Section
70796 63A-5-103, the Division of Facilities Construction and Management need not comply with the
70797 provisions of this Subsection (7) when a bid meets the requirements of the State Building
70798 Board's rule.
70799 (8) When it is considered impractical to prepare initially a purchase description to
70800 support an award based on price, an invitation for bids may be issued requesting the

70801 submission of unpriced offers to be followed by an invitation for bids limited to those bidders
70802 whose offers have been qualified under the criteria set forth in the first solicitation.
70803 Section 1423. Section **63G-6-402**, which is renumbered from Section 63-56-402 is
70804 renumbered and amended to read:
70805 **[~~63-56-402~~]. 63G-6-402. Contracts awarded by reverse auction.**
70806 (1) As used in this section, "reverse auction" means a process where:
70807 (a) contracts are awarded in an open and interactive environment, which may include
70808 the use of electronic media; and
70809 (b) bids are opened and made public immediately, and bidders given opportunity to
70810 submit revised, lower bids, until the bidding process is complete.
70811 (2) (a) Notwithstanding the requirements of this chapter, contracts may be awarded
70812 through a reverse auction.
70813 (b) The policy board shall make rules, consistent with this chapter, governing a reverse
70814 auction process.
70815 Section 1424. Section **63G-6-403**, which is renumbered from Section 63-56-403 is
70816 renumbered and amended to read:
70817 **[~~63-56-403~~]. 63G-6-403. Procurement -- Use of recycled goods.**
70818 The procurement officer or other person responsible for purchasing supplies for each
70819 public procurement unit shall:
70820 (1) comply with Section [~~63-56-406~~] 63G-6-406; and
70821 (2) (a) maintain for reference a copy of the current listing of recycled items available
70822 on state contract as issued by the chief procurement officer under Section [~~63-56-204~~]
70823 63G-6-204; and
70824 (b) give recycled items consideration when inviting bids and purchasing supplies.
70825 Section 1425. Section **63G-6-404**, which is renumbered from Section 63-56-404 is
70826 renumbered and amended to read:
70827 **[~~63-56-404~~]. 63G-6-404. Preference for providers of state products.**
70828 (1) (a) All public procurement units shall, in all purchases of goods, supplies,
70829 equipment, materials, and printing, give a reciprocal preference to those bidders offering goods,
70830 supplies, equipment, materials, or printing produced, manufactured, mined, grown, or
70831 performed in Utah as against those bidders offering goods, supplies, equipment, materials, or

70832 printing produced, manufactured, mined, grown, or performed in any state that gives or
70833 requires a preference to goods, supplies, equipment, materials, or printing produced,
70834 manufactured, mined, grown, or performed in that state.
70835 (b) The amount of reciprocal preference shall be equal to the amount of the preference
70836 applied by the other state for that particular good, supply, equipment, material, or printing.
70837 (c) (i) The bidder shall certify on the bid that the goods, supplies, equipment, materials,
70838 or printing offered are produced, manufactured, mined, grown, or performed in Utah.
70839 (ii) The reciprocal preference is waived if that certification does not appear on the bid.
70840 (2) (a) If the bidder submitting the lowest responsive and responsible bid offers goods,
70841 supplies, equipment, materials, or printing produced, manufactured, mined, grown, or
70842 performed in a state that gives or requires a preference, and if another bidder has submitted a
70843 responsive and responsible bid offering goods, supplies, equipment, materials, or printing
70844 produced, manufactured, mined, grown, or performed in Utah, and with the benefit of the
70845 reciprocal preference, his bid is equal to or less than the original lowest bid, the procurement
70846 officer shall:
70847 (i) give notice to the bidder offering goods, supplies, equipment, materials, or printing
70848 produced, manufactured, mined, grown, or performed in Utah that [~~he~~] the bidder qualifies as a
70849 preferred bidder; and
70850 (ii) make the purchase from the preferred bidder if, the bidder agrees, in writing, to
70851 meet the low bid within 72 hours after notification [~~to him~~] that [~~he~~] the bidder is a preferred
70852 bidder[~~, he agrees, in writing, to meet the low bid~~].
70853 (b) The procurement officer shall include the exact price submitted by the lowest
70854 bidder in the notice [~~he~~] the procurement officer submits to the preferred bidder.
70855 (c) The procurement officer may not enter into a contract with any other bidder for the
70856 purchase until 72 hours have elapsed after notification to the preferred bidder.
70857 (3) (a) If there is more than one preferred bidder, the procurement officer shall award
70858 the contract to the willing preferred bidder who was the lowest preferred bidder originally.
70859 (b) If there were two or more equally low preferred bidders, the procurement officer
70860 shall comply with the rules adopted by the Procurement Policy Board to determine which
70861 bidder should be awarded the contract.
70862 (4) The provisions of this section do not apply if application of this section might

70863 jeopardize the receipt of federal funds.
70864 Section 1426. Section **63G-6-405**, which is renumbered from Section 63-56-405 is
70865 renumbered and amended to read:
70866 **[~~63-56-405~~]. 63G-6-405. Preference for resident contractors.**
70867 (1) As used in this section, "resident contractor" means a person, partnership,
70868 corporation, or other business entity that:
70869 (a) either has its principal place of business in Utah or that employs workers who are
70870 residents of this state when available; and
70871 (b) was transacting business on the date when bids for the public contract were first
70872 solicited.
70873 (2) (a) When awarding contracts for construction, a public procurement unit shall grant
70874 a resident contractor a reciprocal preference as against a nonresident contractor from any state
70875 that gives or requires a preference to contractors from that state.
70876 (b) The amount of the reciprocal preference shall be equal to the amount of the
70877 preference applied by the state of the nonresident contractor.
70878 (3) (a) The bidder shall certify on the bid that [~~he~~] the bidder qualifies as a resident
70879 contractor.
70880 (b) The reciprocal preference is waived if that certification does not appear on the bid.
70881 (4) (a) If the contractor submitting the lowest responsive and responsible bid is not a
70882 resident contractor and has his principal place of business in any state that gives or requires a
70883 preference to contractors from that state, and if a resident contractor has also submitted a
70884 responsive and responsible bid, and, with the benefit of the reciprocal preference, the resident
70885 contractor's bid is equal to or less than the original lowest bid, the procurement officer shall:
70886 (i) give notice to the resident contractor that [~~he~~] the resident contractor qualifies as a
70887 preferred resident contractor; and
70888 (ii) issue the contract to the resident contractor if[~~,~~] the resident contractor agrees, in
70889 writing, to meet the low bid within 72 hours after notification [~~to him~~] that [~~he~~] the resident
70890 contractor is a preferred resident contractor[~~, he agrees, in writing, to meet the low bid~~].
70891 (b) The procurement officer shall include the exact price submitted by the lowest
70892 bidder in the notice [~~he~~] the procurement officer submits to the preferred resident contractor.
70893 (c) The procurement officer may not enter into a contract with any other bidder for the

70894 construction until 72 hours have elapsed after notification to the preferred resident contractor.
70895 (5) (a) If there is more than one preferred resident contractor, the procurement officer
70896 shall award the contract to the willing preferred resident contractor who was the lowest
70897 preferred resident contractor originally.
70898 (b) If there were two or more equally low preferred resident contractors, the
70899 procurement officer shall comply with the rules adopted by the Procurement Policy Board to
70900 determine which bidder should be awarded the contract.
70901 (6) The provisions of this section do not apply if application of this section might
70902 jeopardize the receipt of federal funds.
70903 Section 1427. Section **63G-6-406**, which is renumbered from Section 63-56-406 is
70904 renumbered and amended to read:
70905 **[~~63-56-406~~]. 63G-6-406. Preference for recycled paper and paper**
70906 **products.**
70907 (1) As used in this section:
70908 (a) "Chief procurement officer" is the chief procurement officer appointed under
70909 Section [~~63-56-203~~] 63G-6-203.
70910 (b) "Paper" means any newspaper, high-grade office paper, fine paper, bond paper,
70911 offset paper, xerographic paper, mimeographic paper, duplicator paper, and related types of
70912 cellulosic material containing not more than 10% by weight or volume of noncellulosic
70913 material such as laminates, binders, coatings, or saturants.
70914 (c) "Paper product" means any paper items or commodities, including paper napkins,
70915 towels, corrugated and other cardboard, toilet tissue, paper and related types of cellulosic
70916 products containing not more than 10% by weight or volume of noncellulosic material such as
70917 laminates, binders, coatings, or saturants. "Paper product" does not include preprinted
70918 cellulosic products such as books, newspapers, calendars, and magazines.
70919 (d) "Postconsumer waste," "recycled paper," "recycled paper product," and "secondary
70920 waste paper material" are defined by rule made by the Division of Purchasing, Department of
70921 Administrative Services. The division rules shall be based on current definitions and standards
70922 employed by national procurement, product recycling, and other relevant organizations such as
70923 the federal Environmental Protection Agency.
70924 (2) Notwithstanding Section [~~63-56-401~~] 63G-6-401, which requires public

70925 procurement units to purchase products from the lowest responsible bidder, and subject to
70926 Subsection (3), every public procurement unit shall give preference to the purchase of paper
70927 and paper products which are manufactured or produced from recycled materials.
70928 (3) A public procurement unit shall give preference to purchasing recycled paper and
70929 recycled paper products unless:
70930 (a) the bid or purchase price for recycled paper or paper products exceeds by more than
70931 5% the lowest responsive and responsible bidder whose bid meets the requirements and criteria
70932 set forth in the invitation for bids;
70933 (b) there is no recycled paper or paper product reasonably available that meets the
70934 requirements and criteria set forth in the invitation for bids; or
70935 (c) the public procurement unit has purchased at least the minimum percentage
70936 purchase requirement of recycled paper or recycled paper products as provided in Subsection
70937 (4).
70938 (4) (a) The minimum percentage purchase requirement for fiscal year 1990-91 is 10%
70939 of the public procurement unit's projected annual paper and paper product purchases.
70940 (b) The minimum percentage purchase requirement shall be increased by 5% each
70941 fiscal year until the minimum percentage purchase requirement is 50%.
70942 (5) Each public procurement unit shall provide the chief procurement officer with a
70943 report at the end of each fiscal year documenting:
70944 (a) the dollar amounts of paper and paper products purchased;
70945 (b) the dollar amounts of recycled paper and recycled paper products purchased; and
70946 (c) any additional costs resulting from purchasing recycled paper or recycled paper
70947 products.
70948 (6) The chief procurement officer shall provide a written report of the information
70949 received under Subsection (5) to the Natural Resources, Agriculture, and Environment Interim
70950 Committee prior to November 30 of each year.
70951 (7) (a) Each state agency shall separate and collect all types of recyclable paper for
70952 recycling, except under Subsection (7)(b). The chief procurement officer shall maintain an
70953 updated list of which papers are recyclable.
70954 (b) If the state agency conducts an evaluation under Subsection (8) and determines the
70955 cost of recycling a certain type of recyclable paper is more than 10% greater than the cost of the

70956 current disposal method, the entity is exempt from the requirements of Subsection (7)(a)
70957 regarding that type of paper.
70958 (8) A state agency's evaluation shall:
70959 (a) determine the types and quantities of recyclable paper in the state agency's current
70960 waste stream;
70961 (b) determine the market value of the recyclable paper;
70962 (c) determine and describe the alternatives for separating recyclable paper from the
70963 waste stream;
70964 (d) for each type of paper and for each method of separation, determine the cost of
70965 separating and collecting the recyclable paper for recycling;
70966 (e) determine the cost of the current disposal method for each type of recyclable paper;
70967 (f) for each type of paper, compare the cost of the current disposal method with the cost
70968 of separating and collecting the paper for recycling; and
70969 (g) determine the cost of producing the report required under Subsection (13)(b).
70970 (9) Each evaluation conducted under Subsection (8) shall:
70971 (a) be in writing;
70972 (b) justify all estimates;
70973 (c) be retained by the state agency;
70974 (d) be accessible to the public for review; and
70975 (e) be submitted to the chief procurement officer.
70976 (10) Each state agency conducting an evaluation shall revise the evaluation as
70977 necessary, at least every 30 months.
70978 (11) A state agency that is required to separate paper for recycling shall:
70979 (a) designate an existing employee as a recycling coordinator to organize and
70980 coordinate the state agency's recycling program;
70981 (b) establish procedures for separating each type of paper required to be separated for
70982 recycling;
70983 (c) establish a system for separating and collecting each type of paper to be recycled,
70984 which assures the recyclable paper is sold to appropriate industries for reuse or recycling; and
70985 (d) make participation in the recycling program as easy as practicable for state agency
70986 personnel by establishing clear policies.

70987 (12) The monies received from the sale of recyclable paper shall be retained by the
70988 agency for:
70989 (a) reimbursement to the state agency for program administration costs incurred as a
70990 result of recycling, if any; and
70991 (b) funding recycling incentives programs.
70992 (13) (a) The recycling coordinator designated in Subsection (11) shall keep records of:
70993 (i) the quantity of paper recycled by the state agency;
70994 (ii) the costs incurred by the state agency in recycling paper; and
70995 (iii) the monies received from the sale of recyclable paper.
70996 (b) Each recycling coordinator shall provide a written report of the state agency's
70997 recycling activities including the information required under Subsection (13)(a) before
70998 September 30 of each year to the chief procurement officer.
70999 (14) The chief procurement officer shall provide a written report of the information
71000 received under Subsection (13) to the Natural Resources, Agriculture, and Environment Interim
71001 Committee prior to November 30 of each year.
71002 Section 1428. Section **63G-6-407**, which is renumbered from Section 63-56-407 is
71003 renumbered and amended to read:
71004 **[~~63-56-407~~]. 63G-6-407. Use of alkaline paper.**
71005 (1) As used in this section, "alkaline paper" means paper that is acid-free,
71006 manufactured with calcium carbonate as the principal filler, and meets standards for paper
71007 approved by the American National Standards Institute, National Information Standards
71008 Organization, and American Society for Testing and Materials.
71009 (2) (a) Notwithstanding Section [~~63-56-401~~] 63G-6-401, which requires public
71010 procurement units to purchase products from the lowest responsible bidder, and except as
71011 provided in Subsection (2)(b), every public procurement unit shall purchase and use alkaline
71012 paper.
71013 (b) A public procurement unit shall purchase alkaline paper unless:
71014 (i) the bid or purchase price for alkaline paper or alkaline recycled paper exceeds the
71015 lowest responsive and responsible bidder whose bid meets the requirements and criteria set
71016 forth in the invitation for bids;
71017 (ii) there is no alkaline or alkaline recycled paper reasonably available that meets the

71018 requirements and criteria set forth in the invitation for bids; or
71019 (iii) other paper products have equal or better quality characteristics than alkaline paper
71020 and meet standards for paper approved by the American National Standards Institute, National
71021 Information Standards Organization, and American Society for Testing and Materials.
71022 (3) The state archivist shall promote the use of alkaline paper within state government,
71023 local units of government, and school districts.
71024 Section 1429. Section **63G-6-408**, which is renumbered from Section 63-56-408 is
71025 renumbered and amended to read:
71026 **[~~63-56-408~~]. 63G-6-408. Use of competitive sealed proposals in lieu of**
71027 **bids -- Procedure.**
71028 (1) (a) When, according to rules established by the Procurement Policy Board, the
71029 chief procurement officer, the head of a purchasing agency, or a designee of either officer
71030 above the level of procurement officer determines in writing that the use of competitive sealed
71031 bidding is either not practicable or not advantageous to the state, a contract may be entered into
71032 by competitive sealed proposals.
71033 (b) (i) Competitive sealed proposals may be used for the procurement of services of
71034 consultants, professionals, and providers as defined by the policy board by rule, whether or not
71035 the determination described in this subsection has been made.
71036 (ii) The policy board shall make rules establishing guidelines to assure maximum
71037 practicable competition in those procurements, including the relative importance, if any, of the
71038 fee to be charged by an offeror.
71039 (iii) The rules may provide that it is either not practicable or not advantageous to the
71040 state to procure certain types of supplies, services, or construction by competitive sealed
71041 bidding or competitive sealed proposals.
71042 (2) (a) Proposals shall be solicited through a request for proposals.
71043 (b) Public notice of the request for proposals shall be given in accordance with policy
71044 board rules.
71045 (3) (a) Proposals shall be opened so as to avoid disclosure of contents to competing
71046 offerors during the process of negotiation.
71047 (b) A register of proposals shall be prepared in accordance with policy board rules and
71048 shall be open for public inspection after the contract is awarded.

71049 (4) The request for proposals shall state the relative importance of price and other
71050 evaluating factors.
71051 (5) (a) As provided in the request for proposals and under policy board rules,
71052 discussions may be conducted with responsible offerors who submit proposals for the purpose
71053 of assuring full understanding of, and responsiveness to, solicitation requirements.
71054 (b) Offerors shall be accorded fair and equal treatment with respect to any opportunity
71055 for discussion and revision of proposals, and revisions may be permitted after submissions and
71056 before the contract is awarded for the purpose of obtaining best and final offers.
71057 (c) In conducting discussions, there shall be no disclosure of any information derived
71058 from proposals submitted by competing offerors.
71059 (6) (a) Award shall be made to the responsible offeror whose proposal is determined in
71060 writing to be the most advantageous to the state, taking into consideration price and the
71061 evaluation factors set forth in the request for proposals.
71062 (b) No other factors or criteria shall be used in the evaluation.
71063 (c) The contract file shall contain the basis on which the award is made.
71064 Section 1430. Section **63G-6-409**, which is renumbered from Section 63-56-409 is
71065 renumbered and amended to read:
71066 **[~~63-56-409~~]. 63G-6-409. Small purchases.**
71067 Small purchases shall be defined in, and may be made in accordance with procedures
71068 established by, rules and regulations; except that the procurement requirement shall not be
71069 artificially divided so as to constitute a small purchase under this section.
71070 Section 1431. Section **63G-6-410**, which is renumbered from Section 63-56-410 is
71071 renumbered and amended to read:
71072 **[~~63-56-410~~]. 63G-6-410. Circumstances justifying award of contract**
71073 **without competition.**
71074 A contract may be awarded for a supply, service, or construction item without
71075 competition when, under rules and regulations, the chief procurement officer, the head of a
71076 purchasing agency, or a designee of either officer above the level of procurement officer
71077 determines in writing that:
71078 (1) there is only one source for the required supply, service, or construction item; or
71079 (2) the award to a specific supplier, service provider, or contractor is a condition of a

71080 donation that will fund the full cost of the supply, service, or construction item.
71081 Section 1432. Section **63G-6-411**, which is renumbered from Section 63-56-411 is
71082 renumbered and amended to read:
71083 **[~~63-56-411~~]. 63G-6-411. Emergency procurements.**
71084 Notwithstanding any other provision of this chapter, when there exists a threat to public
71085 health, welfare, or safety under emergency conditions as defined in rules and regulations, the
71086 chief procurement officer, the head of a purchasing agency, or a designee of either officer may
71087 make or authorize others to make emergency procurements; provided that emergency
71088 procurements shall be made with as much competition as practicable under the circumstances.
71089 A written determination of the basis for the emergency and for the selection of the particular
71090 contractor shall be included in the contract file.
71091 Section 1433. Section **63G-6-412**, which is renumbered from Section 63-56-412 is
71092 renumbered and amended to read:
71093 **[~~63-56-412~~]. 63G-6-412. Cancellation and rejection of bids.**
71094 An invitation for bids, a request for proposals, or other solicitation may be cancelled, or
71095 any or all bids or proposals may be rejected, in whole or in part, as may be specified in the
71096 solicitation, when it is in the best interests of the state in accordance with rules and regulations.
71097 The reasons shall be made part of the contract file.
71098 Section 1434. Section **63G-6-413**, which is renumbered from Section 63-56-413 is
71099 renumbered and amended to read:
71100 **[~~63-56-413~~]. 63G-6-413. Determination of nonresponsibility of bidder.**
71101 A written determination of nonresponsibility of a bidder or offeror shall be made in
71102 accordance with rules and regulations. The unreasonable failure of a bidder or offeror to
71103 promptly supply information in connection with an inquiry with respect to responsibility may
71104 be grounds for a determination of nonresponsibility with respect to the bidder or offeror.
71105 Information furnished by a bidder or offeror pursuant to this section shall not be disclosed
71106 outside of the purchasing division or the purchasing agency without prior written consent by
71107 the bidder or offeror.
71108 Section 1435. Section **63G-6-414**, which is renumbered from Section 63-56-414 is
71109 renumbered and amended to read:
71110 **[~~63-56-414~~]. 63G-6-414. Prequalification of suppliers.**

71111 Prospective suppliers may be prequalified for particular types of supplies, services, and
71112 construction. Solicitation mailing lists of potential contractors shall include but shall not be
71113 limited to prequalified suppliers.
71114 Section 1436. Section **63G-6-415**, which is renumbered from Section 63-56-415 is
71115 renumbered and amended to read:
71116 **[~~63-56-415~~]. 63G-6-415. Rules and regulations to determine allowable**
71117 **incurred costs -- Required information -- Auditing of books.**
71118 (1) Rules and regulations may be promulgated to set forth cost principles to be used to
71119 determine the allowability of incurred costs for the purpose of reimbursing costs under contract
71120 provisions which provide for the reimbursement of costs; provided that if a written
71121 determination is approved at a level above the procurement officer, the cost principles may be
71122 modified by contract.
71123 (2) A person shall, except as provided in Subsection (4), submit cost or pricing data
71124 and shall certify that, to the best of the person's knowledge and belief, the cost or pricing data
71125 submitted were accurate, complete, and current as of a mutually determined specified date prior
71126 to the date of:
71127 (a) the pricing of any contract awarded by competitive sealed proposals or pursuant to
71128 the sole source procurement authority, where the total contract price is expected to exceed an
71129 amount established by rules and regulations; or
71130 (b) the pricing of any change order which is expected to exceed an amount established
71131 by rules and regulations.
71132 (3) Any contract or change order under which a certificate is required shall contain a
71133 provision that the price to the state, including profit or fee, shall be adjusted to exclude any
71134 significant sums by which the state finds that the price was increased because the
71135 contractor-furnished cost or pricing data were inaccurate, incomplete, or not current as of the
71136 date agreed upon between the parties.
71137 (4) The requirements of Subsections (2) and (3) need not be applied to contracts:
71138 (a) where the contract price is based on adequate price competition;
71139 (b) where the contract price is based on established catalogue prices or market prices;
71140 (c) where contract prices are set by law or regulation; or
71141 (d) where it is determined in writing in accordance with rules and regulations that the

71142 requirements of this section may be waived, and the reasons for such waiver are stated in
71143 writing.
71144 (5) The state may, at reasonable times and places, audit the books and records of any
71145 person who has submitted cost or pricing data pursuant to this section or any contractor or
71146 subcontractor under any negotiated contract or subcontract other than a firm fixed-price
71147 contract to the extent that the books and records relate to the cost or pricing data, contract, or
71148 subcontract. The books and records shall be maintained by the contractor for three years
71149 following the end of the fiscal year in which final payment is made under the prime contract
71150 and by the subcontractor for three years following the end of the fiscal year in which final
71151 payment is made under the subcontract, unless a shorter period is otherwise authorized in
71152 writing.
71153 Section 1437. Section **63G-6-416**, which is renumbered from Section 63-56-416 is
71154 renumbered and amended to read:
71155 **[~~63-56-416~~]. 63G-6-416. Cost-plus-a-percentage-of-cost contract**
71156 **prohibited.**
71157 (1) Subject to the limitations of this section, any type of contract which will promote
71158 the best interests of the state may be used; provided that the use of a
71159 cost-plus-a-percentage-of-cost contract is prohibited. A cost-reimbursement contract may be
71160 used only when a determination is made in writing that such contract is likely to be less costly
71161 to the state than any other type or that it is impracticable to obtain the supplies, services, or
71162 construction required except under such a contract.
71163 (2) Except with respect to firm fixed-price contracts, no contract type shall be used
71164 unless it has been determined in writing by the chief procurement officer, the head of a
71165 purchasing agency, or a designee of either officer that:
71166 (a) the proposed contractor's accounting system will permit timely development of all
71167 necessary cost data in the form required by the specific contract type contemplated; and
71168 (b) the proposed contractor's accounting system is adequate to allocate costs in
71169 accordance with generally accepted accounting principles.
71170 Section 1438. Section **63G-6-417**, which is renumbered from Section 63-56-417 is
71171 renumbered and amended to read:
71172 **[~~63-56-417~~]. 63G-6-417. Period of time for contract of supplies.**

71173 (1) Unless otherwise provided by law, a contract for supplies or services may be
71174 entered into for any period of time considered to be in the best interests of the state; provided
71175 that the term of the contract and conditions of renewal or extension, if any, are included in the
71176 solicitation and funds are available for the first fiscal period at the time of contracting.
71177 Payment and performance obligations for succeeding fiscal periods shall be subject to the
71178 availability and appropriation of funds.
71179 (2) Prior to the utilization of a multiyear contract, it shall be determined in writing that
71180 estimated requirements cover the period of the contract and are reasonably firm and continuing
71181 and that such a contract will serve the best interests of the state by encouraging effective
71182 competition or otherwise promoting economies in state procurement.
71183 (3) When funds are not appropriated or otherwise made available to support
71184 continuation of performance in a subsequent fiscal period, the contract shall be cancelled and
71185 the contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred
71186 but not amortized in the price of the supplies or services delivered under the contract. The cost
71187 of cancellation may be paid from any appropriations available for that purpose.
71188 Section 1439. Section **63G-6-418**, which is renumbered from Section 63-56-418 is
71189 renumbered and amended to read:
71190 **[~~63-56-418~~]. 63G-6-418. Right of state to inspect place of business of**
71191 **contractor or subcontractor.**
71192 The state may, at reasonable times, inspect the part of the plant or place of business of a
71193 contractor or any subcontractor which is related to the performance of any contract awarded or
71194 to be awarded by the state.
71195 Section 1440. Section **63G-6-419**, which is renumbered from Section 63-56-419 is
71196 renumbered and amended to read:
71197 **[~~63-56-419~~]. 63G-6-419. Determinations final except when arbitrary and**
71198 **capricious.**
71199 The determinations required by Subsections [~~63-56-401~~] 63G-6-401(6), [~~63-56-408~~]
71200 63G-6-408(1) and (6), Sections [~~63-56-410~~] 63G-6-410, [~~63-56-411~~] 63G-6-411, [~~63-56-413~~]
71201 63G-6-413, Subsection [~~63-56-415~~] 63G-6-415(4), Section [~~63-56-416~~] 63G-6-416, and
71202 Subsection [~~63-56-417~~] 63G-6-417(2) are final and conclusive unless they are arbitrary and
71203 capricious or clearly erroneous.

71204 Section 1441. Section **63G-6-420**, which is renumbered from Section 63-56-420 is
71205 renumbered and amended to read:
71206 **[~~63-56-420~~]. 63G-6-420. Factual information to attorney general if**
71207 **collusion suspected.**
71208 When for any reason collusion or other anticompetitive practices are suspected among
71209 bidders or offerors, a notice of the relevant facts shall be transmitted to the attorney general.
71210 Section 1442. Section **63G-6-421**, which is renumbered from Section 63-56-421 is
71211 renumbered and amended to read:
71212 **[~~63-56-421~~]. 63G-6-421. Records of contracts made.**
71213 The chief procurement officer or the head of a purchasing agency shall maintain a
71214 record listing all contracts made under Section [~~63-56-410~~] 63G-6-410 or [~~63-56-411~~]
71215 63G-6-411 and shall maintain the record in accordance with [~~Title 63, Chapter 2~~] Title 63G,
71216 Chapter 2, Government Records Access and Management Act. The record shall contain each
71217 contractor's name, the amount and type of each contract, and a listing of the supplies, services,
71218 or construction procured under each contract.
71219 Section 1443. Section **63G-6-422**, which is renumbered from Section 63-56-422 is
71220 renumbered and amended to read:
71221 **[~~63-56-422~~]. 63G-6-422. Exemptions from source selection and contract**
71222 **requirements -- Violation penalty.**
71223 The policy board may, by rule, exempt a public procurement unit from the source
71224 selection and contract award provisions of this part, if it considers that to be in the best
71225 economic interest of the state.
71226 On projects where public funds or political subdivisions are involved, the owner shall
71227 follow the procedures outlined in the Utah Procurement Code when determining or selecting
71228 their agent or construction manager. However, no exemption shall be permitted that allows
71229 any political subdivision of this state to negotiate, enter into, or cause to be negotiated prior to
71230 open bidding for the prime contracting agent any predetermined agreement or arrangement
71231 which causes interference with the traditional fair competitive bidding process or the rights of
71232 employees under state and federal law. Any agreement or arrangement entered into in violation
71233 of this section is unenforceable and void ab initio and the parties to such an agreement or
71234 arrangement are subject to a class B misdemeanor penalty.

71235 This provision shall not apply to any political subdivision, agency, or department of this
71236 state, if, as a condition of a federal grant, there is a requirement that a schedule of
71237 predetermined wages be included in the contract.
71238 Section 1444. Section **63G-6-423**, which is renumbered from Section 63-56-423 is
71239 renumbered and amended to read:
71240 **[~~63-56-423~~]. 63G-6-423. Purchase of prison industry goods.**
71241 (1) All public procurement units shall purchase goods and services produced by the
71242 Utah Correctional Industries Division as provided by this section, which is an exemption from
71243 this chapter. All political subdivisions of the state may purchase these goods and services and
71244 are encouraged to do so when feasible.
71245 (2) By July 1 of each year, the director of the Utah Correctional Industries shall publish
71246 and distribute to all state agencies and interested political subdivisions a catalog of goods and
71247 services provided by the Correctional Industries Division. The catalog shall include a
71248 description and price of each item offered for sale. The catalog shall be updated and revised
71249 during the year as the director considers necessary.
71250 (3) (a) State departments, agencies, and institutions may not purchase any goods or
71251 services provided by the Correctional Industries Division from any other source unless it has
71252 been determined in writing by the director of Correctional Industries and the state procurement
71253 officer or in the case of institutions of higher education, the institutional procurement officer,
71254 that purchase from the Correctional Industries Division is not feasible due to one of the
71255 following circumstances:
71256 (i) the good or service offered by the division does not meet the reasonable
71257 requirements of the purchasing agency;
71258 (ii) the good or service cannot be supplied within a reasonable time by the division; or
71259 (iii) the cost of the good or service, including basic price, transportation costs, and
71260 other expenses of acquisition, is not competitive with the cost of procuring the item from
71261 another source.
71262 (b) In cases of disagreement, the decision may be appealed to a board consisting of the
71263 director of the Department of Corrections, the director of Administrative Services, and a
71264 neutral third party agreed upon by the other two members or, in the case of institutions of
71265 higher education, the president of the involved institution shall make the final decision.

71266 Section 1445. Section **63G-6-424**, which is renumbered from Section 63-56-424 is
71267 renumbered and amended to read:
71268 **[~~63-56-424~~]. 63G-6-424. Counties and municipalities eligible to**
71269 **participate in state agreements, contracts, and surplus property program.**
71270 Utah counties, municipalities, and local public procurement units may purchase from or
71271 otherwise participate in state public procurement unit agreements and contracts.
71272 Section 1446. Section **63G-6-425**, which is renumbered from Section 63-56-425 is
71273 renumbered and amended to read:
71274 **[~~63-56-425~~]. 63G-6-425. Purchase from community rehabilitation**
71275 **programs.**
71276 (1) As used in this section:
71277 (a) "Board" means the Purchasing from Persons with Disabilities Advisory Board
71278 created under this section.
71279 (b) "Central not-for-profit association" means a group of experts designated by the
71280 board to do the following, under guidelines established by the board:
71281 (i) assist the board with its functions; and
71282 (ii) facilitate the implementation of board policies.
71283 (c) (i) "Community rehabilitation program" means a program that is operated primarily
71284 for the purpose of the employment and training of persons with a disability by a government
71285 agency or qualified nonprofit organization which is an income tax exempt organization under
71286 26 U.S.C. Sec. 501(c)(3) of the Internal Revenue Code.
71287 (ii) A community rehabilitation program:
71288 (A) maintains an employment ratio of at least 75% of the program employees under the
71289 procurement contract in question have severe disabilities;
71290 (B) (I) complies with any applicable occupational health and safety standards
71291 prescribed by the United States Department of Labor; or
71292 (II) is a supported employment program approved by the Utah State Office of
71293 Rehabilitation;
71294 (C) has its principal place of business in Utah;
71295 (D) produces any good provided under this section in Utah; and
71296 (E) provides any service that is provided by individuals with a majority of whom

71297 domiciled in Utah.
71298 (d) "Person with a disability" means a person with any disability as defined by and
71299 covered under the Americans with Disabilities Act of 1990, 42 U.S.C. 12102.
71300 (2) (a) There is created the Purchasing from Persons with Disabilities Advisory Board
71301 within the Division of Purchasing and General Services of the Department of Administrative
71302 Services. The board shall be composed of the following three members:
71303 (i) the director of the Division of Purchasing and General Services created under
71304 Section 63A-2-101 or a designee;
71305 (ii) the executive director of the Utah State Office of Rehabilitation created under
71306 Section 53A-24-103 or a designee; and
71307 (iii) a representative of the private business community who shall be appointed to a
71308 three-year term by the governor with the advice and consent of the Senate.
71309 (b) The board shall meet, as needed, to facilitate the procurement of goods and services
71310 from community rehabilitation programs by a public procurement unit under this chapter by:
71311 (i) identifying goods and services that are available from community rehabilitation
71312 programs according to the requirements under Subsection (4);
71313 (ii) approving prices in accordance with Subsection (4)(c) for goods and services that
71314 are identified under Subsection (2)(b)(i);
71315 (iii) developing, maintaining, and approving a preferred procurement contract list of
71316 goods and services identified and priced under Subsections (2)(b)(i) and (ii);
71317 (iv) reviewing bids received by a community rehabilitation program; and
71318 (v) awarding and renewing specified contracts for set contract times, without
71319 competitive bidding, for the purchase of goods and services under Subsection (4).
71320 (c) The provisions of Subsections (2)(b) and (4)(a) are an exception to the procurement
71321 provisions under this chapter.
71322 (3) (a) The board may designate a central not-for-profit association, appoint its
71323 members, and establish guidelines for its duties.
71324 (b) The designated central not-for-profit association serves at the pleasure of the board
71325 and the central not-for-profit association or its individual members may be removed by the
71326 board at any time by a majority vote of the board.
71327 (c) Subject to the board guidelines and discretion, a designated central not-for-profit

71328 association may be assigned to perform the following duties:
71329 (i) identify qualified community rehabilitation programs and the goods and services
71330 that they provide or have the potential to provide;
71331 (ii) help ensure that goods and services are provided at reasonable quality and delivery
71332 levels;
71333 (iii) recommend pricing for goods and services;
71334 (iv) reviewing bids and recommending the award of contracts under the board's
71335 direction;
71336 (v) collecting and reporting program data to the board and to the division; and
71337 (vi) other duties specified by the board.
71338 (4) Except as provided under Subsection (6), notwithstanding any provision in this
71339 chapter to the contrary, each public procurement unit shall purchase goods and services
71340 produced by a community rehabilitation program using the preferred procurement contract list
71341 approved under Subsection (2)(b)(iii) if:
71342 (a) the good or service offered for sale by a community rehabilitation program
71343 reasonably conforms to the needs and specifications of the public procurement unit;
71344 (b) the community rehabilitation program can supply the good or service within a
71345 reasonable time; and
71346 (c) the price of the good or service is reasonably competitive with the cost of procuring
71347 the good or service from another source.
71348 (5) Each community rehabilitation program:
71349 (a) may submit a bid to the board at any time and not necessarily in response to a
71350 request for bids; and
71351 (b) shall certify on any bid it submits to the board or to a public procurement unit under
71352 this section that it is claiming a preference under this section.
71353 (6) During a fiscal year, the requirement for a public procurement unit to purchase
71354 goods and services produced by a community rehabilitation program under the preferred
71355 procurement list under Subsection (4) does not apply if the Division of Purchasing and General
71356 Services determines that the total amount of procurement contracts with community
71357 rehabilitation programs has reached $5 million for that fiscal year.
71358 (7) In the case of conflict between a purchase under this section and a purchase under

71359 Section [~~63-56-423~~] 63G-6-423, this section prevails.
71360 Section 1447. Section **63G-6-426**, which is renumbered from Section 63-56-426 is
71361 renumbered and amended to read:
71362 **[~~63-56-426~~]. 63G-6-426. Tie bids -- Preference for providers of state**
71363 **products -- Resolution of tie bids -- Record of tie bids.**
71364 (1) As used in this section:
71365 (a) (i) "Commodity" means a good, product, material, or item, including an
71366 agricultural, manufacturing, or mining product;
71367 (ii) "Commodity" does not include:
71368 (A) a service; or
71369 (B) construction materials or services.
71370 (b) "Provider of state products" means a bidder offering goods, supplies, products,
71371 materials, or items that are produced, manufactured, mined, or grown in the state.
71372 (c) "Tie bid" means a low responsive bid from a responsive bidder that is identical in
71373 price to a responsive bid from another responsive bidder.
71374 (2) In the event of a tie bid for the provision of a commodity where only one of the
71375 bidders having the low responsive bid is a provider of state products, a public procurement unit
71376 shall award the contract to the provider of state products if:
71377 (a) the quality of the commodity offered by the provider of state products is equal to or
71378 greater than the quality of the commodity offered by the other tied bidders;
71379 (b) the commodity offered by the provider of state products is suitable for the use
71380 required by the public procurement unit; and
71381 (c) the provider of state products is able to produce the commodity in sufficient
71382 quantity.
71383 (3) Unless Subsection (2) applies, a public procurement unit shall make an award on a
71384 tie bid by using one of the following procedures, which shall be selected in the sole discretion
71385 of the procurement officer:
71386 (a) where a tie bid includes the cost of delivery, awarding the contract to the bidder
71387 closest to the point of delivery;
71388 (b) awarding the contract to the identical bidder who received the previous award, and
71389 continue to award succeeding contracts to the same bidder so long as all low bids are tie bids;

71390 (c) awarding the contract to the bidder with the earliest delivery date;
71391 (d) if the price of the tie bid is considered excessive or the bids are unsatisfactory for
71392 another reason, rejecting all bids and negotiating a more favorable contact on the open market;
71393 or
71394 (e) if the procurement officer determines in writing that no method under this
71395 Subsection (3) will equitably resolve the tie bid, awarding the contract by drawing lots.
71396 (4) Awards of tie bids shall not be made by:
71397 (a) dividing business among tied bidders; or
71398 (b) drawing lots, except as provided in Subsection (3)(e).
71399 (5) (a) A state public procurement unit shall retain a record of each invitation for bids
71400 on which a tie bid is received, that shall include the following information:
71401 (i) the invitation for bids;
71402 (ii) the supply, service, or construction item requested by the invitation for bids;
71403 (iii) all the bidders and the prices submitted;
71404 (iv) the procedure used to resolve the tie bid; and
71405 (v) the results of the procedure used to resolve the tie bid, including the name of the
71406 bidder awarded the contract.
71407 (b) A copy of the record maintained under Subsection (5)(a) shall be provided to the
71408 attorney general for all contracts having a tie bid in excess of $50,000.
71409 Section 1448. Section **63G-6-501**, which is renumbered from Section 63-56-501 is
71410 renumbered and amended to read:
71411 **Part 5. Procurement of Construction**
71412 **[~~63-56-501~~]. 63G-6-501. Alternative methods of construction contracting**
71413 **management.**
71414 (1) (a) Rules shall provide as many alternative methods of construction contracting
71415 management as determined to be feasible.
71416 (b) These rules shall:
71417 (i) grant to the chief procurement officer or the head of the purchasing agency
71418 responsible for carrying out the construction project the discretion to select the appropriate
71419 method of construction contracting management for a particular project; and
71420 (ii) require the procurement officer to execute and include in the contract file a written

71421 statement setting forth the facts which led to the selection of a particular method of
71422 construction contracting management for each project.
71423 (c) Before choosing a construction contracting management method, the chief
71424 procurement officer or the head of the purchasing agency responsible for carrying out the
71425 construction project shall consider the following factors:
71426 (i) when the project must be ready to be occupied;
71427 (ii) the type of project;
71428 (iii) the extent to which the requirements of the procuring agencies and the ways in
71429 which they are to be met are known;
71430 (iv) the location of the project;
71431 (v) the size, scope, complexity, and economics of the project;
71432 (vi) the source of funding and any resulting constraints necessitated by the funding
71433 source;
71434 (vii) the availability, qualification, and experience of state personnel to be assigned to
71435 the project and how much time the state personnel can devote to the project; and
71436 (viii) the availability, qualifications, and experience of outside consultants and
71437 contractors to complete the project under the various methods being considered.
71438 (2) (a) Rules adopted by state public procurement units and local public procurement
71439 units to implement this section may authorize the use of a Construction Manager/General
71440 Contractor as one method of construction contracting management.
71441 (b) Those rules shall require that:
71442 (i) the Construction Manager/General Contractor shall be selected using one of the
71443 source selection methods provided for in Part 4, Source Selections and Contract Formation,
71444 and Section [~~63-56-502~~] 63G-6-502; and
71445 (ii) when entering into any subcontract that was not specifically included in the
71446 Construction Manager/General Contractor's cost proposal submitted under the requirements of
71447 Subsection (2)(b)(i), the Construction Manager/General Contractor shall procure that
71448 subcontractor by using one of the source selection methods provided for in Part 4, Source
71449 Selections and Contract Formation, in the same manner as if the subcontract work was
71450 procured directly by the state.
71451 (3) Procurement rules adopted by the State Building Board under Subsection (1) for

71452 state building construction projects may authorize the use of a design-build provider as one
71453 method of construction contracting management.
71454 Section 1449. Section **63G-6-502**, which is renumbered from Section 63-56-502 is
71455 renumbered and amended to read:
71456 **[~~63-56-502~~]. 63G-6-502. Procurement of design-build transportation**
71457 **project contracts.**
71458 (1) As used in this section:
71459 (a) "Design-build transportation project contract" means the procurement of both the
71460 design and construction of a transportation project in a single contract with a company or
71461 combination of companies capable of providing the necessary engineering services and
71462 construction.
71463 (b) "Transportation agency" means:
71464 (i) the Department of Transportation;
71465 (ii) a county of the first or second class, as defined in Section 17-50-501;
71466 (iii) a municipality of the first class, as defined in Section 10-2-301;
71467 (iv) a public transit district that has more than 200,000 people residing within its
71468 boundaries; and
71469 (v) a public airport authority.
71470 (2) Except as provided in Subsection (3), a transportation agency may award a
71471 design-build transportation project contract for any transportation project that has an estimated
71472 cost of at least $50,000,000 by following the requirements of this section.
71473 (3) (a) The Department of Transportation:
71474 (i) may award a design-build transportation project contract for any transportation
71475 project by following the requirements of this section; and
71476 (ii) shall make rules, by following the procedures and requirements of [~~Title 63,~~
71477 ~~Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing
71478 requirements for the procurement of its design-build transportation project contracts in addition
71479 to those required by this section.
71480 (b) A public transit district that has more than 200,000 people residing within its
71481 boundaries:
71482 (i) may award a design-build transportation project contract for any transportation

71483 project by following the requirements of this section; and
71484 (ii) shall pass ordinances or a resolution establishing requirements for the procurement
71485 of its design-build transportation project contracts in addition to those required by this section.
71486 (c) A design-build transportation project contract authorized under this Subsection (3)
71487 is not subject to the estimated cost threshold under Subsection (2).
71488 (4) (a) Before entering a design-build transportation project contract, a transportation
71489 agency may issue a request for qualifications to prequalify potential contractors.
71490 (b) Public notice of the request for qualifications shall be given in accordance with
71491 policy board rules.
71492 (c) A transportation agency shall require, as part of the qualifications specified in the
71493 request for qualifications, that potential contractors at least demonstrate their:
71494 (i) construction experience;
71495 (ii) design experience;
71496 (iii) financial, manpower, and equipment resources available for the project; and
71497 (iv) experience in other design-build transportation projects with attributes similar to
71498 the project being procured.
71499 (d) The request for qualifications shall identify the number of eligible competing
71500 proposers that the transportation agency will select to submit a proposal, which must be at least
71501 two.
71502 (5) (a) The transportation agency shall:
71503 (i) evaluate the responses received from the request for qualifications;
71504 (ii) select from their number those qualified to submit proposals; and
71505 (iii) invite those respondents to submit proposals based upon the transportation
71506 agency's request for proposals.
71507 (b) (i) Except as provided in Subsection (5)(b)(ii), if the transportation agency fails to
71508 receive at least two qualified eligible competing proposers, the transportation agency shall
71509 readvertise the project.
71510 (ii) Until July 1, 2010, a transportation agency may award a contract for a
71511 transportation project that has an estimated cost of $5,000,000 or less to a qualified eligible
71512 proposer if:
71513 (A) only a single proposal is received; and

71514 (B) the transportation agency determines that:
71515 (I) the proposal is advantageous to the state; and
71516 (II) the proposal price is reasonable.
71517 (iii) The Transportation Interim Committee and Government Operations Interim
71518 Committee of the Legislature shall review Subsection (5)(b)(ii) prior to November 30, 2009.
71519 (6) The transportation agency shall issue a request for proposals to those qualified
71520 respondents that:
71521 (a) includes a scope of work statement constituting an information for proposal that
71522 may include:
71523 (i) preliminary design concepts;
71524 (ii) design criteria, needs, and objectives;
71525 (iii) warranty and quality control requirements;
71526 (iv) applicable standards;
71527 (v) environmental documents;
71528 (vi) constraints;
71529 (vii) time expectations or limitations;
71530 (viii) incentives or disincentives; and
71531 (ix) other special considerations;
71532 (b) requires submitters to provide:
71533 (i) a sealed cost proposal;
71534 (ii) a critical path matrix schedule, including cash flow requirements;
71535 (iii) proposal security; and
71536 (iv) other items required by the department for the project; and
71537 (c) may include award of a stipulated fee to be paid to submitters who submit
71538 unsuccessful proposals.
71539 (7) The transportation agency shall:
71540 (a) evaluate the submissions received in response to the request for proposals from the
71541 prequalified proposers;
71542 (b) comply with rules relating to discussion of proposals, best and final offers, and
71543 evaluations of the proposals submitted; and
71544 (c) after considering price and other identified factors, award the contract to the

71545 responsible proposer whose proposal is most advantageous to the state.
71546 Section 1450. Section **63G-6-503**, which is renumbered from Section 63-56-502.5 is
71547 renumbered and amended to read:
71548 **[~~63-56-502.5~~]. 63G-6-503. Definitions -- Procurement of tollway**
71549 **development agreements.**
71550 (1) As used in this section:
71551 (a) "Department" means the Department of Transportation.
71552 (b) "Tollway development agreement" has the same meaning as defined in Section
71553 72-6-202.
71554 (2) The department and the Transportation Commission:
71555 (a) may solicit a tollway development agreement proposal by following the
71556 requirements of this section;
71557 (b) may award a solicited tollway development agreement contract for any tollway
71558 project by following the requirements of this section; and
71559 (c) shall make rules, by following the procedures and requirements of [~~Title 63,~~
71560 ~~Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing
71561 requirements for the procurement of tollway development agreement proposals in addition to
71562 those required by this section.
71563 (3) (a) Before entering into a tollway development agreement, the department may
71564 issue a request for qualifications to prequalify potential contractors.
71565 (b) Public notice of the request for qualifications shall be given in accordance with
71566 policy board rules.
71567 (c) The department shall require, as part of the qualifications specified in the request
71568 for qualifications, that potential contractors at least provide:
71569 (i) a demonstration of their experience with other transportation concession projects
71570 with attributes similar to the project being procured;
71571 (ii) a financial statement of the firm or consortium of firms making the proposal;
71572 (iii) a conceptual project development plan and financing plan;
71573 (iv) the legal structure of the firm or consortium of firms making the proposal;
71574 (v) the organizational structure for the project; and
71575 (vi) a statement describing why the firm or consortium of firms is best qualified for the

71576 project.
71577 (d) The request for qualifications shall identify the number of eligible competing
71578 proposers that the department will select to submit a proposal.
71579 (4) The department shall:
71580 (a) evaluate the responses received from the request for qualifications;
71581 (b) select from their number those qualified to submit proposals; and
71582 (c) invite those respondents to submit proposals based upon the department's request
71583 for proposals.
71584 (5) The department shall issue a request for proposals to those qualified respondents
71585 that may require, as appropriate for the procurement:
71586 (a) a description of the proposed project or projects;
71587 (b) a financial plan for the project, including:
71588 (i) the anticipated financial commitment of all parties;
71589 (ii) equity, debt, and other financing mechanisms;
71590 (iii) an analysis of the projected return, rate of return, or both; and
71591 (iv) the monetary benefit and other value to a government entity;
71592 (c) assumptions about user fees or toll rates;
71593 (d) a project development and management plan, including:
71594 (i) the contracting structure;
71595 (ii) the plan for quality management;
71596 (iii) the proposed toll enforcement plan; and
71597 (iv) the plan for safety management; and
71598 (e) the proposal to comply with the minimum guidelines for tollway development
71599 agreement proposals under Section 72-6-204.
71600 (6) The department and the Transportation Commission:
71601 (a) shall evaluate the submissions received in response to the request for proposals
71602 from the prequalified proposers;
71603 (b) shall comply with rules relating to discussion of proposals, best and final offers,
71604 and evaluations of the proposals submitted; and
71605 (c) may after considering price and other identified factors and complying with the
71606 requirements of Section 72-6-206, award the contract to the responsible proposer whose

71607 proposal is most advantageous to the state.
71608 Section 1451. Section **63G-6-504**, which is renumbered from Section 63-56-503 is
71609 renumbered and amended to read:
71610 **[~~63-56-503~~]. 63G-6-504. Bid security requirements -- Directed suretyship**
71611 **prohibited -- Penalty.**
71612 (1) Bid security in amount equal to at least 5% of the amount of the bid shall be
71613 required for all competitive sealed bidding for construction contracts. Bid security shall be a
71614 bond provided by a surety company authorized to do business in this state, the equivalent in
71615 cash, or any other form satisfactory to the state.
71616 (2) When a bidder fails to comply with the requirement for bid security set forth in the
71617 invitation for bids, the bid shall be rejected unless, pursuant to rules, it is determined that the
71618 failure to comply with the security requirements is nonsubstantial.
71619 (3) After the bids are opened, they shall be irrevocable for the period specified in the
71620 invitation for bids, except as provided in Subsection [~~63-56-401~~] 63G-6-401(6). If a bidder is
71621 permitted to withdraw a bid before award, no action shall be taken against the bidder or the bid
71622 security.
71623 (4) (a) When issuing an invitation for a bid under this chapter, the chief procurement
71624 officer or the head of the purchasing agency responsible for carrying out a construction project
71625 may not require a person or entity who is bidding for a contract to obtain a bond of the type
71626 referred to in Subsection (1) from a specific insurance or surety company, producer, agent, or
71627 broker.
71628 (b) A person who violates Subsection (4)(a) is guilty of an infraction.
71629 Section 1452. Section **63G-6-505**, which is renumbered from Section 63-56-504 is
71630 renumbered and amended to read:
71631 **[~~63-56-504~~]. 63G-6-505. Bonds necessary when contract is awarded --**
71632 **Waiver -- Action -- Attorneys' fees.**
71633 (1) When a construction contract is awarded under this chapter, the contractor to whom
71634 the contract is awarded shall deliver the following bonds or security to the state, which shall
71635 become binding on the parties upon the execution of the contract:
71636 (a) a performance bond satisfactory to the state that is in an amount equal to 100% of
71637 the price specified in the contract and is executed by a surety company authorized to do

71638 business in this state or any other form satisfactory to the state; and
71639 (b) a payment bond satisfactory to the state that is in an amount equal to 100% of the
71640 price specified in the contract and is executed by a surety company authorized to do business in
71641 this state or any other form satisfactory to the state, which is for the protection of each person
71642 supplying labor, service, equipment, or material for the performance of the work provided for
71643 in the contract.
71644 (2) (a) When a construction contract is awarded under this chapter, the chief
71645 procurement officer or the head of the purchasing agency responsible for carrying out a
71646 construction project may not require a contractor to whom a contract is awarded to obtain a
71647 bond of the types referred to in Subsection (1) from a specific insurance or surety company,
71648 producer, agent, or broker.
71649 (b) A person who violates Subsection (2)(a) is guilty of an infraction.
71650 (3) Rules may provide for waiver of the requirement of a bid, performance, or payment
71651 bond for circumstances in which the state considers any or all of the bonds to be unnecessary to
71652 protect the state.
71653 (4) A person shall have a right of action on a payment bond under this section for any
71654 unpaid amount due him if:
71655 (a) [~~he~~] the person has furnished labor, service, equipment, or material for the work
71656 provided for in the contract for which the payment bond is furnished under this section; and
71657 (b) [~~he~~] the person has not been paid in full within 90 days after the last date on which
71658 [~~he~~] the person performed the labor or service or supplied the equipment or material for which
71659 the claim is made.
71660 (5) An action upon a payment bond shall be brought in a court of competent
71661 jurisdiction in any county where the construction contract was to be performed and not
71662 elsewhere. The action is barred if not commenced within one year after the last day on which
71663 the claimant performed the labor or service or supplied the equipment or material on which the
71664 claim is based. The obligee named in the bond need not be joined as a party to the action.
71665 (6) In any suit upon a payment bond, the court shall award reasonable attorneys' fees to
71666 the prevailing party, which fees shall be taxed as costs in the action.
71667 Section 1453. Section **63G-6-506**, which is renumbered from Section 63-56-505 is
71668 renumbered and amended to read:

71669 **[~~63-56-505~~]. 63G-6-506. Preliminary notice requirement.**
71670 (1) Any person furnishing labor, service, equipment, or material for which a payment
71671 bond claim may be made under this chapter shall provide preliminary notice to the designated
71672 agent as prescribed by Section 38-1-32, except that this section does not apply:
71673 (a) to a person performing labor for wages; or
71674 (b) if a notice of commencement is not filed as prescribed in Section 38-1-31 for the
71675 project or improvement for which labor, service, equipment, or material is furnished.
71676 (2) Any person who fails to provide the preliminary notice required by Subsection (1)
71677 may not make a payment bond claim under this chapter.
71678 (3) The preliminary notice required by Subsection (1) must be provided prior to
71679 commencement of any action on the payment bond.
71680 Section 1454. Section **63G-6-507**, which is renumbered from Section 63-56-506 is
71681 renumbered and amended to read:
71682 **[~~63-56-506~~]. 63G-6-507. Form of bonds -- Effect of certified copy.**
71683 The form of the bonds required by this part shall be established by rules and
71684 regulations. Any person may obtain from the state a certified copy of a bond upon payment of
71685 the cost of reproduction of the bond and postage, if any. A certified copy of a bond shall be
71686 prima facie evidence of the contents, execution, and delivery of the original.
71687 Section 1455. Section **63G-6-601**, which is renumbered from Section 63-56-601 is
71688 renumbered and amended to read:
71689 **Part 6. Contract Clauses**
71690 **[~~63-56-601~~]. 63G-6-601. Required contract clauses -- Computation of**
71691 **price adjustments -- Use of rules and regulations.**
71692 (1) Rules and regulations shall require for state construction contracts and may permit
71693 or require for state contracts for supplies and services the inclusion of clauses providing for
71694 adjustments in prices, time of performance, or other appropriate contract provisions, and
71695 covering the following subjects:
71696 (a) the unilateral right of the state to order in writing changes in the work within the
71697 scope of the contract and changes in the time of performance of the contract that do not alter
71698 the scope of the contract work;
71699 (b) variations occurring between estimated quantities of work in a contract and actual

71700 quantities;
71701 (c) suspension of work ordered by the state; and
71702 (d) site conditions differing from those indicated in the construction contract, or
71703 ordinarily encountered, except that differing site conditions clauses required by the rules and
71704 regulations need not be included in a construction contract when the contract is negotiated,
71705 when the contractor provides the site or design, or when the parties have otherwise agreed with
71706 respect to the risk of differing site conditions.
71707 (2) Adjustments in price pursuant to clauses promulgated under Subsection (1) shall be
71708 computed in one or more of the following ways:
71709 (a) by agreement on a fixed price adjustment before commencement of the pertinent
71710 performance or as soon thereafter as practicable;
71711 (b) by unit prices specified in the contract or subsequently agreed upon;
71712 (c) by the costs attributable to the events or situations under the clauses with
71713 adjustment of profit or fee, all as specified in the contract or subsequently agreed upon;
71714 (d) in any other manner as the contracting parties may mutually agree; or
71715 (e) in the absence of agreement by the parties, by a unilateral determination by the state
71716 of the costs attributable to the events or situations under the clauses with adjustment of profit
71717 or fee, all as computed by the state in accordance with applicable sections of the rules and
71718 regulations issued under Subsection [~~63-56-415~~] 63G-6-415(1) and subject to the provisions of
71719 Part 8, Legal and Contractual Remedies.
71720 (3) A contractor shall be required to submit cost or pricing data if any adjustment in
71721 contract price is subject to the provisions of Section [~~63-56-415~~] 63G-6-415.
71722 (4) Rules and regulations shall require for state construction contracts and may permit
71723 or require for state contracts for supplies and services the inclusion of clauses providing for
71724 appropriate remedies and covering at least the following subjects:
71725 (a) liquidated damages as appropriate;
71726 (b) specified excuses for delay or nonperformance;
71727 (c) termination of the contract for default; and
71728 (d) termination of the contract in whole or in part for the convenience of the state.
71729 (5) The contract clauses promulgated under this section shall be set forth in rules and
71730 regulations. However, the chief procurement officer or the head of a purchasing agency may

71731 modify the clauses for inclusion in any particular contract. Any variations shall be supported
71732 by a written determination that describes the circumstances justifying the variations, and notice
71733 of any material variation shall be included in the invitation for bids or request for proposals.
71734 Section 1456. Section **63G-6-602**, which is renumbered from Section 63-56-602 is
71735 renumbered and amended to read:
71736 **[~~63-56-602~~]. 63G-6-602. Certification of change order.**
71737 Under a construction contract, any change order which increases the contract amount
71738 shall be subject to prior written certification that the change order is within the determined
71739 project or contract budget. The certification shall be made by the fiscal officer of the entity
71740 responsible for funding the project or the contract or other official responsible for monitoring
71741 and reporting upon the status of the costs of the total project or contract budget. If the
71742 certification discloses a resulting increase in the total project or contract budget, the
71743 procurement officer shall not execute or make the change order unless sufficient funds are
71744 available or the scope of the project or contract is adjusted to permit the degree of completion
71745 feasible within the total project or contract budget as it existed prior to the change order under
71746 consideration. However, with respect to the validity, as to the contractor, of any executed
71747 change order upon which the contractor has reasonably relied, it shall be presumed that there
71748 has been compliance with the provisions of this section.
71749 Section 1457. Section **63G-6-701**, which is renumbered from Section 63-56-701 is
71750 renumbered and amended to read:
71751 **Part 7. Architect-Engineer Services**
71752 **[~~63-56-701~~]. 63G-6-701. Policy regarding architect-engineer services.**
71753 It is the policy of this state to publicly announce all requirements for architect-engineer
71754 services and to negotiate contracts for architect-engineer services on the basis of demonstrated
71755 competence and qualification for the type of services required, and at fair and reasonable
71756 prices. Architect-engineer services shall be procured as provided in this part except as
71757 authorized by Sections [~~63-56-409~~] 63G-6-409 through [~~63-56-411~~] 63G-6-411. This part
71758 does not affect the authority of, and does not apply to procedures undertaken by, a public
71759 procurement unit to obtain the services of architects or engineers in the capacity of employees
71760 of such unit.
71761 Section 1458. Section **63G-6-702**, which is renumbered from Section 63-56-702 is

71762 renumbered and amended to read:
71763 **[~~63-56-702~~]. 63G-6-702. Selection committee for architect-engineer**
71764 **services.**
71765 In the procurement of architect-engineer services, the chief procurement officer or the
71766 head of a purchasing agency shall encourage firms engaged in the lawful practice of their
71767 profession to submit annually a statement of qualifications and performance data. The Building
71768 Board shall be the selection committee for architect-engineer services contracts under its
71769 authority. Selection committees for architect-engineer services contracts not under the authority
71770 of the Building Board shall be established in accordance with rules and regulations
71771 promulgated by the policy board. Selection committees shall evaluate current statements of
71772 qualifications and performance data on file with the state, together with those that may be
71773 submitted by other firms in response to the announcement of the proposed contract. Selection
71774 committees shall consider no less than three firms and then shall select therefrom, based upon
71775 criteria established and published by the selection committees, no less than three of the firms
71776 considered to be the most highly qualified to provide the services required.
71777 Section 1459. Section **63G-6-703**, which is renumbered from Section 63-56-703 is
71778 renumbered and amended to read:
71779 **[~~63-56-703~~]. 63G-6-703. Selection as part of design-build or lease.**
71780 Notwithstanding any other provision of this chapter, architect-engineer services may be
71781 procured under Title 63A, Chapter 5, State Building Board - Division of Facilities Construction
71782 and Management, as part of the services obtained in a design-build contract or as part of the
71783 services obtained in a lease contract for real property, provided that the qualifications of those
71784 providing the architect-engineer services are part of the consideration in the selection process.
71785 Section 1460. Section **63G-6-704**, which is renumbered from Section 63-56-704 is
71786 renumbered and amended to read:
71787 **[~~63-56-704~~]. 63G-6-704. Determination of compensation for**
71788 **architect-engineer services.**
71789 The procurement officer shall award a contract to a qualified firm at compensation
71790 which the procurement officer determines in writing to be fair and reasonable to the state. In
71791 making this decision, the procurement officer shall take into account the estimated value, the
71792 scope, and complexity, and the professional nature of the services to be rendered. Should the

71793 procurement officer be unable to agree to a satisfactory contract with the firm first selected, at a
71794 price the procurement officer determines to be fair and reasonable to the state, discussions with
71795 that firm shall be formally terminated. The procurement officer shall then undertake
71796 discussions with a second qualified firm. Failing accord with the second firm, the procurement
71797 officer shall formally terminate discussions. The procurement officer shall then undertake
71798 discussions with a third qualified firm. Should the procurement officer be unable to award a
71799 contract at a fair and reasonable price with any of the selected firms, the procurement officer
71800 shall select additional firms, and the procurement officer shall continue discussions in
71801 accordance with this part until an agreement is reached.
71802 Section 1461. Section **63G-6-705**, which is renumbered from Section 63-56-705 is
71803 renumbered and amended to read:
71804 **[~~63-56-705~~]. 63G-6-705. Restrictions on state agency procurement of**
71805 **architect-engineer services.**
71806 (1) Except as provided in Subsection (2), when a public procurement unit, in
71807 accordance with Section [~~63-56-701~~] 63G-6-701, elects to obtain architect or engineering
71808 services by using a competitive procurement process and has provided public notice of its
71809 competitive procurement process:
71810 (a) a higher education entity, or any part of one, may not submit a proposal in response
71811 to the public procurement unit's competitive procurement process; and
71812 (b) the public procurement unit may not award a contract to perform the architect or
71813 engineering services solicited in the competitive procurement process to a higher education
71814 entity or any part of one.
71815 (2) A public procurement unit need not comply with the requirements of Subsection (1)
71816 when the public procurement unit is procuring architect or engineer services for contracts
71817 related to research activities and technology transfer.
71818 Section 1462. Section **63G-6-801**, which is renumbered from Section 63-56-801 is
71819 renumbered and amended to read:
71820 **Part 8. Legal and Contractual Remedies**
71821 **[~~63-56-801~~]. 63G-6-801. Protest to chief procurement officer -- Time --**
71822 **Authority to resolve protest.**
71823 (1) Any actual or prospective bidder, offeror, or contractor who is aggrieved in

71824 connection with the solicitation or award of a contract may protest to the chief procurement
71825 officer or the head of a purchasing agency. A protest with respect to an invitation for bids or a
71826 request for proposals shall be submitted in writing prior to the opening of bids or the closing
71827 date for proposals, unless the aggrieved person did not know and should not have known of the
71828 facts giving rise to the protest prior to bid opening or the closing date for proposals. The
71829 protest shall be submitted in writing within five working days after the aggrieved person knows
71830 or should have known of the facts giving rise thereto.
71831 (2) The chief procurement officer, the head of a purchasing agency, or a designee of
71832 either officer shall have the authority, prior to the commencement of an action in court
71833 concerning the controversy, to settle and resolve the protest.
71834 Section 1463. Section **63G-6-802**, which is renumbered from Section 63-56-802 is
71835 renumbered and amended to read:
71836 **[~~63-56-802~~]. 63G-6-802. Effect of timely protest.**
71837 In the event of a timely protest under Subsection [~~63-56-801~~] 63G-6-801(1),
71838 [~~63-56-810~~] 63G-6-810(1), or [~~63-56-815~~] 63G-6-815(1), the state shall not proceed further
71839 with the solicitation or with the award of the contract until all administrative and judicial
71840 remedies have been exhausted or until the chief procurement officer, after consultation with the
71841 head of the using agency or the head of a purchasing agency, makes a written determination
71842 that the award of the contract without delay is necessary to protect substantial interests of the
71843 state.
71844 Section 1464. Section **63G-6-803**, which is renumbered from Section 63-56-803 is
71845 renumbered and amended to read:
71846 **[~~63-56-803~~]. 63G-6-803. Costs to or against protestor.**
71847 (1) When a protest is sustained administratively or upon administrative or judicial
71848 review and the protesting bidder or offeror should have been awarded the contract under the
71849 solicitation but is not, the protestor shall be entitled to the following relief as a claim against
71850 the state:
71851 (a) the reasonable costs incurred in connection with the solicitation, including bid
71852 preparation and appeal costs; and
71853 (b) any equitable relief determined to be appropriate by the reviewing administrative or
71854 judicial body.

71855 (2) When a protest is not sustained by the Procurement Appeals Board, the protestor
71856 shall reimburse the Division of Purchasing and General Services for the per diem and expenses
71857 paid by the division to witnesses or appeals board members and any additional expenses
71858 incurred by the state agency staff who have provided materials and administrative services to
71859 the board for that case.
71860 Section 1465. Section **63G-6-804**, which is renumbered from Section 63-56-804 is
71861 renumbered and amended to read:
71862 **[~~63-56-804~~]. 63G-6-804. Debarment from consideration for award of**
71863 **contracts -- Causes for debarment.**
71864 (1) After reasonable notice to the person involved and reasonable opportunity for that
71865 person to be heard, the chief procurement officer or the head of a purchasing agency, after
71866 consultation with the using agency and the attorney general, shall have authority to debar a
71867 person for cause from consideration for award of contracts. The debarment shall not be for a
71868 period exceeding three years. The same officer, after consultation with the using agency and
71869 the attorney general, shall have authority to suspend a person from consideration for award of
71870 contracts if there is probable cause to believe that the person has engaged in any activity which
71871 might lead to debarment. The suspension shall not be for a period exceeding three months
71872 unless an indictment has been issued for an offense which would be a cause for debarment
71873 under Subsection (2), in which case the suspension shall, at the request of the attorney general,
71874 remain in effect until after the trial of the suspended person.
71875 (2) The causes for debarment include the following:
71876 (a) conviction of a criminal offense as an incident to obtaining or attempting to obtain a
71877 public or private contract or subcontract or in the performance of such contract or subcontract;
71878 (b) conviction under state or federal statutes of embezzlement, theft, forgery, bribery,
71879 falsification or destruction of records, receiving stolen property, or any other offense indicating
71880 a lack of business integrity or business honesty which currently, seriously, and directly affects
71881 responsibility as a state contractor;
71882 (c) conviction under state or federal antitrust statutes;
71883 (d) failure without good cause to perform in accordance with the terms of the contract;
71884 or
71885 (e) any other cause the chief procurement officer, or the head of a purchasing agency

71886 determines to be so serious and compelling as to affect responsibility as a state contractor,
71887 including debarment by another governmental entity for any cause listed in rules and
71888 regulations.
71889 Section 1466. Section **63G-6-805**, which is renumbered from Section 63-56-805 is
71890 renumbered and amended to read:
71891 **[~~63-56-805~~]. 63G-6-805. Authority to resolve controversy between state**
71892 **and contractor.**
71893 The chief procurement officer, the head of a purchasing agency, or a designee of either
71894 officer is authorized, prior to commencement of an action in court concerning the controversy,
71895 to settle and resolve a controversy which arises between the state and a contractor under or by
71896 virtue of a contract between them. This includes, without limitation, controversies based upon
71897 breach of contract, mistakes, misrepresentation, or other cause for contract modification or
71898 rescission.
71899 Section 1467. Section **63G-6-806**, which is renumbered from Section 63-56-806 is
71900 renumbered and amended to read:
71901 **[~~63-56-806~~]. 63G-6-806. Decisions of chief procurement officer to be in**
71902 **writing -- Effect of no writing.**
71903 (1) The chief procurement officer, the head of a purchasing agency, or the designee of
71904 either officer shall promptly issue a written decision regarding any protest, debarment or
71905 suspension, or contract controversy if it is not settled by a mutual agreement. The decision
71906 shall state the reasons for the action taken and inform the protestor, contractor, or prospective
71907 contractor of the right to judicial or administrative review as provided in this chapter.
71908 (2) A decision shall be effective until stayed or reversed on appeal, except to the extent
71909 provided in Section [~~63-56-802~~] 63G-6-802. A copy of the decision under Subsection (1) shall
71910 be mailed or otherwise furnished immediately to the protestor, prospective contractor, or
71911 contractor. The decision shall be final and conclusive unless the protestor, prospective
71912 contractor, or contractor appeals administratively to the procurement appeals board in
71913 accordance with Subsection [~~63-56-810~~] 63G-6-810(2) or the protestor, prospective contractor,
71914 or contractor commences an action in district court in accordance with Section [~~63-56-815~~]
71915 63G-6-815.
71916 (3) If the chief procurement officer, the head of a purchasing agency, or the designee of

71917 either officer does not issue the written decision regarding a contract controversy within 60
71918 calendar days after written request for a final decision, or within such longer period as may be
71919 agreed upon by the parties, then the contractor may proceed as if an adverse decision had been
71920 received.
71921 Section 1468. Section **63G-6-807**, which is renumbered from Section 63-56-807 is
71922 renumbered and amended to read:
71923 **[~~63-56-807~~]. 63G-6-807. Creation of Procurement Appeals Board.**
71924 (1) (a) A Procurement Appeals Board is created in the executive branch. The
71925 Procurement Appeals Board shall be composed of a chair and one other member, to be
71926 appointed by the governor, and a third member to be designated by the two appointed members
71927 on a case-by-case basis.
71928 (b) None of the members of the Procurement Appeals Board shall otherwise be
71929 full-time employees of the state.
71930 (c) The appointed members of the Procurement Appeals Board shall have been
71931 members in good standing of the state bar for at least five years and shall be experienced in
71932 contract or commercial matters.
71933 (d) The designated member shall possess the technical expertise and experience needed
71934 for the proper disposition of the factual issues presented by the case.
71935 (2) (a) Except as required by Subsection (2)(b), as terms of current board members
71936 expire, the governor shall appoint each new member or reappointed member to a four-year
71937 term.
71938 (b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the
71939 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
71940 board members are staggered so that approximately half of the board is appointed every two
71941 years.
71942 (c) The designated member shall serve for the case on which designated until the final
71943 disposition of the case.
71944 (d) Appointed members may be reappointed for succeeding terms and may continue to
71945 serve after the expiration of their terms until a successor takes office.
71946 (e) Qualified persons may be redesignated as members.
71947 (3) When a vacancy occurs in the membership for any reason, the replacement shall be

71948 appointed for the unexpired term.
71949 (4) (a) Members shall receive no compensation or benefits for their services, but may
71950 receive per diem and expenses incurred in the performance of the member's official duties at
71951 the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
71952 (b) Members may decline to receive per diem and expenses for their service.
71953 Section 1469. Section **63G-6-808**, which is renumbered from Section 63-56-808 is
71954 renumbered and amended to read:
71955 **[~~63-56-808~~]. 63G-6-808. Rules of procedure to be adopted.**
71956 The Procurement Appeals Board shall adopt rules of procedure which, to the fullest
71957 extent possible, will provide for the expeditious resolution of controversies, including
71958 procedures to encourage agreements between the parties to a controversy prior to a hearing.
71959 The board may adopt small claims procedures for the resolution of controversies involving
71960 claims of less than $15,000.
71961 Section 1470. Section **63G-6-809**, which is renumbered from Section 63-56-809 is
71962 renumbered and amended to read:
71963 **[~~63-56-809~~]. 63G-6-809. Decisions to be in writing.**
71964 The Procurement Appeals Board shall issue a decision in writing or take other
71965 appropriate action of each appeal submitted. A copy of any decision shall be provided to all
71966 parties and the chief procurement officer or the head of a purchasing agency.
71967 Section 1471. Section **63G-6-810**, which is renumbered from Section 63-56-810 is
71968 renumbered and amended to read:
71969 **[~~63-56-810~~]. 63G-6-810. Jurisdiction of Procurement Appeals Board.**
71970 Unless an action has been initiated previously in district courts for essentially the same
71971 cause of action, the board shall have jurisdiction to review and determine de novo:
71972 (1) any protest of a solicitation or award of a contract addressed to the board by an
71973 aggrieved actual or prospective bidder or offeror, or a contractor; and
71974 (2) any appeal by an aggrieved party from a decision rendered or considered to have
71975 been rendered pursuant to Section [~~63-56-806~~] 63G-6-806.
71976 Section 1472. Section **63G-6-811**, which is renumbered from Section 63-56-811 is
71977 renumbered and amended to read:
71978 **[~~63-56-811~~]. 63G-6-811. Time limits to file protest or appeal -- Effect of**

71979 **filing.**
71980 (1) For a protest under Subsection [~~63-56-810~~] 63G-6-810(1), the aggrieved person
71981 shall file a protest with the board within five working days after the aggrieved person knows or
71982 should have known of the facts and circumstances upon which the protest is based; provided,
71983 however, that a protest with respect to an invitation for bids or request for proposals shall be
71984 filed prior to the opening of bids or the closing date for proposals unless the aggrieved person
71985 did not know and should not have known of the facts giving rise to the protest prior to bid
71986 opening or the closing date for proposals.
71987 (2) For an appeal from a decision regarding a protested solicitation or award, the
71988 aggrieved person shall file an appeal within seven calendar days of receipt of a decision
71989 rendered or considered to have been rendered pursuant to Section [~~63-56-806~~] 63G-6-806.
71990 (3) For an appeal from a decision regarding a debarment, suspension, or contract
71991 controversy, the aggrieved person shall file an appeal within 60 calendar days of receipt of a
71992 decision rendered or considered to have been rendered pursuant to Section [~~63-56-806~~]
71993 63G-6-806.
71994 Section 1473. Section **63G-6-812**, which is renumbered from Section 63-56-812 is
71995 renumbered and amended to read:
71996 **[~~63-56-812~~]. 63G-6-812. Discontinued appeal with prejudice, except as**
71997 **authorized.**
71998 After notice of an appeal has been filed with the Procurement Appeals Board, no party
71999 may discontinue the appeal without prejudice, except as authorized by the Procurement
72000 Appeals Board.
72001 Section 1474. Section **63G-6-813**, which is renumbered from Section 63-56-813 is
72002 renumbered and amended to read:
72003 **[~~63-56-813~~]. 63G-6-813. Factual determination of appeals board final and**
72004 **conclusive.**
72005 (1) On any protest or appeal under Section [~~63-56-810~~] 63G-6-810, the Procurement
72006 Appeals Board shall promptly decide the contract controversy or whether the solicitation or
72007 award was in accordance with this chapter. Any prior determinations by administrative
72008 officials regarding protests of solicitations or awards, suspension or debarments, contract
72009 controversies, or breach of contract controversies shall not be final or conclusive.

72010 (2) A determination of an issue of fact by the Procurement Appeals Board under
72011 Subsection (1) shall be final and conclusive unless arbitrary and capricious or clearly
72012 erroneous. No determination on an issue of law shall be final or conclusive.
72013 Section 1475. Section **63G-6-814**, which is renumbered from Section 63-56-814 is
72014 renumbered and amended to read:
72015 **[~~63-56-814~~]. 63G-6-814. Right to appeal to Court of Appeals.**
72016 Any person receiving an adverse decision or the state may appeal a decision of the
72017 Procurement Appeals Board to the Court of Appeals. However, no appeal may be made by the
72018 state unless recommended by the chief procurement officer or the head of the purchasing
72019 agency involved, and approved by the attorney general.
72020 Section 1476. Section **63G-6-815**, which is renumbered from Section 63-56-815 is
72021 renumbered and amended to read:
72022 **[~~63-56-815~~]. 63G-6-815. Jurisdiction of district court.**
72023 (1) The district court shall have jurisdiction over an action, whether the action is at law
72024 or in equity, between the state and:
72025 (a) a bidder, offeror, or contractor, prospective or actual, who is aggrieved in
72026 connection with the solicitation or award of a contract;
72027 (b) a person who is subject to a suspension or debarment proceeding; and
72028 (c) a contractor, for any cause of action which arises under, or by virtue of a contract.
72029 (2) The provisions of [~~Title 63, Chapter 30d~~] Title 63G, Chapter 7, Part 4, Notice of
72030 Claim Against a Governmental Entity or a Government Employee, and Section [~~63-30d-601~~]
72031 63G-7-601 do not apply to actions brought under this chapter by an aggrieved party for
72032 equitable relief or reasonable costs incurred in preparing or appealing an unsuccessful bid or
72033 offer.
72034 Section 1477. Section **63G-6-816**, which is renumbered from Section 63-56-816 is
72035 renumbered and amended to read:
72036 **[~~63-56-816~~]. 63G-6-816. Effect of prior determination by agents of state.**
72037 In any judicial action under Section [~~63-56-815~~] 63G-6-815, determinations by
72038 employees, agents, or other persons appointed by the state shall be final and conclusive only as
72039 provided in Sections [~~63-56-419~~] 63G-6-419 and [~~63-56-806~~] 63G-6-806, and Subsection
72040 [~~63-56-813~~] 63G-6-813(2).

72041 Section 1478. Section **63G-6-817**, which is renumbered from Section 63-56-817 is
72042 renumbered and amended to read:
72043 **[~~63-56-817~~]. 63G-6-817. Statutes of limitations.**
72044 (1) Any action under Subsection [~~63-56-815~~] 63G-6-815(1)(a) shall be initiated as
72045 follows:
72046 (a) within 20 calendar days after the aggrieved person knows or should have known of
72047 the facts giving rise to the action; provided, however, that an action with respect to an
72048 invitation for bids or request for proposals shall be initiated prior to the opening of bids or the
72049 closing date for proposals unless the aggrieved person did not know and should not have
72050 known of the facts giving rise to the action prior to bid opening or the closing date for
72051 proposals; or
72052 (b) within 14 calendar days after receipt of a final administrative decision pursuant to
72053 either Section [~~63-56-806~~] 63G-6-806 or Section [~~63-56-813~~] 63G-6-813, whichever is
72054 applicable.
72055 (2) Any action under Subsection [~~63-56-815~~] 63G-6-815(1)(b) shall be commenced
72056 within six months after receipt of a final administrative decision pursuant to Section
72057 [~~63-56-806~~] 63G-6-806 or Section [~~63-56-813~~] 63G-6-813, whichever is applicable.
72058 (3) The statutory limitations on an action between private persons on a contract or for
72059 breach of contract shall apply to any action commenced pursuant to Subsection [~~63-56-815~~]
72060 63G-6-815(1)(c), except notice of appeals from the Procurement Appeals Board pursuant to
72061 Section [~~63-56-814~~] 63G-6-814 concerning actions on a contract or for breach of contract shall
72062 be filed within one year after the date of the Procurement Appeals Board decision.
72063 Section 1479. Section **63G-6-818**, which is renumbered from Section 63-56-818 is
72064 renumbered and amended to read:
72065 **[~~63-56-818~~]. 63G-6-818. Effect of violation prior to award of contract.**
72066 If prior to award it is determined administratively or upon administrative or judicial
72067 review that a solicitation or proposed award of a contract is in violation of law, the solicitation
72068 or proposed award shall be cancelled or revised to comply with the law.
72069 Section 1480. Section **63G-6-819**, which is renumbered from Section 63-56-819 is
72070 renumbered and amended to read:
72071 **[~~63-56-819~~]. 63G-6-819. Effect of violation after award of contract.**

72072 If after an award it is determined administratively or upon administrative or judicial
72073 review that a solicitation or award of a contract is in violation of law:
72074 (1) If the person awarded the contract has not acted fraudulently or in bad faith:
72075 (a) The contract may be ratified and affirmed if it is determined that doing so is in the
72076 best interests of the state; or
72077 (b) The contract may be terminated and the person awarded the contract shall be
72078 compensated for the actual expenses reasonably incurred under the contract prior to
72079 termination, plus a reasonable profit;
72080 (2) If the person awarded the contract has acted fraudulently or in bad faith:
72081 (a) The contract may be declared null and void; or
72082 (b) The contract may be ratified and affirmed if such action is in the best interests of
72083 the state, without prejudice to the state's rights to any appropriate damages.
72084 Section 1481. Section **63G-6-820**, which is renumbered from Section 63-56-820 is
72085 renumbered and amended to read:
72086 **[~~63-56-820~~]. 63G-6-820. Interest rate.**
72087 (1) Except as provided in Subsection (2), in controversies between the state and
72088 contractors under this part, interest on amounts ultimately determined to be due to a contractor
72089 or to the state are payable at the rate applicable to judgments from the date the claim arose
72090 through the date of decision or judgment, whichever is later.
72091 (2) This section does not apply to public assistance benefits programs.
72092 Section 1482. Section **63G-6-901**, which is renumbered from Section 63-56-901 is
72093 renumbered and amended to read:
72094 **Part 9. Intergovernmental Relations**
72095 **[~~63-56-901~~]. 63G-6-901. Agreements between public procurement units.**
72096 Under the terms agreed upon among the parties, any public procurement unit may enter
72097 into agreements with one or more other public procurement units to:
72098 (1) sponsor, conduct, or administer a cooperative agreement for the procurement or
72099 disposal of any supplies, services, or construction;
72100 (2) cooperatively use supplies or services;
72101 (3) commonly use or share warehousing facilities, capital equipment, and other
72102 facilities;

72103 (4) provide personnel; provided that the requesting public procurement unit shall pay
72104 the public procurement unit providing the personnel the direct and indirect cost of providing
72105 the personnel, in accordance with the agreement; or
72106 (5) make available informational, technical, and other services, provided that the
72107 requirements of the public procurement unit tendering the services shall have precedence over
72108 the requesting public procurement unit and that the requesting public procurement unit shall
72109 pay for the expenses of the services so provided, in accordance with the agreement.
72110 Section 1483. Section **63G-6-902**, which is renumbered from Section 63-56-902 is
72111 renumbered and amended to read:
72112 **[~~63-56-902~~]. 63G-6-902. Services between public procurement units.**
72113 (1) Upon request, any public procurement unit may make available to other public
72114 procurement units the following services, among others: standard forms; printed manuals;
72115 qualified products lists; source information; common use commodities listings; supplier
72116 prequalification information; supplier performance ratings; debarred and suspended bidders
72117 lists; forms for invitation for bids, requests for proposals, instructions to bidders, general
72118 contract provisions, and other contract forms; and contracts or published summaries thereof,
72119 including price and time of delivery information.
72120 (2) Any public procurement unit may provide the following technical services, among
72121 others, to other public procurement units; development of specifications; development of
72122 quality assurance test methods, including receiving, inspection, and acceptance procedures; use
72123 of testing and inspection facilities; and use of personnel training programs.
72124 (3) Public procurement units may enter into contractual arrangements and publish a
72125 schedule of fees for the services provided under Subsections (1) and (2).
72126 Section 1484. Section **63G-6-903**, which is renumbered from Section 63-56-903 is
72127 renumbered and amended to read:
72128 **[~~63-56-903~~]. 63G-6-903. Payments between public procurement units.**
72129 All payments from any public procurement unit received by a public procurement unit
72130 supplying personnel or services shall be available to the supplying public procurement unit.
72131 Section 1485. Section **63G-6-904**, which is renumbered from Section 63-56-904 is
72132 renumbered and amended to read:
72133 **[~~63-56-904~~]. 63G-6-904. Compliance by one public procurement unit**

72134 **pursuant to agreement considered compliance by others to agreement.**
72135 Where the public procurement unit administering a cooperative purchase complies with
72136 the requirements of this chapter, any public procurement unit participating in such a purchase
72137 shall be considered to have complied with this chapter. Public procurement units may not enter
72138 into a cooperative purchasing agreement for the purpose of circumventing this chapter.
72139 Section 1486. Section **63G-6-905**, which is renumbered from Section 63-56-905 is
72140 renumbered and amended to read:
72141 **[~~63-56-905~~]. 63G-6-905. Chief procurement officer to collect information**
72142 **as to supplies, etc.**
72143 To the extent possible, the chief procurement officer may collect information
72144 concerning the type, cost, quality, and quantity of commonly used supplies, services, or
72145 construction being procured or used by state public procurement units and local public
72146 procurement units. The chief procurement officer may make the information available to any
72147 public procurement unit upon request.
72148 Section 1487. Section **63G-6-906**, which is renumbered from Section 63-56-906 is
72149 renumbered and amended to read:
72150 **[~~63-56-906~~]. 63G-6-906. Resolving controversy arising under a**
72151 **cooperative purchasing agreement.**
72152 Under a cooperative purchasing agreement, controversies arising between an
72153 administering state public procurement unit and its bidders, offerors, or contractors shall be
72154 resolved in accordance with Part 8, Legal and Contractual Remedies.
72155 Section 1488. Section **63G-6-907**, which is renumbered from Section 63-56-907 is
72156 renumbered and amended to read:
72157 **[~~63-56-907~~]. 63G-6-907. Resolution of local public procurement**
72158 **controversies.**
72159 Any local public procurement unit is authorized to enter into an agreement with the
72160 State Procurement Appeals Board to resolve controversies between the local public
72161 procurement unit and its contractors, whether or not such controversy arose from a cooperative
72162 purchasing agreement.
72163 Section 1489. Section **63G-6-1001**, which is renumbered from Section 63-56-1001 is
72164 renumbered and amended to read:

72165 **Part 10. Illegal Activities**

72166 **[~~63-56-1001~~]. 63G-6-1001. Felony to accept emolument.**

72167 Any person acting as a procurement officer for the state of Utah or any subdivision
72168 thereof, or who in any official capacity participates in the procurement of any supplies,
72169 services, construction, real property, or insurance for any such political units, is guilty of a
72170 felony if the person asks, receives, or offers to receive any emolument, gratuity, contribution,
72171 loan, or reward, or any promise thereof, either for the person's own use or the use or benefit of
72172 any other person or organization from any person interested in the sale of such supplies,
72173 services, construction, real property, or insurance.

72174 Section 1490. Section **63G-6-1002**, which is renumbered from Section 63-56-1002 is
72175 renumbered and amended to read:

72176 **[~~63-56-1002~~]. 63G-6-1002. Felony to offer emolument.**

72177 A person who is interested in any way in the sale of any supplies, services, construction,
72178 real property, or insurance to the state of Utah or any political subdivision thereof, is guilty of a
72179 felony if the person gives or offers to give any emolument, gratuity, contribution, loan or
72180 reward, or any promise thereof to any person acting as a procurement officer, or who in any
72181 official capacity participates in the procurement of such supplies, services, construction, real
72182 property, or insurance, whether it is given for [~~his~~] the person's own use or for the use or
72183 benefit of any other person or organization.

72184 Section 1491. Section **63G-7-101**, which is renumbered from Section 63-30d-101 is
72185 renumbered and amended to read:

72186 **CHAPTER 7. GOVERNMENTAL IMMUNITY ACT OF UTAH**

72187 **Part 1. General Provisions**

72188 **[~~63-30d-101~~]. 63G-7-101. Title, scope, and intent.**

72189 (1) This chapter is known as the "Governmental Immunity Act of Utah."

72190 (2) (a) The waivers and retentions of immunity found in this chapter apply to all
72191 functions of government, no matter how labeled.

72192 (b) This single, comprehensive chapter governs all claims against governmental
72193 entities or against their employees or agents arising out of the performance of the employee's
72194 duties, within the scope of employment, or under color of authority.

72195 Section 1492. Section **63G-7-102**, which is renumbered from Section 63-30d-102 is

72196 renumbered and amended to read:
72197 **[~~63-30d-102~~]. 63G-7-102. Definitions.**
72198 As used in this chapter:
72199 (1) "Claim" means any asserted demand for or cause of action for money or damages,
72200 whether arising under the common law, under state constitutional provisions, or under state
72201 statutes, against a governmental entity or against an employee in the employee's personal
72202 capacity.
72203 (2) (a) "Employee" includes:
72204 (i) a governmental entity's officers, employees, servants, trustees, or commissioners;
72205 (ii) members of a governing body;
72206 (iii) members of a government entity board;
72207 (iv) members of a government entity commission;
72208 (v) members of an advisory body, officers, and employees of a Children's Justice
72209 Center created in accordance with Section 67-5b-104;
72210 (vi) student teachers holding a letter of authorization in accordance with Sections
72211 53A-6-103 and 53A-6-104;
72212 (vii) educational aides;
72213 (viii) students engaged in providing services to members of the public in the course of
72214 an approved medical, nursing, or other professional health care clinical training program;
72215 (ix) volunteers as defined by Subsection 67-20-2(3); and
72216 (x) tutors.
72217 (b) "Employee" includes all of the positions identified in Subsection (2)(a), whether or
72218 not the individual holding that position receives compensation.
72219 (c) "Employee" does not include an independent contractor.
72220 (3) "Governmental entity" means the state and its political subdivisions as both are
72221 defined in this section.
72222 (4) (a) "Governmental function" means each activity, undertaking, or operation of a
72223 governmental entity.
72224 (b) "Governmental function" includes each activity, undertaking, or operation
72225 performed by a department, agency, employee, agent, or officer of a governmental entity.
72226 (c) "Governmental function" includes a governmental entity's failure to act.

72227 (5) "Injury" means death, injury to a person, damage to or loss of property, or any other
72228 injury that a person may suffer to [~~his~~] the person or estate, that would be actionable if inflicted
72229 by a private person or [~~his~~] the private person's agent.
72230 (6) "Personal injury" means an injury of any kind other than property damage.
72231 (7) "Political subdivision" means any county, city, town, school district, community
72232 development and renewal agency, special improvement or taxing district, local district, special
72233 service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13,
72234 Interlocal Cooperation Act, or other governmental subdivision or public corporation.
72235 (8) "Property damage" means injury to, or loss of, any right, title, estate, or interest in
72236 real or personal property.
72237 (9) "State" means the state of Utah, and includes each office, department, division,
72238 agency, authority, commission, board, institution, hospital, college, university, Children's
72239 Justice Center, or other instrumentality of the state.
72240 (10) "Willful misconduct" means the intentional doing of a wrongful act, or the
72241 wrongful failure to act, without just cause or excuse, where the actor is aware that [~~his~~] the
72242 actor's conduct will probably result in injury.
72243 Section 1493. Section **63G-7-201**, which is renumbered from Section 63-30d-201 is
72244 renumbered and amended to read:
72245 **Part 2. Governmental Immunity - Statement, Scope, and Effect**
72246 **[~~63-30d-201~~]. 63G-7-201. Immunity of governmental entities from suit.**
72247 (1) Except as may be otherwise provided in this chapter, each governmental entity and
72248 each employee of a governmental entity are immune from suit for any injury that results from
72249 the exercise of a governmental function.
72250 (2) Notwithstanding the waiver of immunity provisions of Section [~~63-30d-301~~]
72251 63G-7-301, a governmental entity, its officers, and its employees are immune from suit for any
72252 injury or damage resulting from the implementation of or the failure to implement measures to:
72253 (a) control the causes of epidemic and communicable diseases and other conditions
72254 significantly affecting the public health or necessary to protect the public health as set out in
72255 Title 26A, Chapter 1, Local Health Departments;
72256 (b) investigate and control suspected bioterrorism and disease as set out in Title 26,
72257 Chapter 23b, Detection of Public Health Emergencies Act; and

72258 (c) respond to a national, state, or local emergency, a public health emergency as
72259 defined in Section 26-23b-102, or a declaration by the President of the United States or other
72260 federal official requesting public health related activities.
72261 Section 1494. Section **63G-7-202**, which is renumbered from Section 63-30d-202 is
72262 renumbered and amended to read:
72263 **[~~63-30d-202~~]. 63G-7-202. Act provisions not construed as admission or**
72264 **denial of liability -- Effect of waiver of immunity -- Exclusive remedy -- Joinder of**
72265 **employee -- Limitations on personal liability.**
72266 (1) (a) Nothing contained in this chapter, unless specifically provided, may be
72267 construed as an admission or denial of liability or responsibility by or for a governmental entity
72268 or its employees.
72269 (b) If immunity from suit is waived by this chapter, consent to be sued is granted, and
72270 liability of the entity shall be determined as if the entity were a private person.
72271 (c) No cause of action or basis of liability is created by any waiver of immunity in this
72272 chapter, nor may any provision of this chapter be construed as imposing strict liability or
72273 absolute liability.
72274 (2) Nothing in this chapter may be construed as adversely affecting any immunity from
72275 suit that a governmental entity or employee may otherwise assert under state or federal law.
72276 (3) (a) Except as provided in Subsection (3)(c), an action under this chapter against a
72277 governmental entity for an injury caused by an act or omission that occurs during the
72278 performance of an employee's duties, within the scope of employment, or under color of
72279 authority is a plaintiff's exclusive remedy.
72280 (b) Judgment under this chapter against a governmental entity is a complete bar to any
72281 action by the claimant, based upon the same subject matter, against the employee whose act or
72282 omission gave rise to the claim.
72283 (c) A plaintiff may not bring or pursue any civil action or proceeding based upon the
72284 same subject matter against the employee or the estate of the employee whose act or omission
72285 gave rise to the claim, unless:
72286 (i) the employee acted or failed to act through fraud or willful misconduct;
72287 (ii) the injury or damage resulted from the employee driving a vehicle, or being in
72288 actual physical control of a vehicle:

72289 (A) with a blood alcohol content equal to or greater by weight than the established
72290 legal limit;
72291 (B) while under the influence of alcohol or any drug to a degree that rendered the
72292 person incapable of safely driving the vehicle; or
72293 (C) while under the combined influence of alcohol and any drug to a degree that
72294 rendered the person incapable of safely driving the vehicle;
72295 (iii) injury or damage resulted from the employee being physically or mentally
72296 impaired so as to be unable to reasonably perform [~~his or her~~] the employee's job function
72297 because of:
72298 (A) the use of alcohol;
72299 (B) the nonprescribed use of a controlled substance as defined in Section 58-37-4; or
72300 (C) the combined influence of alcohol and a nonprescribed controlled substance as
72301 defined by Section 58-37-4; or
72302 (iv) in a judicial or administrative proceeding, the employee intentionally or knowingly
72303 gave, upon a lawful oath or in any form allowed by law as a substitute for an oath, false
72304 testimony material to the issue or matter of inquiry under this section.
72305 (4) Except as permitted in Subsection (3)(c), no employee may be joined or held
72306 personally liable for acts or omissions occurring:
72307 (a) during the performance of the employee's duties;
72308 (b) within the scope of employment; or
72309 (c) under color of authority.
72310 Section 1495. Section **63G-7-203**, which is renumbered from Section 63-30d-203 is
72311 renumbered and amended to read:
72312 **[~~63-30d-203~~]. 63G-7-203. Exemptions for certain takings actions.**
72313 An action that involves takings law, as defined in Section [~~63-90-2~~] 63L-3-102, is not
72314 subject to the requirements of Sections [~~63-30d-401~~] 63G-7-401, [~~63-30d-402~~] 63G-7-402,
72315 [~~63-30d-403~~] 63G-7-403, and [~~63-30d-601~~] 63G-7-601.
72316 Section 1496. Section **63G-7-301**, which is renumbered from Section 63-30d-301 is
72317 renumbered and amended to read:
72318 **Part 3. Waivers of Immunity**
72319 **[~~63-30d-301~~]. 63G-7-301. Waivers of immunity -- Exceptions.**

72320 (1) (a) Immunity from suit of each governmental entity is waived as to any contractual
72321 obligation.
72322 (b) Actions arising out of contractual rights or obligations are not subject to the
72323 requirements of Sections [~~63-30d-401~~] 63G-7-401, [~~63-30d-402~~] 63G-7-402, [~~63-30d-403~~]
72324 63G-7-403, or [~~63-30d-601~~] 63G-7-601.
72325 (c) The Division of Water Resources is not liable for failure to deliver water from a
72326 reservoir or associated facility authorized by Title 73, Chapter 26, Bear River Development
72327 Act, if the failure to deliver the contractual amount of water is due to drought, other natural
72328 condition, or safety condition that causes a deficiency in the amount of available water.
72329 (2) Immunity from suit of each governmental entity is waived:
72330 (a) as to any action brought to recover, obtain possession of, or quiet title to real or
72331 personal property;
72332 (b) as to any action brought to foreclose mortgages or other liens on real or personal
72333 property, to determine any adverse claim on real or personal property, or to obtain an
72334 adjudication about any mortgage or other lien that the governmental entity may have or claim
72335 on real or personal property;
72336 (c) as to any action based on the negligent destruction, damage, or loss of goods,
72337 merchandise, or other property while it is in the possession of any governmental entity or
72338 employee, if the property was seized for the purpose of forfeiture under any provision of state
72339 law;
72340 (d) subject to Subsection [~~63-30d-302~~] 63G-7-302(1), as to any action brought under
72341 the authority of Article I, Section 22, of the Utah Constitution, for the recovery of
72342 compensation from the governmental entity when the governmental entity has taken or
72343 damaged private property for public uses without just compensation;
72344 (e) subject to Subsection [~~63-30d-302~~] 63G-7-302(2), as to any action brought to
72345 recover attorney fees under Sections [~~63-2-405~~] 63G-2-405 and [~~63-2-802~~] 63G-2-802;
72346 (f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees
72347 Act; or
72348 (g) as to any action brought to obtain relief from a land use regulation that imposes a
72349 substantial burden on the free exercise of religion under [~~Title 63, Chapter 90b~~] Title 63L,
72350 Chapter 5, Utah Religious Land Use Act.

72351 (3) (a) Except as provided in Subsection (3)(b), immunity from suit of each
72352 governmental entity is waived as to any injury caused by:
72353 (i) a defective, unsafe, or dangerous condition of any highway, road, street, alley,
72354 crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or
72355 (ii) any defective or dangerous condition of a public building, structure, dam, reservoir,
72356 or other public improvement.
72357 (b) Immunity from suit of each governmental entity is not waived if the injury arises
72358 out of, in connection with, or results from:
72359 (i) a latent dangerous or latent defective condition of any highway, road, street, alley,
72360 crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or
72361 (ii) a latent dangerous or latent defective condition of any public building, structure,
72362 dam, reservoir, or other public improvement.
72363 (4) Immunity from suit of each governmental entity is waived as to any injury
72364 proximately caused by a negligent act or omission of an employee committed within the scope
72365 of employment.
72366 (5) Immunity from suit of each governmental entity is not waived under Subsections
72367 (3) and (4) if the injury arises out of, in connection with, or results from:
72368 (a) the exercise or performance, or the failure to exercise or perform, a discretionary
72369 function, whether or not the discretion is abused;
72370 (b) assault, battery, false imprisonment, false arrest, malicious prosecution, intentional
72371 trespass, abuse of process, libel, slander, deceit, interference with contract rights, infliction of
72372 mental anguish, or violation of civil rights;
72373 (c) the issuance, denial, suspension, or revocation of, or by the failure or refusal to
72374 issue, deny, suspend, or revoke, any permit, license, certificate, approval, order, or similar
72375 authorization;
72376 (d) a failure to make an inspection or by making an inadequate or negligent inspection;
72377 (e) the institution or prosecution of any judicial or administrative proceeding, even if
72378 malicious or without probable cause;
72379 (f) a misrepresentation by an employee whether or not it is negligent or intentional;
72380 (g) riots, unlawful assemblies, public demonstrations, mob violence, and civil
72381 disturbances;

72382 (h) the collection of and assessment of taxes;
72383 (i) the activities of the Utah National Guard;
72384 (j) the incarceration of any person in any state prison, county or city jail, or other place
72385 of legal confinement;
72386 (k) any natural condition on publicly owned or controlled lands;
72387 (l) any condition existing in connection with an abandoned mine or mining operation;
72388 (m) any activity authorized by the School and Institutional Trust Lands Administration
72389 or the Division of Forestry, Fire, and State Lands;
72390 (n) the operation or existence of a pedestrian or equestrian trail that is along a ditch,
72391 canal, stream, or river, regardless of ownership or operation of the ditch, canal, stream, or river,
72392 if:
72393 (i) the trail is designated under a general plan adopted by a municipality under Section
72394 10-9a-401 or by a county under Section 17-27a-401;
72395 (ii) the trail right-of-way or the right-of-way where the trail is located is open to public
72396 use as evidenced by a written agreement between the owner or operator of the trail
72397 right-of-way, or of the right-of-way where the trail is located, and the municipality or county
72398 where the trail is located; and
72399 (iii) the written agreement:
72400 (A) contains a plan for operation and maintenance of the trail; and
72401 (B) provides that an owner or operator of the trail right-of-way or of the right-of-way
72402 where the trail is located has, at minimum, the same level of immunity from suit as the
72403 governmental entity in connection with or resulting from the use of the trail.
72404 (o) research or implementation of cloud management or seeding for the clearing of fog;
72405 (p) the management of flood waters, earthquakes, or natural disasters;
72406 (q) the construction, repair, or operation of flood or storm systems;
72407 (r) the operation of an emergency vehicle, while being driven in accordance with the
72408 requirements of Section [~~41-6a-208~~] 41-6a-212;
72409 (s) the activities of:
72410 (i) providing emergency medical assistance;
72411 (ii) fighting fire;
72412 (iii) regulating, mitigating, or handling hazardous materials or hazardous wastes;

72413 (iv) emergency evacuations;
72414 (v) transporting or removing injured persons to a place where emergency medical
72415 assistance can be rendered or where the person can be transported by a licensed ambulance
72416 service; or
72417 (vi) intervening during dam emergencies;
72418 (t) the exercise or performance, or the failure to exercise or perform, any function
72419 pursuant to Title 73, Chapter 10, Board of Water Resources - Division of Water Resources; or
72420 (u) unauthorized access to government records, data, or electronic information systems
72421 by any person or entity.
72422 Section 1497. Section **63G-7-302**, which is renumbered from Section 63-30d-302 is
72423 renumbered and amended to read:
72424 **[~~63-30d-302~~]. 63G-7-302. Specific remedies -- "Takings" actions --**
72425 **Government Records Access and Management Actions.**
72426 (1) In any action brought under the authority of Article I, Section 22, of the Utah
72427 Constitution for the recovery of compensation from the governmental entity when the
72428 governmental entity has taken or damaged private property for public uses without just
72429 compensation, compensation and damages shall be assessed according to the requirements of
72430 Title 78, Chapter 34, Eminent Domain.
72431 (2) (a) Notwithstanding Section [~~63-30d-401~~] 63G-7-401, a notice of claim for
72432 attorneys' fees under Subsection [~~63-30d-301~~] 63G-7-301(2)(e) may be filed
72433 contemporaneously with a petition for review under Section [~~63-2-404~~] 63G-2-404.
72434 (b) The provisions of Subsection [~~63-30d-403~~] 63G-7-403(1), relating to the
72435 governmental entity's response to a claim, and the provisions of [~~63-30d-601~~] 63G-7-601,
72436 requiring an undertaking, do not apply to a notice of claim for attorneys' fees filed
72437 contemporaneously with a petition for review under Section [~~63-2-404~~] 63G-2-404.
72438 (c) Any other claim under this chapter that is related to a claim for attorneys' fees under
72439 Subsection [~~63-30d-301~~] 63G-7-301(2)(e) may be brought contemporaneously with the claim
72440 for attorneys' fees or in a subsequent action.
72441 Section 1498. Section **63G-7-401**, which is renumbered from Section 63-30d-401 is
72442 renumbered and amended to read:
72443 **Part 4. Notice of Claim Against a Governmental Entity or a Government Employee**

72444 **[~~63-30d-401~~]. 63G-7-401. Claim for injury -- Notice -- Contents -- Service**
72445 **-- Legal disability -- Appointment of guardian ad litem.**
72446 (1) (a) Except as provided in Subsection (1)(b), a claim arises when the statute of
72447 limitations that would apply if the claim were against a private person begins to run.
72448 (b) The statute of limitations does not begin to run until a claimant knew, or with the
72449 exercise of reasonable diligence should have known:
72450 (i) that the claimant had a claim against the governmental entity or its employee; and
72451 (ii) the identity of the governmental entity or the name of the employee.
72452 (c) The burden to prove the exercise of reasonable diligence is upon the claimant.
72453 (2) Any person having a claim against a governmental entity, or against its employee
72454 for an act or omission occurring during the performance of the employee's duties, within the
72455 scope of employment, or under color of authority shall file a written notice of claim with the
72456 entity before maintaining an action, regardless of whether or not the function giving rise to the
72457 claim is characterized as governmental.
72458 (3) (a) The notice of claim shall set forth:
72459 (i) a brief statement of the facts;
72460 (ii) the nature of the claim asserted;
72461 (iii) the damages incurred by the claimant so far as they are known; and
72462 (iv) if the claim is being pursued against a governmental employee individually as
72463 provided in Subsection [~~63-30d-202~~] 63G-7-202(3)(c), the name of the employee.
72464 (b) The notice of claim shall be:
72465 (i) signed by the person making the claim or that person's agent, attorney, parent, or
72466 legal guardian; and
72467 (ii) directed and delivered by hand or by mail according to the requirements of Section
72468 68-3-8.5 to the office of:
72469 (A) the city or town clerk, when the claim is against an incorporated city or town;
72470 (B) the county clerk, when the claim is against a county;
72471 (C) the superintendent or business administrator of the board, when the claim is against
72472 a school district or board of education;
72473 (D) the presiding officer or secretary/clerk of the board, when the claim is against a
72474 local district or special service district;

72475 (E) the attorney general, when the claim is against the State of Utah;
72476 (F) a member of the governing board, the executive director, or executive secretary,
72477 when the claim is against any other public board, commission, or body; or
72478 (G) the agent authorized by a governmental entity to receive the notice of claim by the
72479 governmental entity under Subsection (5)(e).
72480 (4) (a) If an injury that may reasonably be expected to result in a claim against a
72481 governmental entity is sustained by a claimant who is under the age of majority or mentally
72482 incompetent, that governmental entity may file a request with the court for the appointment of a
72483 guardian ad litem for the potential claimant.
72484 (b) If a guardian ad litem is appointed, the time for filing a claim under Section
72485 [~~63-30d-402~~] 63G-7-402 begins when the order appointing the guardian is issued.
72486 (5) (a) Each governmental entity subject to suit under this chapter shall file a statement
72487 with the Division of Corporations and Commercial Code within the Department of Commerce
72488 containing:
72489 (i) the name and address of the governmental entity;
72490 (ii) the office or agent designated to receive a notice of claim; and
72491 (iii) the address at which it is to be directed and delivered.
72492 (b) Each governmental entity shall update its statement as necessary to ensure that the
72493 information is accurate.
72494 (c) The Division of Corporations and Commercial Code shall develop a form for
72495 governmental entities to complete that provides the information required by Subsection (5)(a).
72496 (d) (i) Newly incorporated municipalities shall file the statement required by
72497 Subsection (5)(a) at the time that the statement of incorporation and boundaries is filed with the
72498 lieutenant governor under Section 10-1-106.
72499 (ii) Newly incorporated local districts shall file the statement required by Subsection
72500 (5)(a) at the time that the written notice is filed with the lieutenant governor under Section
72501 17B-1-215.
72502 (e) A governmental entity may, in its statement, identify an agent authorized by the
72503 entity to accept notices of claim on its behalf.
72504 (6) The Division of Corporations and Commercial Code shall:
72505 (a) maintain an index of the statements required by this section arranged both

72506 alphabetically by entity and by county of operation; and
72507 (b) make the indices available to the public both electronically and via hard copy.
72508 (7) A governmental entity may not challenge the validity of a notice of claim on the
72509 grounds that it was not directed and delivered to the proper office or agent if the error is caused
72510 by the governmental entity's failure to file or update the statement required by Subsection (5).
72511 Section 1499. Section **63G-7-402**, which is renumbered from Section 63-30d-402 is
72512 renumbered and amended to read:
72513 **[~~63-30d-402~~]. 63G-7-402. Time for filing notice of claim.**
72514 A claim against a governmental entity, or against an employee for an act or omission
72515 occurring during the performance of the employee's duties, within the scope of employment, or
72516 under color of authority, is barred unless notice of claim is filed with the person and according
72517 to the requirements of Section [~~63-30d-401~~] 63G-7-401 within one year after the claim arises
72518 regardless of whether or not the function giving rise to the claim is characterized as
72519 governmental.
72520 Section 1500. Section **63G-7-403**, which is renumbered from Section 63-30d-403 is
72521 renumbered and amended to read:
72522 **[~~63-30d-403~~]. 63G-7-403. Notice of claim -- Approval or denial by**
72523 **governmental entity or insurance carrier within 60 days -- Remedies for denial of claim.**
72524 (1) (a) Within 60 days of the filing of a notice of claim, the governmental entity or its
72525 insurance carrier shall inform the claimant in writing that the claim has either been approved or
72526 denied.
72527 (b) A claim is considered to be denied if, at the end of the 60-day period, the
72528 governmental entity or its insurance carrier has failed to approve or deny the claim.
72529 (2) (a) If the claim is denied, a claimant may institute an action in the district court
72530 against the governmental entity or an employee of the entity.
72531 (b) The claimant shall begin the action within one year after denial of the claim or
72532 within one year after the denial period specified in this chapter has expired, regardless of
72533 whether or not the function giving rise to the claim is characterized as governmental.
72534 Section 1501. Section **63G-7-501**, which is renumbered from Section 63-30d-501 is
72535 renumbered and amended to read:
72536 **Part 5. Legal Actions Under This Chapter - Jurisdiction and Venue**

72537 **[~~63-30d-501~~]. 63G-7-501. Jurisdiction of district courts over actions.**
72538 (1) The district courts have exclusive, original jurisdiction over any action brought
72539 under this chapter.
72540 (2) An action brought under this chapter may not be tried as a small claims action.
72541 Section 1502. Section **63G-7-502**, which is renumbered from Section 63-30d-502 is
72542 renumbered and amended to read:
72543 **[~~63-30d-502~~]. 63G-7-502. Venue of actions.**
72544 (1) Actions against the state may be brought in the county in which the claim arose or
72545 in Salt Lake County.
72546 (2) (a) Actions against a county may be brought in the county in which the claim arose,
72547 or in the defendant county, or, upon leave granted by a district court judge of the defendant
72548 county, in any county contiguous to the defendant county.
72549 (b) Leave may be granted ex parte.
72550 (3) Actions against all other political subdivisions, including cities and towns, shall be
72551 brought in the county in which the political subdivision is located or in the county in which the
72552 claim arose.
72553 Section 1503. Section **63G-7-601**, which is renumbered from Section 63-30d-601 is
72554 renumbered and amended to read:
72555 **Part 6. Legal Actions Under This Chapter - Procedures,**
72556 **Requirements, Damages, and Limitations on Judgments**
72557 **[~~63-30d-601~~]. 63G-7-601. Actions governed by Utah Rules of Civil**
72558 **Procedure -- Undertaking required.**
72559 (1) An action brought under this chapter shall be governed by the Utah Rules of Civil
72560 Procedure to the extent that they are consistent with this chapter.
72561 (2) At the time the action is filed, the plaintiff shall file an undertaking in a sum fixed
72562 by the court that is:
72563 (a) not less than $300; and
72564 (b) conditioned upon payment by the plaintiff of taxable costs incurred by the
72565 governmental entity in the action if the plaintiff fails to prosecute the action or fails to recover
72566 judgment.
72567 Section 1504. Section **63G-7-602**, which is renumbered from Section 63-30d-602 is

72568 renumbered and amended to read:
72569 **[~~63-30d-602~~]. 63G-7-602. Compromise and settlement of claims.**
72570 (1) A political subdivision, after conferring with its legal officer or other legal counsel
72571 if it does not have a legal officer, may compromise and settle any action as to the damages or
72572 other relief sought.
72573 (2) The risk manager in the Department of Administrative Services may compromise
72574 and settle any action against the state for which the Risk Management Fund may be liable:
72575 (a) on the risk manager's own authority, if the amount of the settlement is $25,000 or
72576 less;
72577 (b) with the concurrence of the attorney general or the attorney general's representative
72578 and the executive director of the Department of Administrative Services if the amount of the
72579 settlement is $25,000.01 to $100,000; or
72580 (c) by complying with the procedures and requirements of [~~Title 63, Chapter 38b~~] Title
72581 63G, Chapter 10, State Settlement Agreements, if the amount of the settlement is more than
72582 $100,000.
72583 Section 1505. Section **63G-7-603**, which is renumbered from Section 63-30d-603 is
72584 renumbered and amended to read:
72585 **[~~63-30d-603~~]. 63G-7-603. Exemplary or punitive damages prohibited --**
72586 **Governmental entity exempt from execution, attachment, or garnishment.**
72587 (1) (a) A judgment may not be rendered against a governmental entity for exemplary or
72588 punitive damages.
72589 (b) If a governmental entity would be required to pay the judgment under Section
72590 [~~63-30d-902~~] 63G-7-902 or [~~63-30d-903~~] 63G-7-903, the governmental entity shall pay any
72591 judgment or portion of any judgment entered against its employee in the employee's personal
72592 capacity even if the judgment is for or includes exemplary or punitive damages.
72593 (2) Execution, attachment, or garnishment may not issue against a governmental entity.
72594 Section 1506. Section **63G-7-604**, which is renumbered from Section 63-30d-604 is
72595 renumbered and amended to read:
72596 **[~~63-30d-604~~]. 63G-7-604. Limitation of judgments against governmental**
72597 **entity or employee -- Process for adjustment of limits.**
72598 (1) (a) Except as provided in Subsection (2) and subject to Subsection (3), if a

72599 judgment for damages for personal injury against a governmental entity, or an employee whom
72600 a governmental entity has a duty to indemnify, exceeds $583,900 for one person in any one
72601 occurrence, the court shall reduce the judgment to that amount.
72602 (b) A court may not award judgment of more than the amount in effect under
72603 Subsection (1)(a) for injury or death to one person regardless of whether or not the function
72604 giving rise to the injury is characterized as governmental.
72605 (c) Except as provided in Subsection (2) and subject to Subsection (3), if a judgment
72606 for property damage against a governmental entity, or an employee whom a governmental
72607 entity has a duty to indemnify, exceeds $233,600 in any one occurrence, the court shall reduce
72608 the judgment to that amount, regardless of whether or not the function giving rise to the
72609 damage is characterized as governmental.
72610 (d) Subject to Subsection (3), there is a $2,000,000 limit to the aggregate amount of
72611 individual awards that may be awarded in relation to a single occurrence.
72612 (2) The damage limits established in this section do not apply to damages awarded as
72613 compensation when a governmental entity has taken or damaged private property for public use
72614 without just compensation.
72615 (3) The limitations of judgments established in Subsection (1) shall be adjusted
72616 according to the methodology set forth in Subsection (4).
72617 (4) (a) Each even-numbered year, the risk manager shall:
72618 (i) calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5),
72619 Internal Revenue Code;
72620 (ii) calculate the increase or decrease in the limitation of judgment amounts established
72621 in this section as a percentage equal to the percentage change in the Consumer Price Index
72622 since the previous adjustment made by the risk manager or the Legislature; and
72623 (iii) after making an increase or decrease under Subsection (4)(a)(ii), round up the
72624 limitation of judgment amounts established in Subsection (1) to the nearest $100.
72625 (b) Each even-numbered year, the risk manager shall make rules, which become
72626 effective no later than July 1, that establish the new limitation of judgment amounts calculated
72627 under Subsection (4)(a).
72628 (c) Adjustments made by the risk manager to the limitation of judgment amounts
72629 established by this section have prospective effect only from the date the rules establishing the

72630 new limitation of judgment take effect and those adjusted limitations of judgment apply only to
72631 claims for injuries or losses that occur after the effective date of the rules that establish those
72632 new limitations of judgment.
72633 Section 1507. Section **63G-7-701**, which is renumbered from Section 63-30d-701 is
72634 renumbered and amended to read:
72635 **Part 7. Payment Process and Sources for Paying Proved**
72636 **Claims Against Governmental Entities**
72637 **[~~63-30d-701~~]. 63G-7-701. Payment of claim or judgment against state --**
72638 **Presentment for payment.**
72639 (1) (a) Each claim, as defined by Subsection [~~63-30d-102~~] 63G-7-102(1), that is
72640 approved by the state or any final judgment obtained against the state shall be presented for
72641 payment to:
72642 (i) the state risk manager; or
72643 (ii) the office, agency, institution, or other instrumentality involved, if payment by that
72644 instrumentality is otherwise permitted by law.
72645 (b) If payment of the claim is not authorized by law, the judgment or claim shall be
72646 presented to the board of examiners for action as provided in Section [~~63-6-10~~] 63G-9-301.
72647 (c) If a judgment against the state is reduced by the operation of Section [~~63-30d-604~~]
72648 63G-7-604, the claimant may submit the excess claim to the board of examiners.
72649 Section 1508. Section **63G-7-702**, which is renumbered from Section 63-30d-702 is
72650 renumbered and amended to read:
72651 **[~~63-30d-702~~]. 63G-7-702. Payment of claim or judgment against political**
72652 **subdivision -- Procedure by governing body -- Payment options.**
72653 (1) (a) Each claim approved by a political subdivision or any final judgment obtained
72654 against a political subdivision shall be submitted to the governing body of the political
72655 subdivision.
72656 (b) The governing body shall pay the claim immediately from the general funds of the
72657 political subdivision unless:
72658 (i) the funds are appropriated to some other use or restricted by law or contract for
72659 other purposes; or
72660 (ii) the political subdivision opts to pay the claim or award in installments under

72661 Subsection (2).
72662 (2) If the subdivision is unable to pay the claim or award during the current fiscal year,
72663 it may pay the claim or award in not more than ten ensuing annual installments of equal size or
72664 in whatever other installments that are agreeable to the claimant.
72665 Section 1509. Section **63G-7-703**, which is renumbered from Section 63-30d-703 is
72666 renumbered and amended to read:
72667 **[~~63-30d-703~~]. 63G-7-703. Reserve funds for payment of claims or purchase**
72668 **of insurance created by political subdivisions.**
72669 Any political subdivision may create and maintain a reserve fund or, may jointly with
72670 one or more other political subdivisions, make contributions to a joint reserve fund, for the
72671 purpose of:
72672 (1) making payment of claims against the cooperating subdivisions when they become
72673 payable under this chapter; or
72674 (2) for the purpose of purchasing liability insurance to protect the cooperating
72675 subdivisions from any or all risks created by this chapter.
72676 Section 1510. Section **63G-7-704**, which is renumbered from Section 63-30d-704 is
72677 renumbered and amended to read:
72678 **[~~63-30d-704~~]. 63G-7-704. Tax levy by political subdivisions for payment of**
72679 **claims, judgments, or insurance premiums.**
72680 (1) Notwithstanding any provision of law to the contrary, a political subdivision may
72681 levy an annual property tax sufficient to pay:
72682 (a) any claim, settlement, or judgment;
72683 (b) the costs to defend against any claim, settlement, or judgment; or
72684 (c) for the establishment and maintenance of a reserve fund for the payment of claims,
72685 settlements, or judgments that may be reasonably anticipated.
72686 (2) (a) The payments authorized to pay for punitive damages or to pay the premium for
72687 authorized insurance is money spent for a public purpose within the meaning of this section
72688 and Article XIII, Sec. 5, Utah Constitution, even though, as a result of the levy, the maximum
72689 levy as otherwise restricted by law is exceeded.
72690 (b) No levy under this section may exceed .0001 per dollar of taxable value of taxable
72691 property.

72692 (c) The revenues derived from this levy may not be used for any purpose other than
72693 those specified in this section.
72694 Section 1511. Section **63G-7-801**, which is renumbered from Section 63-30d-801 is
72695 renumbered and amended to read:
72696 **Part 8. Self-Insurance and Purchase of Liability Insurance by Governmental Entities**
72697 **[~~63-30d-801~~]. 63G-7-801. Insurance -- Self-insurance or purchase of**
72698 **liability insurance by governmental entity authorized -- Establishment of trust accounts**
72699 **for self-insurance.**
72700 (1) Any governmental entity within the state may self-insure, purchase commercial
72701 insurance, or self-insure and purchase excess commercial insurance in excess of the statutory
72702 limits of this chapter against:
72703 (a) any risk created or recognized by this chapter; or
72704 (b) any action for which a governmental entity or its employee may be held liable.
72705 (2) (a) In addition to any other reasonable means of self-insurance, a governmental
72706 entity may self-insure with respect to specified classes of claims by establishing a trust account.
72707 (b) In creating the trust account, the governmental entity shall ensure that:
72708 (i) the trust account is managed by an independent private trustee; and
72709 (ii) the independent private trustee has authority, with respect to claims covered by the
72710 trust, to:
72711 (A) expend both principal and earnings of the trust account solely to pay the costs of
72712 investigation, discovery, and other pretrial and litigation expenses including attorneys' fees; and
72713 (B) pay all sums for which the governmental entity may be adjudged liable or for
72714 which a compromise settlement may be agreed upon.
72715 (c) Notwithstanding any law to the contrary, the trust agreement between the
72716 governmental entity and the trustee may authorize the trustee to:
72717 (i) employ counsel to defend actions against the entity and its employees;
72718 (ii) protect and safeguard the assets of the trust;
72719 (iii) provide for claims investigation and adjustment services;
72720 (iv) employ expert witnesses and consultants; and
72721 (v) provide other services and functions that are necessary and proper to carry out the
72722 purposes of the trust.

72723 (d) The monies and interest earned on the trust fund may be invested by following the
72724 procedures and requirements of Title 51, Chapter 7, State Money Management Act, and are
72725 subject to audit by the state auditor.
72726 Section 1512. Section **63G-7-802**, which is renumbered from Section 63-30d-802 is
72727 renumbered and amended to read:
72728 **[~~63-30d-802~~]. 63G-7-802. Insurance -- Liability insurance -- Government**
72729 **vehicles operated by employees outside scope of employment.**
72730 (1) A governmental entity that owns vehicles driven by an employee of the
72731 governmental entity with the express or implied consent of the entity, but which, at the time
72732 liability is incurred as a result of an automobile accident, is not being driven and used within
72733 the course and scope of the driver's employment is, subject to Subsection (2), considered to
72734 provide the driver with the insurance coverage required by Title 41, Chapter 12a, Financial
72735 Responsibility of Motor Vehicle Owners and Operators Act.
72736 (2) The liability coverages considered provided are the minimum limits under Section
72737 31A-22-304.
72738 Section 1513. Section **63G-7-803**, which is renumbered from Section 63-30d-803 is
72739 renumbered and amended to read:
72740 **[~~63-30d-803~~]. 63G-7-803. Liability insurance -- Construction of policy not**
72741 **in compliance with act.**
72742 (1) If any insurance policy, rider, or endorsement issued after June 30, 2004 that was
72743 purchased to insure against any risk that may arise as a result of the application of this chapter
72744 contains any condition or provision not in compliance with the requirements of this chapter,
72745 that policy, rider, or endorsement is not invalid, but shall be construed and applied according to
72746 the conditions and provisions that would have applied had the policy, rider, or endorsement
72747 been in full compliance with this chapter, provided that the policy is otherwise valid.
72748 (2) If any insurance policy, rider, or endorsement issued after June 30, 1966 and before
72749 July 1, 2004 that was purchased to insure against any risk that may arise as a result of the
72750 application of this chapter contains any condition or provision not in compliance with the
72751 requirements of the chapter, that policy, rider, or endorsement is not invalid, but shall be
72752 construed and applied according to the conditions and provisions that would have applied had
72753 the policy, rider, or endorsement been in full compliance with this chapter, provided that the

72754 policy is otherwise valid.
72755 Section 1514. Section **63G-7-804**, which is renumbered from Section 63-30d-804 is
72756 renumbered and amended to read:
72757 **[~~63-30d-804~~]. 63G-7-804. Liability insurance -- Methods for purchase or**
72758 **renewal.**
72759 (1) Except as provided in Subsection (2), a contract or policy of insurance may be
72760 purchased or renewed under this chapter only upon public bid to be let to the lowest and best
72761 bidder.
72762 (2) The purchase or renewal of insurance by the state shall be conducted in accordance
72763 with the provisions of [~~Title 63, Chapter 56~~] Title 63G, Chapter 6, Utah Procurement Code.
72764 Section 1515. Section **63G-7-805**, which is renumbered from Section 63-30d-805 is
72765 renumbered and amended to read:
72766 **[~~63-30d-805~~]. 63G-7-805. Liability insurance -- Insurance for employees**
72767 **authorized -- No right to indemnification or contribution from governmental agency.**
72768 (1) (a) A governmental entity may insure any or all of its employees against liability, in
72769 whole or in part, for injury or damage resulting from an act or omission occurring during the
72770 performance of an employee's duties, within the scope of employment, or under color of
72771 authority, regardless of whether or not that entity is immune from suit for that act or omission.
72772 (b) Any expenditure for that insurance is for a public purpose.
72773 (c) Under any contract or policy of insurance providing coverage on behalf of a
72774 governmental entity or employee for any liability defined by this section, regardless of the
72775 source of funding for the coverage, the insurer has no right to indemnification or contribution
72776 from the governmental entity or its employee for any loss or liability covered by the contract or
72777 policy.
72778 (2) Any surety covering a governmental entity or its employee under any faithful
72779 performance surety bond has no right to indemnification or contribution from the governmental
72780 entity or its employee for any loss covered by that bond based on any act or omission for which
72781 the governmental entity would be obligated to defend or indemnify under the provisions of
72782 Section [~~63-30d-902~~] 63G-7-902.
72783 Section 1516. Section **63G-7-901**, which is renumbered from Section 63-30d-901 is
72784 renumbered and amended to read:

72785 **Part 9. Coverage and Representation of State Entities and Employees**
72786 **[~~63-30d-901~~]. 63G-7-901. Expenses of attorney general, general counsel for**
72787 **state judiciary, and general counsel for the Legislature in representing the state, its**
72788 **branches, members, or employees.**
72789 (1) (a) The Office of the Attorney General has primary responsibility to provide legal
72790 representation to the judicial, executive, and legislative branches of state government in cases
72791 where coverage under the Risk Management Fund created by Section 63A-4-201 applies.
72792 (b) When the attorney general has primary responsibility to provide legal representation
72793 to the judicial or legislative branches, the attorney general shall consult with the general
72794 counsel for the state judiciary and with the general counsel for the Legislature, to solicit their
72795 assistance in defending their respective branch, and in determining strategy and making
72796 decisions concerning the disposition of those claims.
72797 (c) Notwithstanding Subsection (1)(b), the decision for settlement of monetary claims
72798 in those cases lies with the attorney general and the state risk manager.
72799 (2) (a) If the Judicial Council, after consultation with the general counsel for the state
72800 judiciary, determines that the Office of the Attorney General cannot adequately defend the state
72801 judiciary, its members, or employees because of a conflict of interest, separation of powers
72802 concerns, or other political or legal differences, the Judicial Council may direct its general
72803 counsel to separately represent and defend it.
72804 (b) If the general counsel for the state judiciary undertakes independent legal
72805 representation of the state judiciary, its members, or employees, the general counsel shall notify
72806 the state risk manager and the attorney general in writing before undertaking that
72807 representation.
72808 (c) If the state judiciary elects to be represented by its own counsel under this section,
72809 the decision for settlement of claims against the state judiciary, its members, or employees,
72810 where Risk Management Fund coverage applies, lies with the general counsel for the state
72811 judiciary and the state risk manager.
72812 (3) (a) If the Legislative Management Committee, after consultation with the general
72813 counsel for the Legislature, determines that the Office of the Attorney General cannot
72814 adequately defend the legislative branch, its members, or employees because of a conflict of
72815 interest, separation of powers concerns, or other political or legal differences, the Legislative

72816 Management Committee may direct its general counsel to separately represent and defend it.
72817 (b) If the general counsel for the Legislature undertakes independent legal
72818 representation of the Legislature, its members, or employees, the general counsel shall notify
72819 the state risk manager and the attorney general in writing before undertaking that
72820 representation.
72821 (c) If the legislative branch elects to be represented by its own counsel under this
72822 section, the decision for settlement of claims against the legislative branch, its members, or
72823 employees, where Risk Management Fund coverage applies, lies with the general counsel for
72824 the Legislature and the state risk manager.
72825 (4) (a) Notwithstanding the provisions of Section 67-5-3 or any other provision of the
72826 Utah Code, the attorney general, the general counsel for the state judiciary, and the general
72827 counsel for the Legislature may bill the Department of Administrative Services for all costs and
72828 legal fees expended by their respective offices, including attorneys' and secretarial salaries, in
72829 representing the state or any indemnified employee against any claim for which the Risk
72830 Management Fund may be liable and in advising state agencies and employees regarding any of
72831 those claims.
72832 (b) The risk manager shall draw funds from the Risk Management Fund for this
72833 purpose.
72834 Section 1517. Section **63G-7-902**, which is renumbered from Section 63-30d-902 is
72835 renumbered and amended to read:
72836 **[~~63-30d-902~~]. 63G-7-902. Defending government employee -- Request --**
72837 **Cooperation -- Payment of judgment.**
72838 (1) Except as provided in Subsections (2) and (3), a governmental entity shall defend
72839 any action brought against its employee arising from an act or omission occurring:
72840 (a) during the performance of the employee's duties;
72841 (b) within the scope of the employee's employment; or
72842 (c) under color of authority.
72843 (2) (a) Before a governmental entity may defend its employee against a claim, the
72844 employee shall make a written request to the governmental entity to defend [~~him~~] the
72845 employee:
72846 (i) within ten days after service of process upon [~~him~~] the employee; or

72847 (ii) within a longer period that would not prejudice the governmental entity in
72848 maintaining a defense on [~~his~~] the employee's behalf; or
72849 (iii) within a period that would not conflict with notice requirements imposed on the
72850 entity in connection with insurance carried by the entity relating to the risk involved.
72851 (b) If the employee fails to make a request, or fails to reasonably cooperate in the
72852 defense, including the making of an offer of judgment under Rule 68, Utah Rules of Civil
72853 Procedure, Offers of Judgment, the governmental entity need not defend or continue to defend
72854 the employee, nor pay any judgment, compromise, or settlement against the employee in
72855 respect to the claim.
72856 (3) The governmental entity may decline to defend, or, subject to any court rule or
72857 order, decline to continue to defend, an action against an employee if it determines:
72858 (a) that the act or omission in question did not occur:
72859 (i) during the performance of the employee's duties;
72860 (ii) within the scope of [~~his~~] the employee's employment; or
72861 (iii) under color of authority; or
72862 (b) that the injury or damage on which the claim was based resulted from conditions
72863 set forth in Subsection [~~63-30d-202~~] 63G-7-202(3)(c).
72864 (4) (a) Within ten days of receiving a written request to defend an employee, the
72865 governmental entity shall inform the employee whether or not it shall provide a defense, and, if
72866 it refuses to provide a defense, the basis for its refusal.
72867 (b) A refusal by the entity to provide a defense is not admissible for any purpose in the
72868 action in which the employee is a defendant.
72869 (5) Except as provided in Subsection (6), if a governmental entity conducts the defense
72870 of an employee, the governmental entity shall pay any judgment based upon the claim.
72871 (6) A governmental entity may conduct the defense of an employee under a reservation
72872 of rights under which the governmental entity reserves the right not to pay a judgment if any of
72873 the conditions set forth in Subsection (3) are established.
72874 (7) (a) Nothing in this section or Section [~~63-30d-903~~] 63G-7-903 affects the
72875 obligation of a governmental entity to provide insurance coverage according to the
72876 requirements of Subsection 41-12a-301(3) and Section [~~63-30d-802~~] 63G-7-802.
72877 (b) When a governmental entity declines to defend, or declines to continue to defend,

72878 an action against its employee under any of the conditions set forth in Subsection (3), it shall
72879 still provide coverage up to the amount specified in Section 31A-22-304.
72880 Section 1518. Section **63G-7-903**, which is renumbered from Section 63-30d-903 is
72881 renumbered and amended to read:
72882 **[~~63-30d-903~~]. 63G-7-903. Recovery of judgment paid and defense costs by**
72883 **government employee.**
72884 (1) Subject to Subsection (2), if an employee pays a judgment entered against him, or
72885 any portion of it, that the governmental entity is required to pay under Section [~~63-30d-902~~]
72886 63G-7-902, the employee may recover from the governmental entity the amount of the payment
72887 and the reasonable costs incurred in the employee's defense.
72888 (2) (a) If a governmental entity does not conduct the defense of an employee against a
72889 claim, or conducts the defense under a reservation of rights as provided in Subsection
72890 [~~63-30d-902~~] 63G-7-902(6), the employee may recover from the governmental entity under
72891 Subsection (1) if the employee can prove that none of the conditions set forth in Subsection
72892 [~~63-30d-202~~] 63G-7-202(3)(c) applied.
72893 (b) The employee has the burden of proof that none of the conditions set forth in
72894 Subsection [~~63-30d-202~~] 63G-7-202(3)(c) applied.
72895 Section 1519. Section **63G-7-904**, which is renumbered from Section 63-30d-904 is
72896 renumbered and amended to read:
72897 **[~~63-30d-904~~]. 63G-7-904. Indemnification of governmental entity by**
72898 **employee not required.**
72899 If a governmental entity pays all or part of a judgment, compromise, or settlement based
72900 on a claim against the governmental entity or an employee, the employee is not required to
72901 indemnify the governmental entity for the payment.
72902 Section 1520. Section **63G-8-101** is enacted to read:
72903 **CHAPTER 8. IMMUNITY FOR PERSONS PERFORMING**
72904 **VOLUNTARY SERVICES ACT**
72905 **Part 1. General Provisions**
72906 **63G-8-101. Title.**
72907 This chapter is known as the "Immunity for Persons Performing Voluntary Services
72908 Act."

72909 Section 1521. Section **63G-8-102**, which is renumbered from Section 63-30b-1 is
72910 renumbered and amended to read:
72911 **[~~63-30b-1~~]. 63G-8-102. Definitions.**
72912 As used in this act:
72913 (1) "Public entity" means the state or any political subdivision of it, or any office,
72914 department, division, board, agency, commission, council, authority, institution, hospital,
72915 school, college, university, or other instrumentality of the state or any political subdivision.
72916 (2) "Compensation" means payment for services in any form whatsoever, whether per
72917 diem or otherwise, except where the payment is solely for the purpose of paying subsistence,
72918 travel, or other expenses incurred by the person performing those services.
72919 Section 1522. Section **63G-8-201**, which is renumbered from Section 63-30b-2 is
72920 renumbered and amended to read:
72921 **Part 2. Immunity for Voluntary Services**
72922 **[~~63-30b-2~~]. 63G-8-201. Voluntary services -- Immunity from liability --**
72923 **Exceptions.**
72924 Any person performing services on a voluntary basis, without compensation, under the
72925 general supervision of, and on behalf of any public entity, shall be immune from liability with
72926 respect to any decisions or actions, other than in connection with the operation of a motor
72927 vehicle, taken during the course of those services, unless it is established that such decisions or
72928 actions were grossly negligent, not made in good faith, or were made maliciously.
72929 Section 1523. Section **63G-8-202**, which is renumbered from Section 63-30b-3 is
72930 renumbered and amended to read:
72931 **[~~63-30b-3~~]. 63G-8-202. Action under Governmental Immunity Act of Utah**
72932 **permitted.**
72933 Nothing in this chapter shall preclude legal action against a public entity for any injury
72934 occurring as a result of the decisions or actions taken by a person performing services on a
72935 voluntary basis for that entity, where such action would otherwise be permitted under [~~Title 63,~~
72936 ~~Chapter 30d~~] Title 63G, Chapter 7, Governmental Immunity Act of Utah.
72937 Section 1524. Section **63G-8-301**, which is renumbered from Section 63-30b-4 is
72938 renumbered and amended to read:
72939 **Part 3. Application**

72940 **[~~63-30b-4~~]. 63G-8-301. Applicability of act.**
72941 This act shall apply to any actions or decisions taken subsequent to the effective date of
72942 this act.
72943 Section 1525. Section **63G-9-101** is enacted to read:
72944 **CHAPTER 9. BOARD OF EXAMINERS ACT**
72945 **Part 1. General Provisions**
72946 **63G-9-101. Title.**
72947 This chapter is known as the "Board of Examiners Act."
72948 Section 1526. Section **63G-9-201**, which is renumbered from Section 63-6-1 is
72949 renumbered and amended to read:
72950 **Part 2. Board of Examiners**
72951 **[~~63-6-1~~]. 63G-9-201. Members -- Functions.**
72952 (1) As used in this chapter:
72953 (a) "Political subdivision" means any county, city, town, school district, community
72954 development and renewal agency, special improvement or taxing district, local district, special
72955 service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13,
72956 Interlocal Cooperation Act, or other governmental subdivision or public corporation.
72957 (b) "State" means the state of Utah, and includes each office, department, division,
72958 agency, authority, commission, board, institution, college, university, Children's Justice Center,
72959 or other instrumentality of the state.
72960 (2) The governor, the state auditor, and the attorney general shall constitute a Board of
72961 Examiners, with power to examine all claims against the state or a political subdivision, for the
72962 payment of which funds appropriated by the Legislature or derived from any other source are
72963 not available.
72964 (3) No claim against the state or a political subdivision, for the payment of which
72965 specifically designated funds are required to be appropriated by the Legislature shall be passed
72966 upon by the Legislature without having been considered and acted upon by the Board of
72967 Examiners.
72968 (4) The governor shall be the president, and the state auditor shall be the secretary of
72969 the board, and in the absence of either an officer pro tempore may be elected from among the
72970 members of the board.

72971 Section 1527. Section **63G-9-202**, which is renumbered from Section 63-6-1.5 is
72972 renumbered and amended to read:
72973 **[~~63-6-1.5~~]. 63G-9-202. Procedures -- Adjudicative proceedings.**
72974 The Board of Examiners shall comply with the procedures and requirements of [~~Title~~
72975 ~~63, Chapter 46b,~~] Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative
72976 proceedings.
72977 Section 1528. Section **63G-9-203**, which is renumbered from Section 63-6-2 is
72978 renumbered and amended to read:
72979 **[~~63-6-2~~]. 63G-9-203. Meetings.**
72980 The meetings of the board shall be held upon the call of the president or any two
72981 members.
72982 Section 1529. Section **63G-9-204**, which is renumbered from Section 63-6-3 is
72983 renumbered and amended to read:
72984 **[~~63-6-3~~]. 63G-9-204. Record of proceedings.**
72985 The board must keep a record of all its proceedings, and any member may cause [~~his~~]
72986 the member's dissent to the action of a majority upon any matter to be entered upon such
72987 record. An abstract of all claims must be entered upon the minutes of the board before the same
72988 are acted upon.
72989 Section 1530. Section **63G-9-205**, which is renumbered from Section 63-6-4 is
72990 renumbered and amended to read:
72991 **[~~63-6-4~~]. 63G-9-205. Rules and regulations.**
72992 The board may, in writing, establish rules and regulations not inconsistent with law for
72993 its government.
72994 Section 1531. Section **63G-9-206**, which is renumbered from Section 63-6-5 is
72995 renumbered and amended to read:
72996 **[~~63-6-5~~]. 63G-9-206. Witnesses -- Subpoena -- Examination -- Fees.**
72997 The president of the board may issue subpoenas and compel the attendance of witnesses
72998 and the production of books and papers before the board or any member thereof; and any
72999 member of the board may administer oaths and may examine witnesses. Whenever a witness is
73000 subpoenaed before the board to testify against any claim pending before it, the board may allow
73001 a reasonable fee to such witness for attendance, which fee must not exceed the fees allowed by

73002 law to witnesses in civil cases, and must be paid out of the appropriation for the contingent
73003 expenses of the board; provided, that in no instance shall a fee be allowed to a witness who has
73004 appeared in behalf of a claimant.
73005 Section 1532. Section **63G-9-207**, which is renumbered from Section 63-6-6 is
73006 renumbered and amended to read:
73007 **[~~63-6-6~~]. 63G-9-207. Depositions.**
73008 Each member of the board may take depositions to be used before it.
73009 Section 1533. Section **63G-9-301**, which is renumbered from Section 63-6-10 is
73010 renumbered and amended to read:
73011 **Part 3. Review of Claims**
73012 **[~~63-6-10~~]. 63G-9-301. Audit and approval of claims -- Overexpenditure by**
73013 **agencies.**
73014 (1) (a) The Board of Examiners shall audit any claim presented to it, if the settlement
73015 of the claim is required by law.
73016 (b) If the claim is approved, the board shall transmit it to the Legislature with a
73017 statement of the reasons for the approval.
73018 (2) When an agency's line item appropriation has been overexpended and a written
73019 report is submitted to the board as required by Section [~~63-38-10~~] 63J-1-405, the board shall
73020 review the report and either:
73021 (a) recommend and submit to the Legislature any supplemental appropriations or
73022 corrective legislation that may be needed; or
73023 (b) recommend other internal procedures or policies that will make an overexpenditure
73024 in the future unlikely.
73025 Section 1534. Section **63G-9-302**, which is renumbered from Section 63-6-11 is
73026 renumbered and amended to read:
73027 **[~~63-6-11~~]. 63G-9-302. Form for presentment of claim against the state or**
73028 **political subdivision.**
73029 Any person having a claim against the state or a political subdivision, for which funds
73030 have not been provided for the payment thereof, or the settlement of which is not otherwise
73031 provided for by law, must present the same to the Board of Examiners, accompanied by a
73032 statement showing the facts constituting the claim.

73033 Section 1535. Section **63G-9-303**, which is renumbered from Section 63-6-12 is
73034 renumbered and amended to read:
73035 **[~~63-6-12~~]. 63G-9-303. Meeting to examine claims -- Notice of meeting.**
73036 At least 60 days preceding the meeting of each Legislature the board must hold a
73037 session for the purpose of examining the claims referred to in Section [~~63-6-11~~] 63G-9-302,
73038 and may adjourn from time to time until the work is completed. The board must cause notice of
73039 such meeting or meetings to be published in some newspaper at the seat of government and
73040 such other newspapers as may be determined by the board for such time as the board may
73041 prescribe.
73042 Section 1536. Section **63G-9-304**, which is renumbered from Section 63-6-13 is
73043 renumbered and amended to read:
73044 **[~~63-6-13~~]. 63G-9-304. Adjustment of claims -- Recommendations to**
73045 **Legislature.**
73046 (1) The board must, at the time designated, proceed to examine and adjust all claims
73047 referred to in Section [~~63-6-11~~] 63G-9-302, and may hear evidence in support of or against
73048 them, and shall report to the Legislature the facts and recommendations concerning them as it
73049 may think proper.
73050 (2) In making its recommendations, the board may state and use any official or
73051 personal knowledge which any member of the board may have touching such claims.
73052 (3) The board shall not pass upon or send to the Legislature any claim for which the
73053 state or a political subdivision would not otherwise be liable were it not for its sovereign
73054 immunity.
73055 (4) Notwithstanding Subsection (3), claims wherein the state or a political subdivision
73056 would be liable, were it not for its sovereign immunity, whether recommended by the board for
73057 approval or disapproval, shall be reported by the board to the Legislature with appropriate
73058 findings and recommendations as above provided.
73059 Section 1537. Section **63G-9-305**, which is renumbered from Section 63-6-14 is
73060 renumbered and amended to read:
73061 **[~~63-6-14~~]. 63G-9-305. Publication of abstract of claims allowed and rejected.**
73062 The board must make up its report and recommendations at least thirty days before the
73063 meeting of the Legislature; and a brief abstract of the report, showing the claims rejected, and

73064 those allowed and the amounts thereof, must be published in a newspaper published at the seat
73065 of government before the meeting of the Legislature for such time as the board may prescribe.
73066 Section 1538. Section **63G-9-306**, which is renumbered from Section 63-6-16 is
73067 renumbered and amended to read:
73068 **[~~63-6-16~~]. 63G-9-306. Reconsideration of rejected claims.**
73069 The board shall not entertain for a third time a demand against the state or a political
73070 subdivision once rejected by it or by the Legislature, unless the facts or reasons are presented to
73071 the board as in actions between private parties would furnish sufficient ground for granting a
73072 new trial.
73073 Section 1539. Section **63G-9-401**, which is renumbered from Section 63-6-17 is
73074 renumbered and amended to read:
73075 **Part 4. Appeal of Claim Reviews**
73076 **[~~63-6-17~~]. 63G-9-401. Appeal to Legislature.**
73077 Any person interested who is aggrieved by the disapproval of a claim by the board may
73078 appeal from its decision to the Legislature by filing with the board a notice thereof, and upon
73079 the receipt of such notice the board must transmit the demand and all the papers accompanying
73080 the same, with a statement of the evidence taken before it, to the Legislature.
73081 Section 1540. Section **63G-10-101** is enacted to read:
73082 **CHAPTER 10. STATE SETTLEMENT AGREEMENTS ACT**
73083 **Part 1. General Provisions**
73084 **63G-10-101. Title.**
73085 This chapter is known as the "State Settlement Agreements Act."
73086 Section 1541. Section **63G-10-102**, which is renumbered from Section 63-38b-101 is
73087 renumbered and amended to read:
73088 **[~~63-38b-101~~]. 63G-10-102. Definitions.**
73089 As used in this chapter:
73090 (1) (a) "Action settlement agreement" includes a stipulation, consent decree, settlement
73091 agreement, or any other legally binding document or representation that resolves a threatened
73092 or pending lawsuit between the state and another party by requiring the state to take legally
73093 binding action.
73094 (b) "Action settlement agreement" includes stipulations, consent decrees, settlement

73095 agreements, and other legally binding documents or representations resolving a dispute
73096 between the state and another party when the state is required to pay money and required to
73097 take legally binding action.
73098 (c) "Action settlement agreement" does not include:
73099 (i) the internal process established by the Department of Transportation to resolve
73100 construction contract claims;
73101 (ii) any resolution of an employment dispute or claim made by an employee of the state
73102 of Utah against the state as employer;
73103 (iii) adjudicative orders issued by the State Tax Commission, the Public Service
73104 Commission, the Labor Commission, or the Department of Workforce Services; or
73105 (iv) the settlement of disputes arising from audits, defaults, or breaches of permits,
73106 contracts of sale, easements, or leases by the School and Institutional Trust Lands
73107 Administration.
73108 (2) (a) "Agency" means each department, commission, board, council, agency,
73109 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,
73110 unit, bureau, panel, or other administrative unit of the state.
73111 (b) "Agency" includes the legislative branch, the judicial branch, the attorney general's
73112 office, the State Office of Education, the Board of Regents, the institutional councils of each
73113 higher education institution, and each higher education institution.
73114 (3) (a) "Financial settlement agreement" includes a stipulation, consent decree,
73115 settlement agreement, and any other legally binding document or representation that resolves a
73116 dispute between the state and another party exclusively by requiring the payment of money
73117 from one party to the other.
73118 (b) "Financial settlement agreement" does not include:
73119 (i) agreements made under the internal process established by the Department of
73120 Transportation to resolve construction contract claims;
73121 (ii) adjudicative orders issued by the State Tax Commission, Public Service
73122 Commission, Labor Commission, or the Department of Workforce Services;
73123 (iii) the settlement of disputes arising from audits, defaults, or breaches of permits,
73124 contracts of sale, easements, or leases by the School and Institutional Trust Lands
73125 Administration; or

73126 (iv) agreements made under the internal processes established by the Division of
73127 Facilities Construction and Management or by law to resolve construction contract claims
73128 made against the state by contractors or subcontractors.
73129 (4) "Government entities" means the state and its political subdivisions.
73130 Section 1542. Section **63G-10-103**, which is renumbered from Section 63-38b-102 is
73131 renumbered and amended to read:
73132 **[~~63-38b-102~~]. 63G-10-103. Notice of voidableness of settlement agreements.**
73133 Each financial settlement agreement that might cost government entities more than
73134 $100,000 that is executed by an agency in violation of this chapter, and each action settlement
73135 agreement that is executed by an agency in violation of this chapter, is voidable by the
73136 governor or the Legislature as provided in this chapter.
73137 Section 1543. Section **63G-10-201**, which is renumbered from Section 63-38b-201 is
73138 renumbered and amended to read:
73139 **Part 2. Financial Settlement Agreements**
73140 **[~~63-38b-201~~]. 63G-10-201. Governor to approve financial settlement**
73141 **agreements.**
73142 (1) Before legally binding the state by executing a financial settlement agreement that
73143 might cost government entities more than $100,000 to implement, an agency shall submit the
73144 proposed financial settlement agreement to the governor for [~~his~~] the governor's approval or
73145 rejection.
73146 (2) The governor shall approve or reject each financial settlement agreement.
73147 (3) (a) If the governor approves the financial settlement agreement, the agency may
73148 execute the agreement.
73149 (b) If the governor rejects the financial settlement agreement, the agency may not
73150 execute the agreement.
73151 (4) If an agency executes a financial settlement agreement without obtaining the
73152 governor's approval under this section, the governor may issue an executive order declaring the
73153 settlement agreement void.
73154 Section 1544. Section **63G-10-202**, which is renumbered from Section 63-38b-202 is
73155 renumbered and amended to read:
73156 **[~~63-38b-202~~]. 63G-10-202. Legislative review and approval of financial**

73157 **settlement agreements.**
73158 (1) (a) Before legally binding the state by executing a financial settlement agreement
73159 that might cost government entities more than $500,000 to implement, an agency shall:
73160 (i) submit the proposed financial settlement agreement to the governor for [~~his~~] the
73161 governor's approval or rejection as required by Section [~~63-38b-201~~] 63G-10-201; and
73162 (ii) if the governor approves the financial settlement agreement, submit the financial
73163 settlement agreement to the Legislative Management Committee for its review and
73164 recommendations.
73165 (b) The Legislative Management Committee shall review the financial settlement
73166 agreement and may:
73167 (i) recommend that the agency execute the financial settlement agreement;
73168 (ii) recommend that the agency reject the financial settlement agreement; or
73169 (iii) recommend to the governor that [~~he~~] the governor call a special session of the
73170 Legislature to review and approve or reject the financial settlement agreement.
73171 (2) (a) Before legally binding the state by executing a financial settlement agreement
73172 that might cost government entities more than $1,000,000 to implement, an agency shall:
73173 (i) submit the proposed financial settlement agreement to the governor for [~~his~~] the
73174 governor's approval or rejection as required by Section [~~63-38b-201~~] 63G-10-201; and
73175 (ii) if the governor approves the financial settlement agreement, submit the financial
73176 settlement agreement to the Legislature for its approval in an annual general session or a
73177 special session.
73178 (b) (i) If the Legislature approves the financial settlement agreement, the agency may
73179 execute the agreement.
73180 (ii) If the Legislature rejects the financial settlement agreement, the agency may not
73181 execute the agreement.
73182 (c) If an agency executes a financial settlement agreement without obtaining the
73183 Legislature's approval under this Subsection (2):
73184 (i) the governor may issue an executive order declaring the settlement agreement void;
73185 or
73186 (ii) the Legislature may pass a joint resolution declaring the settlement agreement void.
73187 Section 1545. Section **63G-10-301**, which is renumbered from Section 63-38b-301 is

73188 renumbered and amended to read:

73189 **Part 3. Action Settlement Agreements**

73190 **[~~63-38b-301~~]. 63G-10-301. Cost evaluation of action settlement**
73191 **agreements.**

73192 (1) Before legally binding the state to an action settlement agreement that might cost
73193 the state a total of $100,000 or more to implement, an agency shall estimate the cost of
73194 implementing the action settlement agreement and submit that cost estimate to the governor
73195 and the Legislative Management Committee.

73196 (2) The Legislative Management Committee may:

73197 (a) direct its staff to make an independent cost estimate of the cost of implementing the
73198 action settlement agreement; and

73199 (b) affirmatively adopt a cost estimate as the benchmark for determining which
73200 authorizations established by this part are necessary.

73201 Section 1546. Section **63G-10-302**, which is renumbered from Section 63-38b-302 is
73202 renumbered and amended to read:

73203 **[~~63-38b-302~~]. 63G-10-302. Governor to approve action settlement**
73204 **agreements.**

73205 (1) Before legally binding the state by executing an action settlement agreement that
73206 might cost government entities more than $100,000 to implement, an agency shall submit the
73207 proposed settlement agreement to the governor for [~~his~~] the governor's approval or rejection.

73208 (2) The governor shall approve or reject each action settlement agreement.

73209 (3) (a) If the governor approves the action settlement agreement, the agency may
73210 execute the agreement.

73211 (b) If the governor rejects the action settlement agreement, the agency may not execute
73212 the agreement.

73213 (4) If an agency executes an action settlement agreement without obtaining the
73214 governor's approval under this section, the governor may issue an executive order declaring the
73215 settlement agreement void.

73216 Section 1547. Section **63G-10-303**, which is renumbered from Section 63-38b-303 is
73217 renumbered and amended to read:

73218 **[~~63-38b-303~~]. 63G-10-303. Legislative review and approval of action**

73219 **settlement agreements.**
73220 (1) (a) Before legally binding the state by executing an action settlement agreement that
73221 might cost government entities more than $500,000 to implement, an agency shall:
73222 (i) submit the proposed action settlement agreement to the governor for [~~his~~] the
73223 governor's approval or rejection as required by Section [~~63-38b-302~~] 63G-10-302; and
73224 (ii) if the governor approves the action settlement agreement, submit the action
73225 settlement agreement to the Legislative Management Committee for its review and
73226 recommendations.
73227 (b) The Legislative Management Committee shall review the action settlement
73228 agreement and may:
73229 (i) recommend that the agency execute the settlement agreement;
73230 (ii) recommend that the agency reject the settlement agreement; or
73231 (iii) recommend to the governor that [~~he~~] the governor call a special session of the
73232 Legislature to review and approve or reject the settlement agreement.
73233 (2) (a) Before legally binding the state by executing an action settlement agreement that
73234 might cost government entities more than $1,000,000 to implement, an agency shall:
73235 (i) submit the proposed action settlement agreement to the governor for [~~his~~] the
73236 governor's approval or rejection as required by Section [~~63-38b-302~~] 63G-10-302; and
73237 (ii) if the governor approves the action settlement agreement, submit the action
73238 settlement agreement to the Legislature for its approval in an annual general session or a
73239 special session.
73240 (b) (i) If the Legislature approves the action settlement agreement, the agency may
73241 execute the agreement.
73242 (ii) If the Legislature rejects the action settlement agreement, the agency may not
73243 execute the agreement.
73244 (c) If an agency executes an action settlement agreement without obtaining the
73245 Legislature's approval under this Subsection (2):
73246 (i) the governor may issue an executive order declaring the action settlement agreement
73247 void; or
73248 (ii) the Legislature may pass a joint resolution declaring the action settlement
73249 agreement void.

73250 Section 1548. Section **63G-10-401**, which is renumbered from Section 63-38b-401 is
73251 renumbered and amended to read:
73252 **Part 4. Condemnation and Inverse Condemnation Settlement Agreements**
73253 **[~~63-38b-401~~]. 63G-10-401. Condemnation, inverse condemnation**
73254 **settlements involving the Department of Transportation.**
73255 (1) Notwithstanding the provisions of this chapter, the Department of Transportation
73256 need not obtain the approval of the governor or the Legislature for financial or action
73257 settlement agreements that resolve condemnation or inverse condemnation cases.
73258 (2) Financial settlement agreements involving condemnation or inverse condemnation
73259 cases for $1,000,000 to $2,000,000 over the Department of Transportation's original appraisal
73260 shall be presented to the Transportation Commission for approval or rejection.
73261 (3) (a) Financial settlement agreements involving condemnation or inverse
73262 condemnation cases for more than $2,000,000 over the Department of Transportation's original
73263 appraisal and all action settlement agreements that resolve condemnation or inverse
73264 condemnation cases shall be presented:
73265 (i) to the Transportation Commission for approval or rejection; and
73266 (ii) if the financial or action settlement agreement is approved by the Transportation
73267 Commission, to the Legislative Management Committee.
73268 (b) The Legislative Management Committee may recommend approval or rejection of
73269 the financial or action settlement agreement.
73270 (4) (a) The Department of Transportation may not enter into a financial settlement
73271 agreement that resolves a condemnation or inverse condemnation case and requires payment of
73272 $1,000,000 to $2,000,000 over the Department of Transportation's original appraisal until the
73273 Transportation Commission has approved the agreement.
73274 (b) The Department of Transportation may not enter into a financial settlement
73275 agreement that resolves a condemnation or inverse condemnation case and requires payment of
73276 more than $2,000,000 over the Department of Transportation's original appraisal or enter into
73277 an action settlement agreement that resolves a condemnation or inverse condemnation case
73278 until:
73279 (i) the Transportation Commission has approved the agreement; and
73280 (ii) the Legislative Management Committee has reviewed the agreement.

73281 Section 1549. Section **63I-1-101**, which is renumbered from Section 63-55-101 is
73282 renumbered and amended to read:
73283 **TITLE 63I. OVERSIGHT**
73284 **CHAPTER 1. LEGISLATIVE OVERSIGHT AND SUNSET ACT**
73285 **Part 1. General Provisions**
73286 **[~~63-55-101~~]. 63I-1-101. Title.**
73287 (1) This title is known as "Oversight."
73288 (2) This chapter is known as the "Legislative Oversight and Sunset Act."
73289 Section 1550. Section **63I-1-102**, which is renumbered from Section 63-55-102 is
73290 renumbered and amended to read:
73291 **[~~63-55-102~~]. 63I-1-102. Agency defined -- Periodic termination of statutes**
73292 **and agencies -- Legislative review.**
73293 (1) As used in this chapter, "agency" means any state authority, board, commission,
73294 department, division, office, or other agency, and the statute that established it.
73295 (2) The Legislature finds that the state should not regulate any area unless the
73296 regulation is necessary to protect the health, safety, and welfare of the public.
73297 (3) In order to make state government more productive and responsive to the people, it
73298 is necessary to place many of the statutes and agencies of state government under Part 2 of this
73299 chapter on a reauthorization schedule. Any statute or agency scheduled for termination under
73300 this chapter is terminated unless the Legislature through affirmative act reauthorizes its
73301 existence. The continued existence of a statute or agency subject to this chapter may not be
73302 reauthorized for a period of more than ten years.
73303 (4) It is the purpose of this chapter to terminate any statute or agency that is not
73304 meeting a clear public purpose, and to improve the ability of state government to meet and
73305 fulfill legitimate public purposes.
73306 Section 1551. Section **63I-1-103**, which is renumbered from Section 63-55-103 is
73307 renumbered and amended to read:
73308 **[~~63-55-103~~]. 63I-1-103. Guidelines for conduct of review.**
73309 (1) (a) Any statute or agency scheduled for termination may be reviewed by an interim
73310 committee at the direction of:
73311 (i) Legislative Management Committee;

73312 (ii) the chairs of an interim committee; or
73313 (iii) an interim committee as approved by motion and majority vote of its membership.
73314 (b) The review shall begin not later than one year before scheduled termination and end
73315 before January 1 of the year in which termination is scheduled.
73316 (2) In determining whether to reauthorize the statute or agency, the agency overseeing
73317 the statute or agency scheduled for termination shall clearly identify for the interim committee
73318 the public purpose and interest for which each statute or agency was originally created and
73319 clearly identify whether that public purpose and interest is still relevant.
73320 (3) The interim committee shall then consider:
73321 (a) the extent to which the statute or agency has operated in the public interest and any
73322 areas in which the statute or agency needs to improve its ability to operate in the public
73323 interest;
73324 (b) the extent to which existing statutes interfere with or assist the legitimate functions
73325 of the statute or agency, and any other circumstances including budgetary, resource, and
73326 personnel matters that have a bearing on the capacity of the statute or agency to serve the
73327 public interest;
73328 (c) the extent to which the public has been encouraged to participate in the adoption of
73329 the rules established in connection with the statute or agency;
73330 (d) the extent to which the statute's provisions or agency's programs and services are
73331 duplicative of those offered by other statutes or state agencies;
73332 (e) the extent to which the objectives of the statute or agency have been accomplished
73333 and their public benefit;
73334 (f) the adverse effect on the public of termination of the statute or agency; and
73335 (g) any other matter relevant to the review.
73336 (4) It is the responsibility of any agency scheduled for termination or any agency which
73337 has oversight responsibilities for a statute scheduled for termination to seek its reauthorization
73338 with the Legislature.
73339 Section 1552. Section **63I-1-104**, which is renumbered from Section 63-55-104 is
73340 renumbered and amended to read:
73341 **[~~63-55-104~~]. 63I-1-104. Terminated authority -- Winding up of affairs.**
73342 Any agency terminated under this chapter may continue in existence, if necessary to

73343 wind up its affairs, until July 1 of the year next succeeding the year of termination.
73344 Section 1553. Section **63I-1-105**, which is renumbered from Section 63-55-105 is
73345 renumbered and amended to read:
73346 **[~~63-55-105~~]. 63I-1-105. Reviewing committee -- Report of**
73347 **recommendations.**
73348 The reviewing committee shall submit a report of its recommendations, including
73349 proposed legislation and recommendations concerning the statute or agency, to the Legislature
73350 before January 1 of the year in which the agency is scheduled for termination.
73351 Section 1554. Section **63I-1-106**, which is renumbered from Section 63-55-106 is
73352 renumbered and amended to read:
73353 **[~~63-55-106~~]. 63I-1-106. Legislative reauthorization of statute or agency.**
73354 If the Legislature determines that the public interest requires the continued existence of
73355 the statute or agency, it shall reauthorize the existence of the statute or agency in this chapter.
73356 Section 1555. Section **63I-1-209**, which is renumbered from Section 63-55-209 is
73357 renumbered and amended to read:
73358 **[~~63-55-209~~]. 63I-1-209. Repeal dates, Title 9.**
73359 (1) Title 9, Chapter 1, Part 8, Commission on National and Community Service Act, is
73360 repealed July 1, 2014.
73361 (2) Title 9, Chapter 3, Part 3, Heber Valley Historic Railroad Authority, is repealed
73362 July 1, 2009.
73363 (3) Title 9, Chapter 4, Part 9, Utah Housing Corporation Act, is repealed July 1, 2016.
73364 Section 1556. Section **63I-1-210**, which is renumbered from Section 63-55-210 is
73365 renumbered and amended to read:
73366 **[~~63-55-210~~]. 63I-1-210. Repeal dates, Title 10.**
73367
73368 Section 1557. Section **63I-1-213**, which is renumbered from Section 63-55-213 is
73369 renumbered and amended to read:
73370 **[~~63-55-213~~]. 63I-1-213. Repeal dates, Title 13.**
73371 Title 13, Chapter 16, Motor Fuel Marketing Act, is repealed July 1, 2012.
73372 Section 1558. Section **63I-1-219**, which is renumbered from Section 63-55-219 is
73373 renumbered and amended to read:

73374 **[~~63-55-219~~]. 63I-1-219. Repeal dates, Title 19.**
73375 (1) Title 19, Chapter 2, Air Conservation Act, is repealed July 1, 2009.
73376 (2) Title 19, Chapter 3, Radiation Control Act, is repealed July 1, 2012.
73377 (3) Title 19, Chapter 4, Safe Drinking Water Act, is repealed July 1, 2009.
73378 (4) Title 19, Chapter 5, Water Quality Act, is repealed July 1, 2009.
73379 (5) Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, is repealed July 1,
73380 2009.
73381 (6) Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act, is repealed July
73382 1, 2010.
73383 (7) Title 19, Chapter 6, Part 4, Underground Storage Tank Act, is repealed July 1,
73384 2008.
73385 (8) Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal, is repealed July 1, 2016.
73386 (9) Title 19, Chapter 6, Part 7, Used Oil Management Act, is repealed July 1, 2009.
73387 (10) Title 19, Chapter 6, Part 8, Waste Tire Recycling Act, is repealed July 1, 2010.
73388 (11) Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, is repealed July 1,
73389 2012.
73390 Section 1559. Section **63I-1-220**, which is renumbered from Section 63-55-220 is
73391 renumbered and amended to read:
73392 **[~~63-55-220~~]. 63I-1-220. Repeal dates, Title 20A.**
73393
73394 Section 1560. Section **63I-1-223**, which is renumbered from Section 63-55-223 is
73395 renumbered and amended to read:
73396 **[~~63-55-223~~]. 63I-1-223. Repeal dates, Title 23.**
73397
73398 Section 1561. Section **63I-1-226**, which is renumbered from Section 63-55-226 is
73399 renumbered and amended to read:
73400 **[~~63-55-226~~]. 63I-1-226. Repeal dates, Title 26.**
73401 (1) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July
73402 1, 2015.
73403 (2) Title 26, Chapter 23b, Detection of Public Health Emergencies Act, is repealed July
73404 1, 2009.

73405 (3) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2014.
73406 (4) Section 26-21-23, Licensing of non-Medicaid nursing care facility beds, is repealed
73407 July 1, 2009.
73408 Section 1562. Section **63I-1-230**, which is renumbered from Section 63-55-230 is
73409 renumbered and amended to read:
73410 **[~~63-55-230~~]. 63I-1-230. Repeal dates, Title 30.**
73411
73412 Section 1563. Section **63I-1-231**, which is renumbered from Section 63-55-231 is
73413 renumbered and amended to read:
73414 **[~~63-55-231~~]. 63I-1-231. Repeal dates, Title 31A.**
73415 (1) Section 31A-2-208.5, Comparison tables, is repealed July 1, 2010.
73416 (2) Section 31A-2-217, Coordination with other states, is repealed July 1, 2013.
73417 (3) Section 31A-22-315, Motor vehicle insurance reporting -- Penalty, is repealed July
73418 1, 2010.
73419 (4) Section 31A-22-625, Catastrophic coverage of mental health conditions, is repealed
73420 July 1, 2011.
73421 Section 1564. Section **63I-1-232**, which is renumbered from Section 63-55-232 is
73422 renumbered and amended to read:
73423 **[~~63-55-232~~]. 63I-1-232. Repeal dates, Title 32A.**
73424
73425 Section 1565. Section **63I-1-234**, which is renumbered from Section 63-55-234 is
73426 renumbered and amended to read:
73427 **[~~63-55-234~~]. 63I-1-234. Repeal dates, Title 34A.**
73428 (1) Section 34A-2-202.5 is repealed December 31, 2010.
73429 (2) Title 34A, Chapter 8, Utah Injured Worker Reemployment Act, is repealed July 1,
73430 2009.
73431 Section 1566. Section **63I-1-235**, which is renumbered from Section 63-55-235 is
73432 renumbered and amended to read:
73433 **[~~63-55-235~~]. 63I-1-235. Repeal dates, Title 35A.**
73434 (1) Title 35A, Utah Workforce Services Code, is repealed July 1, 2015.
73435 (2) Section 35A-3-114, the Displaced Homemaker Program, together with the

73436 provision for funding that program contained in Subsection 17-16-21(2)(b), is repealed July 1,
73437 2012.
73438 Section 1567. Section **63I-1-236**, which is renumbered from Section 63-55-236 is
73439 renumbered and amended to read:
73440 **[~~63-55-236~~]. 63I-1-236. Repeal dates, Title 36.**
73441 Sections 36-26-101 through 36-26-104 are repealed December 31, 2017.
73442 Section 1568. Section **63I-1-238**, which is renumbered from Section 63-55-238 is
73443 renumbered and amended to read:
73444 **[~~63-55-238~~]. 63I-1-238. Repeal dates, Title 38.**
73445 Section 38-1-27 and Sections 38-1-30 through 38-1-37 are repealed July 1, 2008.
73446 Section 1569. Section **63I-1-241**, which is renumbered from Section 63-55-241 is
73447 renumbered and amended to read:
73448 **[~~63-55-241~~]. 63I-1-241. Repeal dates, Title 41.**
73449 The following provisions of Title 41 are repealed on the following dates:
73450 (1) Title 41, Chapter 12a, Part 8, Uninsured Motorist Identification Database Program,
73451 is repealed July 1, 2010.
73452 (2) The HOV lane exception in Subsection 41-6a-702(5) is repealed December 31,
73453 2010.
73454 Section 1570. Section **63I-1-253**, which is renumbered from Section 63-55-253 is
73455 renumbered and amended to read:
73456 **[~~63-55-253~~]. 63I-1-253. Repeal dates, Titles 53, 53A, and 53B.**
73457 The following provisions of Title 53A are repealed on the following dates:
73458 (1) Title 53A, Chapter 1a, Part 6, Public Education Job Enhancement Program is
73459 repealed July 1, 2010.
73460 (2) Title 53A, Chapter 1a, Part 9, Voluntary Extended-day Kindergarten Program, is
73461 repealed July 1, 2011.
73462 (3) The State Instructional Materials Commission, created in Section 53A-14-101, is
73463 repealed July 1, 2011.
73464 (4) Title 53A, Chapter 20a, Public Education Revenue Bond Act, is repealed July 1,
73465 2007.
73466 (5) Section 53-3-232, Conditional licenses, is repealed July 1, 2015.

73467 Section 1571. Section **63I-1-254**, which is renumbered from Section 63-55-254 is
73468 renumbered and amended to read:
73469 **[~~63-55-254~~]. 63I-1-254. Repeal dates, Title 54.**
73470
73471 Section 1572. Section **63I-1-258**, which is renumbered from Section 63-55-258 is
73472 renumbered and amended to read:
73473 **[~~63-55-258~~]. 63I-1-258. Repeal dates, Title 58.**
73474 (1) Title 58, Chapter 9, Funeral Services Licensing Act, is repealed July 1, 2008.
73475 (2) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is
73476 repealed July 1, 2016.
73477 (3) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2015.
73478 (4) Title 58, Chapter 20a, Environmental Health Scientist Act, is repealed July 1, 2013.
73479 (5) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2013.
73480 (6) Title 58, Chapter 41, Speech-language Pathology and Audiology Licensing Act, is
73481 repealed July 1, 2009.
73482 (7) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2015.
73483 (8) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July
73484 1, 2013.
73485 (9) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2014.
73486 (10) Title 58, Chapter 49, Dietitian Certification Act, is repealed July 1, 2015.
73487 (11) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2017.
73488 Section 1573. Section **63I-1-259**, which is renumbered from Section 63-55-259 is
73489 renumbered and amended to read:
73490 **[~~63-55-259~~]. 63I-1-259. Repeal dates, Title 59.**
73491 Section 59-9-102.5 is repealed December 31, 2010.
73492 Section 1574. Section **63I-1-261**, which is renumbered from Section 63-55-261 is
73493 renumbered and amended to read:
73494 **[~~63-55-261~~]. 63I-1-261. Repeal dates, Title 61.**
73495 Title 61, Chapter 1, Utah Uniform Securities Act, is repealed July 1, 2009.
73496 Section 1575. Section **63I-1-262**, which is renumbered from Section 63-55-262 is
73497 renumbered and amended to read:

73498 **[~~63-55-262~~]. 63I-1-262. Repeal dates, Title 62A.**
73499 (1) Section 62A-5-103.1, Pilot program for provision of supported employment
73500 services, is repealed July 1, 2008.
73501 (2) Section 62A-5-103.2, Pilot program for family preservation services, is repealed
73502 July 1, 2009.
73503 Section 1576. Section **63I-1-263**, which is renumbered from Section 63-55-263 is
73504 renumbered and amended to read:
73505 **[~~63-55-263~~]. 63I-1-263. Repeal dates, Titles 63 to 63E.**
73506 (1) [~~Title 63, Chapter 25a, Part 3,~~] Title 63M, Chapter 7, Part 4, Sentencing
73507 Commission, is repealed January 1, 2012.
73508 (2) The Crime Victims' Reparations Board, created in Section [~~63-25a-404~~]
73509 63M-7-504, is repealed July 1, 2017.
73510 (3) The Resource Development Coordinating Committee, created in Section
73511 [~~63-38d-501~~] 63J-4-501, is repealed July 1, 2015.
73512 (4) [~~Title 63, Chapter 38f~~] Title 63M, Chapter 1, Part 4, Enterprise Zone Act, is
73513 repealed July 1, 2008.
73514 (5) (a) [~~Title 63, Chapter 38f~~] Title 63M, Chapter 1, Part 11, Recycling Market
73515 Development Zone Act, is repealed July 1, 2010.
73516 (b) Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in
73517 recycling market development zones, are repealed for taxable years beginning on or after
73518 January 1, 2011.
73519 (c) Notwithstanding Subsection (5)(b), a person may not claim a tax credit under
73520 Section 59-7-610 or 59-10-1007:
73521 (i) for the purchase price of machinery or equipment described in Section 59-7-610 or
73522 59-10-1007, if the machinery or equipment is purchased on or after July 1, 2010; or
73523 (ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if
73524 the expenditure is made on or after July 1, 2010.
73525 (d) Notwithstanding Subsections (5)(b) and (c), a person may carry forward a tax credit
73526 in accordance with Section 59-7-610 or 59-10-1007 if:
73527 (i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and
73528 (ii) (A) for the purchase price of machinery or equipment described in Section

73529 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before June 30, 2010;
73530 or
73531 (B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the
73532 expenditure is made on or before June 30, 2010.
73533 (6) [~~Title 63, Chapter 47~~] Title 63M, Chapter 8, Utah Commission for Women and
73534 Families, is repealed July 1, 2011.
73535 (7) [~~Title 63, Chapter 75~~] Title 63M, Chapter 9, Families, Agencies, and Communities
73536 Together for Children and Youth At Risk Act, is repealed July 1, 2016.
73537 (8) [~~Title 63, Chapter 88~~] Title 51, Chapter 9, Part 5, Navajo Trust Fund, is repealed
73538 July 1, 2008.
73539 (9) [~~Title 63, Chapter 99~~] Title 63M, Chapter 11, Utah Commission on Aging, is
73540 repealed July 1, 2009.
73541 (10) Section 63A-4-204, authorizing the Risk Management Fund to provide coverage
73542 to any public school district that chooses to participate, is repealed July 1, 2016.
73543 (11) Section 63C-8-106, Rural residency training program, is repealed July 1, 2015.
73544 Section 1577. Section **63I-1-267**, which is renumbered from Section 63-55-267 is
73545 renumbered and amended to read:
73546 **[~~63-55-267~~]. 63I-1-267. Repeal dates, Title 67.**
73547 (1) Section 67-1-15 is repealed December 31, 2017.
73548 (2) Sections 67-1a-10 and 67-1a-11 creating the Commission on Civic and Character
73549 Education and establishing its duties are repealed on July 1, 2011.
73550 Section 1578. Section **63I-1-269**, which is renumbered from Section 63-55-269 is
73551 renumbered and amended to read:
73552 **[~~63-55-269~~]. 63I-1-269. Repeal dates, Title 69.**
73553 Section 69-2-5.6, Emergency services telephone charge to fund statewide unified E-911
73554 emergency service, is repealed July 1, 2011.
73555 Section 1579. Section **63I-1-272**, which is renumbered from Section 63-55-272 is
73556 renumbered and amended to read:
73557 **[~~63-55-272~~]. 63I-1-272. Repeal dates, Title 72.**
73558
73559 Section 1580. Section **63I-1-273**, which is renumbered from Section 63-55-273 is

73560 renumbered and amended to read:
73561 **[~~63-55-273~~]. 63I-1-273. Repeal dates, Title 73.**
73562 Title 73, Chapter 27, State Water Development Commission, is repealed December 31,
73563 2008.
73564 Section 1581. Section **63I-1-277**, which is renumbered from Section 63-55-277 is
73565 renumbered and amended to read:
73566 **[~~63-55-277~~]. 63I-1-277. Repeal dates, Title 77.**
73567
73568 Section 1582. Section **63I-1-278**, which is renumbered from Section 63-55-278 is
73569 renumbered and amended to read:
73570 **[~~63-55-278~~]. 63I-1-278. Repeal dates, Title 78.**
73571 (1) The Office of the Court Administrator, created in Section 78-3-23, is repealed July
73572 1, 2008.
73573 (2) Foster care citizen review boards and steering committee, created in Title 78,
73574 Chapter 3g, is repealed July 1, 2012.
73575 (3) Alternative Dispute Resolution Act, created in Title 78, Chapter 31b, is repealed
73576 July 1, 2016.
73577 (4) Section 78-14-17, regarding medical malpractice arbitration agreements, is repealed
73578 July 1, 2009.
73579 (5) The case management program coordinator in Subsection 78-3-25(4) is repealed
73580 July 1, 2009.
73581 Section 1583. Section **63I-2-101** is enacted to read:
73582 **CHAPTER 2. REPEAL DATES BY TITLE ACT**
73583 **Part 1. General Provisions**
73584 **63I-2-101. Title.**
73585 This chapter is known as the "Repeal Dates By Title Act."
73586 Section 1584. Section **63I-2-210**, which is renumbered from Section 63-55b-110 is
73587 renumbered and amended to read:
73588 **Part 2. Repeal Dates by Title**
73589 **[~~63-55b-110~~]. 63I-2-210. Repeal dates -- Title 10.**
73590 Section 10-2-427 is repealed July 1, 2010.

73591 Section 1585. Section **63I-2-220**, which is renumbered from Section 63-55b-120 is
73592 renumbered and amended to read:
73593 **[~~63-55b-120~~]. 63I-2-220. Repeal dates, Title 20A.**
73594 Section 20A-2-107.5 is repealed July 1, 2008.
73595 Section 1586. Section **63I-2-223**, which is renumbered from Section 63-55b-123 is
73596 renumbered and amended to read:
73597 **[~~63-55b-123~~]. 63I-2-223. Repeal dates -- Title 23.**
73598 This section is reserved - ASK GAY how to handle these sections that don't have any
73599 text in them.
73600 Section 1587. Section **63I-2-226**, which is renumbered from Section 63-55b-126 is
73601 renumbered and amended to read:
73602 **[~~63-55b-126~~]. 63I-2-226. Repeal dates -- Title 26.**
73603 (1) Section 26-38-4 is repealed January 1, 2009.
73604 (2) Title 26, Chapter 46, Utah Health Care Workforce Financial Assistance Program, is
73605 repealed July 1, 2017.
73606 Section 1588. Section **63I-2-231**, which is renumbered from Section 63-55b-131 is
73607 renumbered and amended to read:
73608 **[~~63-55b-131~~]. 63I-2-231. Repeal dates, Title 31A.**
73609 Section 31A-23a-415 is repealed July 1, 2011.
73610 Section 1589. Section **63I-2-232**, which is renumbered from Section 63-55b-132 is
73611 renumbered and amended to read:
73612 **[~~63-55b-132~~]. 63I-2-232. Repeal dates -- Title 32A.**
73613
73614 Section 1590. Section **63I-2-234**, which is renumbered from Section 63-55b-134 is
73615 renumbered and amended to read:
73616 **[~~63-55b-134~~]. 63I-2-234. Repeal dates -- Title 34A.**
73617
73618 Section 1591. Section **63I-2-253**, which is renumbered from Section 63-55b-153 is
73619 renumbered and amended to read:
73620 **[~~63-55b-153~~]. 63I-2-253. Repeal dates -- Titles 53, 53A, and 53B.**
73621 (1) Section 53-3-210 is repealed February 1, 2007.

73622 (2) Section 53A-1-403.5 is repealed July 1, 2012.
73623 (3) Subsection 53A-1a-511(7)(c) is repealed July 1, 2007.
73624 (4) Section 53A-3-702 is repealed July 1, 2008.
73625 (5) Section 53A-6-112 is repealed July 1, 2009.
73626 (6) Section 53A-17a-152 is repealed July 1, 2010.
73627 Section 1592. Section **63I-2-254**, which is renumbered from Section 63-55b-154 is
73628 renumbered and amended to read:
73629 **[~~63-55b-154~~]. 63I-2-254. Repeal dates -- Title 54.**
73630
73631 Section 1593. Section **63I-2-258**, which is renumbered from Section 63-55b-158 is
73632 renumbered and amended to read:
73633 **[~~63-55b-158~~]. 63I-2-258. Repeal dates -- Title 58.**
73634 Section 58-31b-301.6, Medication Aide Certified Pilot Program, is repealed May 15,
73635 2010.
73636 Section 1594. Section **63I-2-259**, which is renumbered from Section 63-55b-159 is
73637 renumbered and amended to read:
73638 **[~~63-55b-159~~]. 63I-2-259. Repeal dates -- Title 59.**
73639
73640 Section 1595. Section **63I-2-263**, which is renumbered from Section 63-55b-163 is
73641 renumbered and amended to read:
73642 **[~~63-55b-163~~]. 63I-2-263. Repeal dates, Title 63 to Title 63B.**
73643 (1) Section 63-38a-105 is repealed July 1, 2007.
73644 (2) Sections 63-63b-101 and 63-63b-102 are repealed on July 1, 2007.
73645 (3) Section 63B-14-101 is repealed December 31, 2008.
73646 Section 1596. Section **63I-2-264**, which is renumbered from Section 63-55b-164 is
73647 renumbered and amended to read:
73648 **[~~63-55b-164~~]. 63I-2-264. Repeal dates -- Title 64.**
73649
73650 Section 1597. Section **63I-2-267**, which is renumbered from Section 63-55b-167 is
73651 renumbered and amended to read:
73652 **[~~63-55b-167~~]. 63I-2-267. Repeal dates -- Title 67.**

73653 Section 1598. Section **63I-2-272**, which is renumbered from Section 63-55b-172 is
73654 renumbered and amended to read:
73655 **[~~63-55b-172~~]. 63I-2-272. Repeal dates -- Title 72.**
73656 Section 72-3-113 is repealed January 1, 2020.
73657 Section 1599. Section **63I-2-276**, which is renumbered from Section 63-55b-176 is
73658 renumbered and amended to read:
73659 **[~~63-55b-176~~]. 63I-2-276. Repeal dates -- Title 76.**
73660
73661 Section 1600. Section **63I-2-277**, which is renumbered from Section 63-55b-177 is
73662 renumbered and amended to read:
73663 **[~~63-55b-177~~]. 63I-2-277. Repeal dates, Title 77.**
73664 Section 77-2a-3.1 is repealed June 30, 2008.
73665 Section 1601. Section **63I-2-278**, which is renumbered from Section 63-55b-178 is
73666 renumbered and amended to read:
73667 **[~~63-55b-178~~]. 63I-2-278. Repeal dates, Title 78.**
73668 (1) Section 78-9-101, Practicing law without a license, is repealed May 3, 2012.
73669 (2) Subsection 78-45-7.14(1) is repealed January 1, 2010.
73670 Section 1602. Section **63I-3-101**, which is renumbered from Section 63-54-101 is
73671 renumbered and amended to read:
73672 **CHAPTER 3. CONSTITUTIONAL REVISION COMMISSION ACT**
73673 **Part 1. General Provisions**
73674 **[~~63-54-101~~]. 63I-3-101. Title.**
73675 This chapter is known as the "Constitutional Revision Commission Act."
73676 Section 1603. Section **63I-3-102**, which is renumbered from Section 63-54-102 is
73677 renumbered and amended to read:
73678 **[~~63-54-102~~]. 63I-3-102. Definitions.**
73679 As used in this chapter, "commission" means the Utah Constitutional Revision
73680 Commission created under Section [~~63-54-103~~] 63I-3-201.
73681 Section 1604. Section **63I-3-201**, which is renumbered from Section 63-54-103 is
73682 renumbered and amended to read:
73683 **Part 2. Commission and Duties**

73684 **[~~63-54-103~~]. 63I-3-201. Creation -- Members -- Appointment --**
73685 **Qualifications -- Term of office -- Maximum length of service.**
73686 (1) There is created a state commission to be known as the Utah Constitutional
73687 Revision Commission, composed of 15 members.
73688 (2) (a) The speaker of the House of Representatives shall appoint three members from
73689 the House of Representatives, not more than two of whom may be from the same political
73690 party.
73691 (b) The president of the Senate shall appoint three members from the Senate, not more
73692 than two of whom may be from the same political party.
73693 (c) The governor shall appoint three members, not more than two of whom may be
73694 from the same political party.
73695 (3) (a) The nine members appointed under Subsection (2) shall select six additional
73696 members.
73697 (b) In selecting the six additional members, consideration shall be given to achieving
73698 representation from the major geographical areas of the state and to achieving as closely as
73699 possible equal bipartisan representation.
73700 (4) The term for each commission member shall be six years.
73701 (5) A commission member may not serve on the commission more than 12 consecutive
73702 years.
73703 Section 1605. Section **63I-3-202**, which is renumbered from Section 63-54-104 is
73704 renumbered and amended to read:
73705 **[~~63-54-104~~]. 63I-3-202. Vacancies -- Person filling a vacancy begins**
73706 **serving new term.**
73707 (1) If a member appointed by the speaker of the House resigns, is unable to serve, or is
73708 no longer a member of the House of Representatives, the vacancy shall be filled by the speaker
73709 of the House, as provided in Subsection [~~63-54-103~~] 63I-3-201(2)(a).
73710 (2) If a member appointed by the president of the Senate resigns, is unable to serve, or
73711 is no longer a member of the Senate, the vacancy shall be filled by the president of the Senate,
73712 as provided in Subsection [~~63-54-103~~] 63I-3-201(2)(b).
73713 (3) If a member appointed by the governor resigns or is unable to serve, the vacancy
73714 shall be filled by the governor, as provided in Subsection [~~63-54-103~~] 63I-3-201(2)(c).

73715 (4) If a member appointed by the nine commission members appointed under
73716 Subsection [~~63-54-103~~] 63I-3-201(3) resigns or is unable to serve, the vacancy shall be filled
73717 by those nine commission members as provided in Subsection [~~63-54-103~~] 63I-3-201(3).
73718 (5) A person appointed to fill a vacancy under this section does not serve the remaining
73719 unexpired term of the member that the person is replacing but begins serving a new term.
73720 Section 1606. Section **63I-3-203**, which is renumbered from Section 63-54-105 is
73721 renumbered and amended to read:
73722 **[~~63-54-105~~]. 63I-3-203. Duties.**
73723 (1) Subject to Subsection (2), the Utah Constitutional Revision Commission shall:
73724 (a) conduct a comprehensive examination of the Utah Constitution, as amended, and
73725 make recommendations to the governor and the Legislature as to specific proposed
73726 constitutional amendments to implement the commission's recommendations for changes in the
73727 constitution; and
73728 (b) upon request of the governor, president of the Senate, speaker of the House of
73729 Representatives, minority leader of the Senate, minority leader of the House, or the legislative
73730 sponsor of a resolution to amend the Utah Constitution, advise the governor and the Legislature
73731 on any proposed constitutional amendment or revision.
73732 (2) The commission may not make a recommendation on a proposed constitutional
73733 amendment after both houses of the Legislature have taken final action on it.
73734 (3) The commission shall select a chair and a vice chair from among its members.
73735 Section 1607. Section **63I-3-204**, which is renumbered from Section 63-54-106 is
73736 renumbered and amended to read:
73737 **[~~63-54-106~~]. 63I-3-204. The commission may invite testimony.**
73738 In performing its duties and responsibilities, the commission may invite testimony from
73739 the governor, state agencies, members of the Utah Legislature, and responsible members of the
73740 public.
73741 Section 1608. Section **63I-3-205**, which is renumbered from Section 63-54-107 is
73742 renumbered and amended to read:
73743 **[~~63-54-107~~]. 63I-3-205. Public hearings -- Purpose.**
73744 The commission may hold public hearings that it considers advisable and in locations
73745 within the state that it chooses in order to afford any interested person who is a citizen of this

73746 state an opportunity to appear and present views in respect to any subject relating to the work
73747 of the commission.
73748 Section 1609. Section **63I-3-206**, which is renumbered from Section 63-54-108 is
73749 renumbered and amended to read:
73750 **[~~63-54-108~~]. 63I-3-206. Per diem and expenses of members.**
73751 (1) (a) A member who is not a government employee may not receive compensation or
73752 benefits for the member's service, but may receive per diem and expenses incurred in the
73753 performance of the member's official duties at the rates established by the Division of Finance
73754 under Sections 63A-3-106 and 63A-3-107.
73755 (b) A member who is not a government employee may decline to receive per diem and
73756 expenses for the member's service.
73757 (2) (a) A state government officer or employee member who does not receive salary,
73758 per diem, or expenses from the member's agency for the member's service may receive per
73759 diem and expenses incurred in the performance of the member's official duties from the
73760 commission at the rates established by the Division of Finance under Sections 63A-3-106 and
73761 63A-3-107.
73762 (b) A state government officer or employee member may decline to receive per diem
73763 and expenses for the member's service.
73764 (3) Each legislator on the committee shall receive compensation and expenses as
73765 provided by law and legislative rule.
73766 Section 1610. Section **63I-3-207**, which is renumbered from Section 63-54-109 is
73767 renumbered and amended to read:
73768 **[~~63-54-109~~]. 63I-3-207. Appointment of staff.**
73769 The Office of Legislative Research and General Counsel shall, in consultation with the
73770 chair and vice chair, provide staffing for the commission. The office shall employ other staff
73771 members as the commission considers desirable or necessary.
73772 Section 1611. Section **63I-4-101** is enacted to read:
73773 **CHAPTER 4. PRIVATIZATION POLICY BOARD ACT**
73774 **Part 1. General Provisions**
73775 **63I-4-101. Title.**
73776 This chapter is known as the "Privatization Policy Board Act."

73777 Section 1612. Section **63I-4-102**, which is renumbered from Section 63-55a-1 is
73778 renumbered and amended to read:
73779 **[~~63-55a-1~~]. 63I-4-102. Definitions.**
73780 (1) (a) "Agency" means a department, division, office, bureau, board, commission, or
73781 other administrative unit of the state.
73782 (b) "Agency" includes departments, divisions, offices, bureaus, boards, commissions,
73783 and other administrative units of the state's counties and municipalities.
73784 (2) "Agency head" means the chief administrative officer of an agency.
73785 (3) "Privatization" means action by a state agency to contract with the private sector or
73786 with another state agency to perform functions or services currently being performed by it.
73787 Section 1613. Section **63I-4-201**, which is renumbered from Section 63-55a-2 is
73788 renumbered and amended to read:
73789 **Part 2. Board Membership and Duties**
73790 **[~~63-55a-2~~]. 63I-4-201. Privatization Policy Board -- Created -- Membership --**
73791 **Operations -- Expenses.**
73792 (1) (a) There is created a Privatization Policy Board composed of 15 members.
73793 (b) The governor shall appoint:
73794 (i) two senators, one each from the majority and minority political parties, from names
73795 recommended by the president of the Senate;
73796 (ii) two representatives, one each from the majority and minority political parties, from
73797 names recommended by the speaker of the House;
73798 (iii) two members representing public employees, from names recommended by the
73799 largest public employees' association;
73800 (iv) one member from state management;
73801 (v) five members from the private business community;
73802 (vi) one member representing education;
73803 (vii) one member representing the Utah League of Cities and Towns from names
73804 recommended by the league; and
73805 (viii) one member representing the Utah Association of Counties from names
73806 recommended by the association.
73807 (2) (a) Except as required by Subsection (2)(b), board members shall serve four-year

73808 terms.
73809 (b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the
73810 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
73811 board members are staggered so that approximately half of the board is appointed every two
73812 years.
73813 (3) (a) Each board member shall hold office until [~~his~~] the board member's successor
73814 has been appointed and qualified.
73815 (b) When a vacancy occurs in the membership for any reason, the replacement shall be
73816 appointed for the unexpired term.
73817 (c) Eight members of the board are a quorum for the purpose of organizing the board
73818 and conducting the business of the board.
73819 (d) The vote of a majority of members voting when a quorum is present is necessary
73820 for the board to take action.
73821 (4) (a) At the initial meeting of the board, the board shall select one of their number to
73822 serve as chair of the board.
73823 (b) The chief procurement officer or [~~his~~] the chief procurement officer's designee is
73824 the nonvoting secretary to the board and is responsible for scheduling quarterly meetings.
73825 (c) The board shall meet at least quarterly and at the call of the chair.
73826 (5) (a) (i) Members who are not government employees shall receive no compensation
73827 or benefits for their services, but may receive per diem and expenses incurred in the
73828 performance of the member's official duties at the rates established by the Division of Finance
73829 under Sections 63A-3-106 and 63A-3-107.
73830 (ii) Members may decline to receive per diem and expenses for their service.
73831 (b) (i) State government officer and employee members who do not receive salary, per
73832 diem, or expenses from their agency for their service may receive per diem and expenses
73833 incurred in the performance of their official duties from the board at the rates established by the
73834 Division of Finance under Sections 63A-3-106 and 63A-3-107.
73835 (ii) State government officer and employee members may decline to receive per diem
73836 and expenses for their service.
73837 (c) Legislators on the committee shall receive compensation and expenses as provided
73838 by law and legislative rule.

73839 Section 1614. Section **63I-4-202**, which is renumbered from Section 63-55a-3 is
73840 renumbered and amended to read:
73841 **[~~63-55a-3~~]. 63I-4-202. Privatization Policy Board -- Duties.**
73842 (1) Except as otherwise provided in Subsection (5), the board shall:
73843 (a) review whether or not certain services performed by existing state agencies could
73844 be privatized to provide the same types and quality of services that would result in cost
73845 savings;
73846 (b) review particular requests for privatization of services and issues concerning
73847 agency competition with the private sector and determine whether privatization would be
73848 feasible and would result in cost savings and ways to eliminate any unfair competition;
73849 (c) recommend privatization to the agency head when the proposed privatization is
73850 demonstrated to provide a more cost efficient and effective manner of providing existing
73851 governmental services;
73852 (d) comply with the provisions of [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, the
73853 Utah Administrative Rulemaking Act, in making rules establishing privatization standards,
73854 procedures, and requirements;
73855 (e) maintain communication with and access information from, other entities
73856 promoting privatization;
73857 (f) prepare an annual report that contains:
73858 (i) information about the board's activities; and
73859 (ii) recommendations on privatizing government services; and
73860 (g) submit the annual report to the Legislature and the governor.
73861 (2) In addition to filing copies of its recommendations for privatization with the
73862 relevant agency head, the board shall file copies of its recommendations for privatization with:
73863 (a) the governor's office; and
73864 (b) the Office of Legislative Fiscal Analyst for submission to the relevant Legislative
73865 Appropriation Subcommittee.
73866 (3) (a) The board may appoint advisory groups to conduct studies, research, analyses,
73867 and make reports and recommendations with respect to subjects or matters within the
73868 jurisdiction of the board.
73869 (b) At least one member of the board shall serve on each advisory group.

73870 (4) This chapter does not preclude any agency from privatizing any service or function
73871 independently of the board if, as part of the contract that privatizes the function, the contractor
73872 assumes all liability to perform the privatizated function.
73873 (5) The board may not exercise its authority under Subsection (1) over an agency
73874 referred to in Subsection [~~63-55a-1~~] 63I-4-102(1)(b), unless requested by the agency.
73875 Section 1615. Section **63I-5-101**, which is renumbered from Section 63-91-101 is
73876 renumbered and amended to read:
73877 **CHAPTER 5. UTAH INTERNAL AUDIT ACT**
73878 **Part 1. General Provisions**
73879 **[~~63-91-101~~]. 63I-5-101. Title.**
73880 This chapter is known as the "Utah Internal Audit Act."
73881 Section 1616. Section **63I-5-102**, which is renumbered from Section 63-91-102 is
73882 renumbered and amended to read:
73883 **[~~63-91-102~~]. 63I-5-102. Definitions.**
73884 As used in this chapter:
73885 (1) "Agency head" means a cabinet officer, an elected official, an executive director, or
73886 a board or commission vested with responsibility to administer or make policy for a state
73887 agency.
73888 (2) "Agency internal audit director" or "audit director" means the person appointed by
73889 the agency head, with the approval of the audit committee if one has been established, to direct
73890 the internal audit function for the state agency.
73891 (3) "Appointing authority" means:
73892 (a) the governor, for state agencies;
73893 (b) the Judicial Council, for judicial branch agencies;
73894 (c) the Board of Regents, for higher education entities; and
73895 (d) the State Board of Education, for the State Office of Education.
73896 (4) "Audit committee" means a standing committee whose members are appointed by
73897 an appointing authority:
73898 (a) from members of the agency governing board; and
73899 (b) from individuals who do not have administrative responsibilities within the agency
73900 who have the expertise to provide effective oversight of and advice about internal audit

73901 activities and services.
73902 (5) "Audit plan" means a list of audits to be performed by the internal audit
73903 organization within a specified period of time.
73904 (6) "Agency governing board" is any board or commission that has policy making and
73905 oversight responsibility over the agency, including the authority to appoint and remove the
73906 agency director.
73907 (7) "Higher education entity" means the board of regents, the institutional councils of
73908 each higher education institution, and each higher education institution.
73909 (8) "Internal audit" means an independent appraisal activity established within a state
73910 agency as a control system to examine and evaluate the adequacy and effectiveness of other
73911 control systems within the agency.
73912 (9) "Judicial branch agency" means each administrative entity of the judicial branch.
73913 (10) (a) "State agency" means:
73914 (i) each department, commission, board, council, agency, institution, officer,
73915 corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel,
73916 or other administrative unit of the state; and
73917 (ii) each state public education entity.
73918 (b) "State agency" does not mean:
73919 (i) a legislative branch agency;
73920 (ii) an independent agency;
73921 (iii) a county, municipality, school district, local district, or special service district; or
73922 (iv) any administrative subdivision of a county, municipality, school district, local
73923 district, or special service district.
73924 Section 1617. Section **63I-5-201**, which is renumbered from Section 63-91-201 is
73925 renumbered and amended to read:
73926 **Part 2. Internal Auditing Programs**
73927 **[~~63-91-201~~]. 63I-5-201. Internal auditing programs -- State agencies.**
73928 (1) (a) The Departments of Administrative Services, Agriculture, Commerce,
73929 Community and Culture, Corrections, Workforce Services, Environmental Quality, Health,
73930 Human Services, Natural Resources, Public Safety, and Transportation; and the State Tax
73931 Commission shall conduct various types of auditing procedures as determined by the agency

73932 head or governor.
73933 (b) The governor may, by executive order, require other state agencies to establish an
73934 internal audit program.
73935 (c) An agency head may establish an internal audit program for [~~his~~] the agency head's
73936 agency if the agency administers programs that:
73937 (i) might pose a high liability risk to the state; or
73938 (ii) are essential to the health, safety, and welfare of the citizens of Utah.
73939 (2) (a) The Office of the Court Administrator shall conduct various types of auditing
73940 procedures as determined by the Judicial Council, including auditing procedures for courts not
73941 of record.
73942 (b) The Judicial Council may, by rule, require other judicial agencies to establish an
73943 internal audit program.
73944 (c) An agency head within the judicial branch may establish an internal audit program
73945 for [~~his~~] the agency head's agency if the agency administers programs that:
73946 (i) might pose a high liability risk to the state; or
73947 (ii) are essential to the health, safety, and welfare of the citizens of Utah.
73948 (3) (a) The University of Utah, Utah State University, Salt Lake Community College,
73949 Utah Valley University, and Weber State University shall conduct various types of auditing
73950 procedures as determined by the Board of Regents.
73951 (b) The Board of Regents may issue policies requiring other higher education entities
73952 or programs to establish an internal audit program.
73953 (c) An agency head within higher education may establish an internal audit program for
73954 [~~his~~] the agency head's agency if the agency administers programs that:
73955 (i) might pose a high liability risk to the state; or
73956 (ii) are essential to the health, safety, and welfare of the citizens of Utah.
73957 (4) The State Office of Education shall conduct various types of auditing procedures as
73958 determined by the State Board of Education.
73959 Section 1618. Section **63I-5-301**, which is renumbered from Section 63-91-301 is
73960 renumbered and amended to read:
73961 **Part 3. Audit Committee**
73962 **[~~63-91-301~~]. 63I-5-301. Audit committee -- Powers and duties.**

73963 (1) Each appointing authority may establish an audit committee to monitor the
73964 activities of the agency internal audit organization.
73965 (2) The appointing authority shall ensure that audit committee members have the
73966 expertise to provide effective oversight of and advice about internal audit activities and
73967 services.
73968 (3) If an audit committee has been established, the audit committee shall:
73969 (a) consent to the appointment or removal of the agency internal audit director as
73970 proposed by the agency head;
73971 (b) consent to the internal auditing policies proposed by the agency head;
73972 (c) review and approve the annual internal audit plan and budget;
73973 (d) review internal and external audit reports, follow-up reports, and quality assurance
73974 reviews of the internal audit office; and
73975 (e) periodically meet with the agency internal audit director to discuss pertinent
73976 matters, including whether there are any restrictions on the scope of audits.
73977 Section 1619. Section **63I-5-302**, which is renumbered from Section 63-91-302 is
73978 renumbered and amended to read:
73979 **[~~63-91-302~~]. 63I-5-302. Agency head -- Powers and duties.**
73980 (1) For each agency that establishes an internal audit program, the agency head shall:
73981 (a) prepare and adopt, or if an audit committee has been established, propose to the
73982 audit committee, a formal policy that defines:
73983 (i) the purpose of the agency's internal audit program;
73984 (ii) the authority and responsibility of the agency's internal auditors; and
73985 (b) ensure that the policy:
73986 (i) places no limitations on the scope of the internal audit department's work; and
73987 (ii) declares that auditors are to have no authority or responsibility for the activities
73988 they audit.
73989 (2) The agency head shall appoint or employ an agency internal audit director with the
73990 consent of the audit committee, if an audit committee has been established.
73991 (3) The agency head shall ensure that:
73992 (a) the audit director is allowed to employ a sufficient number of professional and
73993 support staff to implement an effective program of internal auditing;

73994 (b) compensation, training, job tenure, and advancement of internal auditing staff is
73995 based upon job performance;
73996 (c) the audit director and staff collectively possess the knowledge, skills, and
73997 experience essential to the practices of the profession and are proficient in applying internal
73998 auditing standards, procedures, and techniques;
73999 (d) the internal audit organization has employees who are qualified in disciplines such
74000 as accounting, business management, public administration, human resource management,
74001 economics, finance, statistics, electronic data processing, engineering, and law as needed to
74002 meet the audit responsibilities;
74003 (e) internal audit staff are free of operational and management responsibilities that
74004 would impair their ability to make independent audits of any aspects of the agency's operations;
74005 (f) the audit director and the internal audit staff have access to all personnel and any
74006 records, data, and other information of the state agency that they consider necessary to carry out
74007 their assigned duties; and
74008 (g) the agency internal audit director reports to the agency head and to the audit
74009 committee, if one has been established, and has freedom of access to the agency head to ensure
74010 that the director is responsive to the agency head's specific requests, directions, and needs.
74011 (4) The agency internal audit director may, within budgetary constraints, contract with
74012 consultants to assist with audits.
74013 (5) The agency head shall either:
74014 (a) approve the annual internal audit plan and budget prepared by the agency internal
74015 audit director; or
74016 (b) if an audit committee has been established, review the plan and budget and submit
74017 them to the audit committee for approval.
74018 Section 1620. Section **63I-5-401**, which is renumbered from Section 63-91-401 is
74019 renumbered and amended to read:
74020 **Part 4. Duties of Director**
74021 **[~~63-91-401~~]. 63I-5-401. Duties of the agency internal audit director.**
74022 (1) The agency internal audit director may:
74023 (a) furnish independent analyses, appraisals, and recommendations that may,
74024 depending upon the audit scope, identify:

74025 (i) the adequacy of the state agency's systems of internal control;
74026 (ii) the efficiency and effectiveness of agency management in carrying out assigned
74027 responsibilities; and
74028 (iii) the agency's compliance with applicable laws, rules, and regulations;
74029 (b) submit audit reports directly to the agency head and to the audit committee, if one
74030 has been established;
74031 (c) conduct internal audits of state agency programs, activities, and functions that may
74032 consist of one or more of the following objectives:
74033 (i) to verify the accuracy and reliability of agency records;
74034 (ii) to assess compliance with management policies, plans, procedures, and regulations;
74035 (iii) to assess compliance with applicable laws, rules, and regulations;
74036 (iv) to evaluate the efficient and effective use of agency resources; and
74037 (v) to verify the appropriate protection of agency assets;
74038 (d) prepare audit reports of findings;
74039 (e) review and evaluate internal controls over the state agency's accounting systems,
74040 administrative systems, electronic data processing systems, and all other major systems
74041 necessary to ensure the fiscal and administrative accountability of the state agency;
74042 (f) develop audit plans containing the information required by Subsection (2) to be
74043 based on the findings of periodic risk assessments;
74044 (g) upon request, make a copy of the approved audit plan available to the state auditor,
74045 legislative auditor, or other appropriate external auditor to assist in planning and coordination
74046 of any external financial, compliance, electronic data processing, or performance audit;
74047 (h) determine the scope and assignment of the audits;
74048 (i) perform an audit of a special program, activity, function, or organizational unit at
74049 the direction of the agency head;
74050 (j) maintain the classification of any public records consistent with [~~Title 63, Chapter~~
74051 ~~2~~] Title 63G, Chapter 2, Government Records Access and Management Act;
74052 (k) be subject to the same penalties as the custodian of those public records for
74053 violating [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records Access and
74054 Management Act; and
74055 (l) identify in the audit report any abuse, illegal acts, errors and omissions, or conflicts

74056 of interest.
74057 (2) (a) The audit plan required by this section shall:
74058 (i) identify the individual audits to be conducted during each year;
74059 (ii) identify the related resources to be devoted to each of the respective audits;
74060 (iii) ensure that internal controls are reviewed periodically as determined by the agency
74061 head or the audit committee, if one has been established; and
74062 (iv) ensure that audits that evaluate the efficient and effective use of agency resources
74063 are adequately represented in the plan.
74064 (b) The agency internal audit director shall submit the audit plan to the agency head
74065 and the audit committee, if one has been established, for approval.
74066 (3) The agency internal audit director shall ensure that:
74067 (a) audits are conducted in accordance with professional auditing standards such as
74068 those published by the Institute of Internal Auditors, Inc., the American Institute of Certified
74069 Public Accountants and, when required by other law, regulation, agreement, contract, or policy,
74070 in accordance with Government Auditing Standards, issued by the Comptroller General of the
74071 United States;
74072 (b) all reports of audit findings issued by internal audit staff shall include a statement
74073 that the audit was conducted according to the appropriate standards;
74074 (c) public release of reports of audit findings comply with the conditions specified by
74075 the state laws and rules governing the state agency;
74076 (d) copies of all reports of audit findings issued by the internal audit staff are available
74077 to the Offices of the Legislative Auditor General and the State Auditor upon request; and
74078 (e) significant audit matters that cannot be appropriately addressed by the agency
74079 internal audit office are referred to either the Office of Legislative Auditor General or the
74080 Office of the State Auditor.
74081 Section 1621. Section **63J-1-101**, which is renumbered from Section 63-38-1 is
74082 renumbered and amended to read:
74083 **TITLE 63J. BUDGETING**
74084 **CHAPTER 1. BUDGETARY PROCEDURES ACT**
74085 **Part 1. General Provisions**
74086 **[~~63-38-1~~]. 63J-1-101. Title.**

74087 (1) This title is known as "Budgeting."
74088 (2) This [~~act shall be known and may be cited~~] chapter is known as the "Budgetary
74089 Procedures Act."
74090 Section 1622. Section **63J-1-103**, which is renumbered from Section 63-38-9.5 is
74091 renumbered and amended to read:
74092 **[~~63-38-9.5~~]. 63J-1-103. Agency exempt from act.**
74093 The Utah Housing Corporation is exempt from this act.
74094 Section 1623. Section **63J-1-201**, which is renumbered from Section 63-38-2 is
74095 renumbered and amended to read:
74096 **Part 2. Budget and Funds**
74097 **[~~63-38-2~~]. 63J-1-201. Governor to submit budget to Legislature -- Contents --**
74098 **Preparation -- Appropriations based on current tax laws and not to exceed estimated**
74099 **revenues.**
74100 (1) (a) The governor shall, within three days after the convening of the Legislature in
74101 the annual general session, submit a budget for the ensuing fiscal year by delivering it to the
74102 presiding officer of each house of the Legislature together with a schedule for all of the
74103 proposed appropriations of the budget, clearly itemized and classified.
74104 (b) The budget message shall include:
74105 (i) a projection of estimated revenues and expenditures for the next fiscal year; and
74106 (ii) the source of all direct, indirect, or in-kind matching funds for all federal grants or
74107 assistance programs included in the budget.
74108 (2) At least 34 days before the submission of any budget, the governor shall deliver a
74109 confidential draft copy of [~~his~~] the governor's proposed budget recommendations to the Office
74110 of the Legislative Fiscal Analyst.
74111 (3) (a) The budget shall contain a complete plan of proposed expenditures and
74112 estimated revenues for the next fiscal year based upon the current fiscal year state tax laws and
74113 rates.
74114 (b) The budget may be accompanied by a separate document showing proposed
74115 expenditures and estimated revenues based on changes in state tax laws or rates.
74116 (4) The budget shall be accompanied by a statement showing:
74117 (a) the revenues and expenditures for the last fiscal year;

74118 (b) the current assets, liabilities, and reserves, surplus or deficit, and the debts and
74119 funds of the state;
74120 (c) an estimate of the state's financial condition as of the beginning and the end of the
74121 period covered by the budget;
74122 (d) a complete analysis of lease with an option to purchase arrangements entered into
74123 by state agencies;
74124 (e) the recommendations for each state agency for new full-time employees for the next
74125 fiscal year; which recommendation should be provided also to the State Building Board under
74126 Subsection 63A-5-103(2);
74127 (f) any explanation the governor may desire to make as to the important features of the
74128 budget and any suggestion as to methods for the reduction of expenditures or increase of the
74129 state's revenue; and
74130 (g) the information detailing certain regulatory fee increases required by Section
74131 [~~63-38-3.2~~] 63J-1-303.
74132 (5) The budget shall include an itemized estimate of the appropriations for:
74133 (a) the Legislative Department as certified to the governor by the president of the
74134 Senate and the speaker of the House;
74135 (b) the Executive Department;
74136 (c) the Judicial Department as certified to the governor by the state court administrator;
74137 (d) payment and discharge of the principal and interest of the indebtedness of the state;
74138 (e) the salaries payable by the state under the Utah Constitution or under law for the
74139 lease agreements planned for the next fiscal year;
74140 (f) other purposes that are set forth in the Utah Constitution or under law; and
74141 (g) all other appropriations.
74142 (6) Deficits or anticipated deficits shall be included in the budget.
74143 (7) (a) (i) For the purpose of preparing and reporting the budget, the governor shall
74144 require from the proper state officials, including public and higher education officials, all heads
74145 of executive and administrative departments and state institutions, bureaus, boards,
74146 commissions, and agencies expending or supervising the expenditure of the state moneys, and
74147 all institutions applying for state moneys and appropriations, itemized estimates of revenues
74148 and expenditures.

74149 (ii) (A) The governor may also require other information under these guidelines and at
74150 times as the governor may direct.
74151 (B) These guidelines may include a requirement for program productivity and
74152 performance measures, where appropriate, with emphasis on outcome indicators.
74153 (b) The estimate for the Legislative Department as certified by the presiding officers of
74154 both houses shall be included in the budget without revision by the governor.
74155 (c) The estimate for the Judicial Department, as certified by the state court
74156 administrator, shall also be included in the budget without revision, but the governor may make
74157 separate recommendations on it.
74158 (d) The governor may require the attendance at budget meetings of representatives of
74159 public and higher education, state departments and institutions, and other institutions or
74160 individuals applying for state appropriations.
74161 (e) The governor may revise all estimates, except those relating to the Legislative
74162 Department, the Judicial Department, and those providing for the payment of principal and
74163 interest to the state debt and for the salaries and expenditures specified by the Utah
74164 Constitution or under the laws of the state.
74165 (8) The total appropriations requested for expenditures authorized by the budget may
74166 not exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing
74167 fiscal year.
74168 (9) If any item of the budget as enacted is held invalid upon any ground, the invalidity
74169 does not affect the budget itself or any other item in it.
74170 (10) (a) In submitting the budgets for the Departments of Health and Human Services
74171 and the Office of the Attorney General, the governor shall consider a separate recommendation
74172 in [~~his~~] the governor's budget for funds to be contracted to:
74173 (i) local mental health authorities under Section 62A-15-110;
74174 (ii) local substance abuse authorities under Section 62A-15-110;
74175 (iii) area agencies under Section 62A-3-104.2;
74176 (iv) programs administered directly by and for operation of the Divisions of Substance
74177 Abuse and Mental Health and Aging and Adult Services;
74178 (v) local health departments under Title 26A, Chapter 1, Local Health Departments;
74179 and

74180 (vi) counties for the operation of Children's Justice Centers under Section 67-5b-102.
74181 (b) In [~~his~~] the governor's budget recommendations under Subsections (10)(a)(i), (ii),
74182 and (iii), the governor shall consider an amount sufficient to grant local health departments,
74183 local mental health authorities, local substance abuse authorities, and area agencies the same
74184 percentage increase for wages and benefits that [~~he~~] the governor includes in [~~his~~] the
74185 governor's budget for persons employed by the state.
74186 (c) If the governor does not include in [~~his~~] the governor's budget an amount sufficient
74187 to grant the increase described in Subsection (10)(b), [~~he~~] the governor shall include a message
74188 to the Legislature regarding [~~his~~] the governor's reason for not including that amount.
74189 (11) (a) In submitting the budget for the Department of Agriculture, the governor shall
74190 consider an amount sufficient to grant local conservation districts and Utah Association of
74191 Conservation District employees the same percentage increase for wages and benefits that [~~he~~]
74192 the governor includes in [~~his~~] the governor's budget for persons employed by the state.
74193 (b) If the governor does not include in [~~his~~] the governor's budget an amount sufficient
74194 to grant the increase described in Subsection (11)(a), [~~he~~] the governor shall include a message
74195 to the Legislature regarding [~~his~~] the governor's reason for not including that amount.
74196 (12) (a) In submitting the budget for the Utah State Office of Rehabilitation and the
74197 Division of Services for People with Disabilities, the Division of Child and Family Services,
74198 and the Division of Juvenile Justice Services within the Department of Human Services, the
74199 governor shall consider an amount sufficient to grant employees of corporations that provide
74200 direct services under contract with those divisions, the same percentage increase for
74201 cost-of-living that [~~he~~] the governor includes in [~~his~~] the governor's budget for persons
74202 employed by the state.
74203 (b) If the governor does not include in [~~his~~] the governor's budget an amount sufficient
74204 to grant the increase described in Subsection (12)(a), [~~he~~] the governor shall include a message
74205 to the Legislature regarding [~~his~~] the governor's reason for not including that amount.
74206 (13) (a) The Families, Agencies, and Communities Together Council may propose to
74207 the governor under Subsection [~~63-75-4~~] 63M-9-201(4)(e) a budget recommendation for
74208 collaborative service delivery systems operated under Section [~~63-75-6.5~~] 63M-9-402.
74209 (b) The Legislature may, through a specific program schedule, designate funds
74210 appropriated for collaborative service delivery systems operated under Section [~~63-75-6.5~~]

74211 63M-9-402.
74212 (14) The governor shall include in [~~his~~] the governor's budget the state's portion of the
74213 budget for the Utah Communications Agency Network established in Title 63C, Chapter 7,
74214 Utah Communications Agency Network Act.
74215 (15) (a) The governor shall include a separate recommendation in the governor's
74216 budget for funds to maintain the operation and administration of the Utah Comprehensive
74217 Health Insurance Pool.
74218 (b) In making the recommendation the governor may consider:
74219 (i) actuarial analysis of growth or decline in enrollment projected over a period of at
74220 least three years;
74221 (ii) actuarial analysis of the medical and pharmacy claims costs projected over a period
74222 of at least three years;
74223 (iii) the annual Medical Care Consumer Price Index;
74224 (iv) the annual base budget for the pool established by the Commerce and Revenue
74225 Appropriations Subcommittee for each fiscal year;
74226 (v) the growth or decline in insurance premium taxes and fees collected by the tax
74227 commission and the insurance department; and
74228 (vi) the availability of surplus General Fund revenue under Section [~~63-38-2.5~~]
74229 63J-1-202 and Subsection 59-14-204(5)(b).
74230 (16) In adopting a budget for each fiscal year, the Legislature shall consider an amount
74231 sufficient to grant local health departments, local mental health authorities, local substance
74232 abuse authorities, area agencies on aging, conservation districts, and Utah Association of
74233 Conservation District employees the same percentage increase for wages and benefits that is
74234 included in the budget for persons employed by the state.
74235 (17) (a) In adopting a budget each year for the Utah Comprehensive Health Insurance
74236 Pool, the Legislature shall determine an amount that is sufficient to fund the pool for each
74237 fiscal year.
74238 (b) When making a determination under Subsection (17)(a), the Legislature shall
74239 consider factors it determines are appropriate, which may include:
74240 (i) actuarial analysis of growth or decline in enrollment projected over a period of at
74241 least three years;

74242 (ii) actuarial analysis of the medical and pharmacy claims costs projected over a period
74243 of at least three years;
74244 (iii) the annual Medical Care Consumer Price Index;
74245 (iv) the annual base budget for the pool established by the Commerce and Revenue
74246 Appropriations Subcommittee for each fiscal year;
74247 (v) the growth or decline in insurance premium taxes and fees collected by the tax
74248 commission and the insurance department from the previous fiscal year; and
74249 (vi) the availability of surplus General Fund revenue under Section [~~63-38-2.5~~]
74250 63J-1-202 and Subsection 59-14-204(5)(b).
74251 (c) The funds appropriated by the Legislature to fund the Utah Comprehensive Health
74252 Insurance Pool as determined under Subsection (17)(a):
74253 (i) shall be deposited into the enterprise fund established by Section 31A-29-120; and
74254 (ii) are restricted and are to be used to maintain the operation, administration, and
74255 management of the Utah Comprehensive Health Insurance Pool created by Section
74256 31A-29-104.
74257 (18) In considering the factors in Subsections (15)(b)(i), (ii), and (iii) and Subsections
74258 (17)(b)(i), (ii), and (iii), the governor and the Legislature may consider the actuarial data and
74259 projections prepared for the board of the Utah Comprehensive Health Insurance Pool as it
74260 develops its financial statements and projections for each fiscal year.
74261 Section 1624. Section **63J-1-202**, which is renumbered from Section 63-38-2.5 is
74262 renumbered and amended to read:
74263 **[~~63-38-2.5~~]. 63J-1-202. Establishing a General Fund Budget Reserve Account --**
74264 **Providing for deposits and expenditures from the account.**
74265 (1) There is created within the General Fund a restricted account to be known as the
74266 General Fund Budget Reserve Account, which is designated to receive the surplus revenue
74267 required by this section.
74268 (2) (a) (i) At the end of any fiscal year in which the Division of Finance, in conjunction
74269 with the completion of the annual audit by the state auditor, determines that there is a General
74270 Fund surplus, 25% of the surplus shall be transferred to the General Fund Budget Reserve
74271 Account, except that the amount in the combined totals of the General Fund Budget Reserve
74272 Account and the Education Budget Reserve Account created in Section [~~63-38-2.6~~] 63J-1-203

74273 may not exceed 6% of the total of the General Fund appropriation amount and the Uniform
74274 School Fund appropriation amount for the fiscal year in which the surplus occurred.
74275 (ii) In addition to Subsection (2)(a)(i), if a surplus exists and if, within the last ten
74276 years, the Legislature has appropriated any money from the General Fund Budget Reserve
74277 Account that has not been replaced by appropriation or as provided in this Subsection (2)(a)(ii),
74278 the Division of Finance shall, before any contingent appropriations or other transfers required
74279 by law are made, transfer up to 25% more of the surplus to the General Fund Budget Reserve
74280 Account to replace the amounts appropriated until transfers of the surplus under this
74281 Subsection (2)(a)(ii) have replaced the appropriations from the fund.
74282 (b) The amount to be transferred to the General Fund Budget Reserve Account shall be
74283 determined before any other contingency appropriation using surplus funds.
74284 (3) (a) If, at the close of any fiscal year, there appear to be insufficient monies to pay
74285 additional debt service for any bonded debt authorized by the Legislature, the Division of
74286 Finance may hold back monies from any General Fund surplus sufficient to pay the additional
74287 debt service requirements resulting from issuance of bonded debt that was authorized by the
74288 Legislature.
74289 (b) The Division of Finance may not spend the hold back amount for debt service
74290 under Subsection (3)(a) unless and until it is appropriated by the Legislature.
74291 (c) If, after calculating the amount for transfers to the General Fund Budget Reserve
74292 Account, the remaining surplus is insufficient to cover the hold back for debt service required
74293 by Subsection (3)(a), the Division of Finance shall reduce the transfer to the General Fund
74294 Budget Reserve Account by the amount necessary to cover the debt service hold back.
74295 (d) Notwithstanding Subsection (2), the Division of Finance shall hold back the
74296 General Fund balance for debt service authorized by this Subsection (3) before making any
74297 transfers to the General Fund Budget Reserve Account or any other designation or allocation of
74298 surplus.
74299 (4) (a) Any appropriation made by the Legislature from the General Fund Budget
74300 Reserve Account may only be used to cover operating deficits, state settlement agreements
74301 approved under [~~Title 63, Chapter 38b~~] Title 63G, Chapter 10, State Settlement Agreements, or
74302 retroactive tax refunds.
74303 (b) The General Fund Budget Reserve Account is available for appropriation to fund

74304 operating deficits in public education appropriations.
74305 (5) All interest generated from investments of money in the General Fund Budget
74306 Reserve Account shall be deposited into the account.
74307 Section 1625. Section **63J-1-203**, which is renumbered from Section 63-38-2.6 is
74308 renumbered and amended to read:
74309 **[~~63-38-2.6~~]. 63J-1-203. Establishing an Education Budget Reserve Account --**
74310 **Providing for deposits and expenditures from the account.**
74311 (1) There is created within the Education Fund a restricted account to be known as the
74312 Education Budget Reserve Account, which is designated to receive the surplus revenue
74313 required by this section.
74314 (2) (a) (i) At the end of any fiscal year in which the Division of Finance, in conjunction
74315 with the completion of the annual audit by the state auditor, determines that there is a surplus in
74316 the Education Fund, the Uniform School Fund or both, 25% of the cumulative surplus shall be
74317 transferred to the Education Budget Reserve Account, except that the amount in the combined
74318 totals of the Education Budget Reserve Account and the General Fund Budget Reserve
74319 Account created in Section [~~63-38-2.5~~] 63J-1-202 may not exceed 6% of the total combined
74320 appropriations from the Education Fund and the General Fund for the fiscal year in which the
74321 surplus occurred.
74322 (ii) In addition to Subsection (2)(a)(i), if a surplus exists and if, within the last ten
74323 years, the Legislature has appropriated any money from the Education Budget Reserve Account
74324 that has not been replaced by appropriation or as provided in this Subsection (2)(a)(ii), the
74325 Division of Finance shall, before any contingent appropriations or other transfers required by
74326 law are made, transfer up to 25% more of the surplus to the Education Budget Reserve Account
74327 to replace the amounts appropriated until transfers of the surplus under this Subsection
74328 (2)(a)(ii) have replaced the appropriations from the fund.
74329 (b) The amount to be transferred to the Education Budget Reserve Account shall be
74330 determined before any other contingency appropriation using surplus funds.
74331 (3) Any appropriation made by the Legislature from the Education Budget Reserve
74332 Account may only be used to cover operating deficits in the state's public and higher education
74333 system.
74334 (4) All interest generated from investments of money in the Education Budget Reserve

74335 Account shall be deposited into the account.
74336 Section 1626. Section **63J-1-204**, which is renumbered from Section 63-38-2.7 is
74337 renumbered and amended to read:
74338 **[~~63-38-2.7~~]. 63J-1-204. Deposits related to the Disaster Recovery Funding Act.**
74339 Beginning with the fiscal year ending June 30, 2007, at the end of each fiscal year and
74340 after the transfer of surplus General Fund revenues has been made to the General Fund Budget
74341 Reserve Account as provided in Section [~~63-38-2.5~~] 63J-1-202, the Division of Finance shall
74342 deposit an amount into the State Disaster Recovery Restricted Account, created in Section
74343 53-2-403, calculated by:
74344 (1) determining the amount of surplus General Fund revenues after the transfer to the
74345 General Fund Budget Reserve Account under Section [~~63-38-2.5~~] 63J-1-202 that is unrestricted
74346 and undesignated;
74347 (2) calculating an amount equal to the lesser of:
74348 (a) 25% of the amount determined under Subsection (1); or
74349 (b) 6% of the total of the General Fund appropriation amount and the Uniform School
74350 Fund appropriation amount for the fiscal year in which the surplus occurs; and
74351 (3) adding to the amount calculated under Subsection (2) an amount equal to the lesser
74352 of:
74353 (a) 25% more of the amount described in Subsection (1); or
74354 (b) the amount necessary to replace in accordance with this Subsection (3) any amount
74355 appropriated from the State Disaster Recovery Restricted Account within ten fiscal years
74356 before the fiscal year in which the surplus occurs if:
74357 (i) a surplus exists; and
74358 (ii) the Legislature appropriates money from the State Disaster Recovery Restricted
74359 Account that is not replaced by appropriation or as provided in this Subsection (3).
74360 Section 1627. Section **63J-1-301**, which is renumbered from Section 63-38-3 is
74361 renumbered and amended to read:
74362 **Part 3. Appropriations and Expenditures**
74363 **[~~63-38-3~~]. 63J-1-301. Appropriations governed by chapter -- Restrictions on**
74364 **expenditures -- Transfer of funds.**
74365 (1) All moneys appropriated by the Legislature are appropriated upon the terms and

74366 conditions set forth in this chapter, and any department, agency, or institution, except the
74367 Legislature and its committees, or where specifically exempted by the appropriating act, which
74368 accepts moneys appropriated by the Legislature, does so subject to this chapter.
74369 (2) (a) In providing that certain appropriations are to be expended in accordance with a
74370 schedule or other restrictions, if any, set forth after each appropriations item, it is the intent of
74371 the Legislature to limit the amount of money to be expended from each appropriations item for
74372 certain specified purposes.
74373 (b) Each schedule:
74374 (i) is a restriction or limitation upon the expenditure of the respective appropriation
74375 made;
74376 (ii) does not itself appropriate any money; and
74377 (iii) is not itself an item of appropriation.
74378 (c) An appropriation or any surplus of any appropriation may not be diverted from any
74379 department, agency, institution, or division to any other department, agency, institution, or
74380 division.
74381 (d) The money appropriated subject to a schedule or restriction may be used only for
74382 the purposes authorized.
74383 (e) (i) If any department, agency, or institution for which money is appropriated
74384 requests the transfer of moneys appropriated to it from one purpose or function to another
74385 purpose or function within an item of appropriation, the director of the Governor's Office of
74386 Planning and Budget shall require a new work program to be submitted for the fiscal year
74387 involved setting forth the purpose and necessity for such transfer.
74388 (ii) The director and fiscal officer shall review the proposed change and submit their
74389 findings and recommendations to the governor, who may permit the transfer.
74390 (iii) The state fiscal officer shall notify the Legislature through the Office of the
74391 Legislative Fiscal Analyst of action taken by the governor.
74392 (f) Monies may not be transferred from one item of appropriation to any other item of
74393 appropriation.
74394 (3) This section does not apply to the Investigation Account of the Water Resources
74395 Construction Fund. The investigation account shall continue to be governed by Section
74396 73-10-8.

74397 Section 1628. Section **63J-1-302**, which is renumbered from Section 63-38-3.1 is
74398 renumbered and amended to read:
74399 **[~~63-38-3.1~~]. 63J-1-302. Restrictions on agency expenditures of monies --**
74400 **Lobbyists.**
74401 (1) As used in this section:
74402 (a) (i) "Agency" means each department, commission, board, council, agency,
74403 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,
74404 unit, bureau, panel, or other administrative unit of the state.
74405 (ii) "Agency" includes the legislative branch, the judicial branch, the Board of Regents,
74406 the board of trustees of each higher education institution, each higher education institution, or a
74407 public education entity.
74408 (b) "Executive action" means action undertaken by the governor, including signing or
74409 vetoing legislation, and action undertaken by any official in the executive branch of
74410 government.
74411 (c) "Legislative action" means action undertaken by the Utah Legislature or any part of
74412 it.
74413 (d) "Lobbyist" means a person who is not an employee of an agency who is hired as an
74414 independent contractor by the agency to communicate with legislators or the governor for the
74415 purpose of influencing the passage, defeat, amendment, or postponement of legislative or
74416 executive action.
74417 (2) A state agency or entity to which monies are appropriated by the Legislature may
74418 not expend any monies to pay a lobbyist.
74419 Section 1629. Section **63J-1-303**, which is renumbered from Section 63-38-3.2 is
74420 renumbered and amended to read:
74421 **[~~63-38-3.2~~]. 63J-1-303. Fees -- Adoption, procedure, and approval --**
74422 **Establishing and assessing fees without legislative approval.**
74423 (1) As used in this section:
74424 (a) (i) "Agency" means each department, commission, board, council, agency,
74425 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,
74426 unit, bureau, panel, or other administrative unit of the state.
74427 (ii) "Agency" does not mean the Legislature or its committees.

74428 (b) "Fee agency" means any agency that is authorized to establish regulatory fees.
74429 (c) "Fee schedule" means the complete list of regulatory fees charged by a fee agency
74430 and the amount of those fees.
74431 (d) "Regulatory fees" means fees established for licensure, registration, or certification.
74432 (2) Each fee agency shall:
74433 (a) adopt a schedule of fees assessed for services provided by the fee agency that are:
74434 (i) reasonable, fair, and reflect the cost of services provided; and
74435 (ii) established according to a cost formula determined by the director of the
74436 Governor's Office of Planning and Budget and the director of the Division of Finance in
74437 conjunction with the agency seeking to establish the regulatory fee;
74438 (b) conduct a public hearing on any proposed regulatory fee and increase or decrease
74439 the proposed regulatory fee based upon the results of the public hearing;
74440 (c) except as provided in Subsection (6), submit the fee schedule to the Legislature as
74441 part of the agency's annual appropriations request;
74442 (d) where necessary, modify the fee schedule to implement the Legislature's actions;
74443 and
74444 (e) deposit all regulatory fees collected under the fee schedule into the General Fund.
74445 (3) A fee agency may not:
74446 (a) set regulatory fees by rule; or
74447 (b) charge or collect any regulatory fee without approval by the Legislature unless the
74448 fee agency has complied with the procedures and requirements of Subsection (5).
74449 (4) The Legislature may approve, increase or decrease and approve, or reject any
74450 regulatory fee submitted to it by a fee agency.
74451 (5) (a) After the public hearing required by this section, a fee agency may establish and
74452 assess regulatory fees without legislative approval if:
74453 (i) the Legislature creates a new program that is to be funded by regulatory fees to be
74454 set by the Legislature; and
74455 (ii) the new program's effective date is before the Legislature's next annual general
74456 session; or
74457 (iii) the Division of Occupational and Professional licensing makes a special
74458 assessment against qualified beneficiaries under the Residence Lien Restriction and Lien

74459 Recovery Fund Act as provided in Subsection 38-11-206(1).
74460 (b) Each fee agency shall submit its fee schedule or special assessment amount to the
74461 Legislature for its approval at a special session, if allowed in the governor's call, or at the next
74462 annual general session of the Legislature, whichever is sooner.
74463 (c) Unless the fee schedule is approved by the Legislature, the fee agency may not
74464 collect a regulatory fee set according to this subsection after the adjournment of the annual
74465 general session following the session that established the new program.
74466 (6) (a) Each fee agency that wishes to increase any regulatory fee by 5% or more shall
74467 obtain legislative approval for the fee increase as provided in this subsection before assessing
74468 the new regulatory fee.
74469 (b) Each fee agency that wishes to increase any regulatory fee by 5% or more shall
74470 submit to the governor as part of the agency's annual appropriation request a list that identifies:
74471 (i) the title or purpose of the regulatory fee;
74472 (ii) the present amount of the regulatory fee;
74473 (iii) the proposed new amount of the regulatory fee;
74474 (iv) the percent that the regulatory fee will have increased if the Legislature approves
74475 the higher fee; and
74476 (v) the reason for the increase in the regulatory fee.
74477 (c) (i) The governor may review and approve, modify and approve, or reject the
74478 regulatory fee increases.
74479 (ii) The governor shall transmit the list required by Subsection (6)(b), with any
74480 modifications, to the Legislative Fiscal Analyst with the governor's budget recommendations.
74481 (d) Bills approving any regulatory fee increases of 5% or more shall be filed before the
74482 beginning of the Legislature's annual general session, if possible.
74483 Section 1630. Section **63J-1-304**, which is renumbered from Section 63-38-3.3 is
74484 renumbered and amended to read:
74485 **[~~63-38-3.3~~]. 63J-1-304. Payment of fees prerequisite to service -- Exception.**
74486 (1) (a) State and county officers required by law to charge fees may not perform any
74487 official service unless the fees prescribed for that service are paid in advance.
74488 (b) When the fee is paid, the officer shall perform the services required.
74489 (c) An officer is liable upon the officer's official bond for every failure or refusal to

74490 perform an official duty when the fees are tendered.
74491 (2) (a) Except as provided in Subsection (2)(b), no fees may be charged:
74492 (i) to the officer's state, or any county or subdivision of the state;
74493 (ii) to any public officer acting for the state, county, or subdivision;
74494 (iii) in cases of habeas corpus;
74495 (iv) in criminal causes before final judgment;
74496 (v) for administering and certifying the oath of office;
74497 (vi) for swearing pensioners and their witnesses; or
74498 (vii) for filing and recording bonds of public officers.
74499 (b) Fees may be charged for payment:
74500 (i) of recording fees for assessment area recordings in compliance with Section
74501 11-42-205;
74502 (ii) of recording fees for judgments recorded in compliance with Sections 57-3-106 and
74503 78-5-119; and
74504 (iii) to the state engineer under Section 73-2-14.
74505 Section 1631. Section **63J-1-305**, which is renumbered from Section 63-38-3.4 is
74506 renumbered and amended to read:
74507 **[~~63-38-3.4~~]. 63J-1-305. Parking fees at court buildings.**
74508 (1) State-owned or leased court facilities may not charge or collect fees for parking
74509 without prior approval by the Legislature.
74510 (2) The Legislature may approve, increase, decrease and approve, or reject any parking
74511 fee submitted to it by the courts.
74512 Section 1632. Section **63J-1-306**, which is renumbered from Section 63-38-3.5 is
74513 renumbered and amended to read:
74514 **[~~63-38-3.5~~]. 63J-1-306. Internal service funds -- Governance and review.**
74515 (1) For purposes of this section:
74516 (a) "Agency" means a department, division, office, bureau, or other unit of state
74517 government, and includes any subdivision of an agency.
74518 (b) "Do not replace vehicles" means a vehicle accounted for in the Division of Fleet
74519 Operations for which charges to an agency for its use do not include amounts to cover
74520 depreciation or to accumulate assets to replace the vehicle at the end of its useful life.

74521 (c) "Internal service fund agency" means an agency that provides goods or services to
74522 other agencies of state government or to other governmental units on a capital maintenance and
74523 cost reimbursement basis, and which recovers costs through interagency billings.
74524 (d) "Revolving loan fund" means each of the revolving loan funds defined in Section
74525 63A-3-205.
74526 (2) An internal service fund agency is not subject to this section with respect to its
74527 administration of a revolving loan fund.
74528 (3) An internal service fund agency may not bill another agency for services that it
74529 provides, unless the Legislature has:
74530 (a) reviewed and approved the internal service fund agency's budget request;
74531 (b) reviewed and approved the internal service fund agency's rates, fees, and other
74532 amounts that it charges those who use its services and included those rates, fees, and amounts
74533 in an appropriation act;
74534 (c) approved the number of full-time, permanent positions of the internal service fund
74535 agency as part of the annual appropriation process; and
74536 (d) appropriated to the internal service fund agency the internal service fund's
74537 estimated revenue based upon the rates and fee structure that are the basis for the estimate.
74538 (4) (a) Except as provided in Subsection (4)(b), an internal service fund agency may
74539 not charge rates, fees, and other amounts that exceed the rates, fees, and amounts established
74540 by the Legislature in the appropriations act.
74541 (b) (i) An internal service fund agency that begins a new service or introduces a new
74542 product between annual general sessions of the Legislature may establish and charge an interim
74543 rate or amount for that service or product.
74544 (ii) The internal service fund agency shall submit that interim rate or amount to the
74545 Legislature for approval at the next annual general session.
74546 (5) The internal service fund agency budget request shall separately identify the capital
74547 needs and the related capital budget.
74548 (6) In the fiscal year that the accounting change referred to in Subsection 51-5-6(2) is
74549 implemented by the Division of Finance, the Division of Finance shall transfer equity created
74550 by that accounting change to any internal service fund agency up to the amount needed to
74551 eliminate any long-term debt and deficit working capital in the fund.

74552 (7) No new internal service fund agency may be established unless reviewed and
74553 approved by the Legislature.
74554 (8) (a) Except as provided in Subsection (8)(f), an internal service fund agency may not
74555 acquire capital assets unless legislative approval for acquisition of the assets has been included
74556 in an appropriations act for the internal service fund agency.
74557 (b) An internal service fund agency may not acquire capital assets after the transfer
74558 mandated by Subsection (6) has occurred unless the internal service fund agency has adequate
74559 working capital.
74560 (c) The internal service fund agency shall provide working capital from the following
74561 sources in the following order:
74562 (i) first, from operating revenues to the extent allowed by state rules and federal
74563 regulations;
74564 (ii) second, from long-term debt, subject to the restrictions of this section; and
74565 (iii) last, from an appropriation.
74566 (d) (i) To eliminate negative working capital, an internal service fund agency may incur
74567 long-term debt from the General Fund or Special Revenue Funds to acquire capital assets.
74568 (ii) The internal service fund agency shall repay all long-term debt borrowed from the
74569 General Fund or Special Revenue Funds by making regular payments over the useful life of the
74570 asset according to the asset's depreciation schedule.
74571 (e) (i) The Division of Finance may not allow an internal service fund agency's
74572 borrowing to exceed 90% of the net book value of the agency's capital assets as of the end of
74573 the fiscal year.
74574 (ii) If an internal service fund agency wishes to purchase authorized assets or enter into
74575 equipment leases that would increase its borrowing beyond 90% of the net book value of the
74576 agency's capital assets, the agency may purchase those assets only with monies appropriated
74577 from another fund, such as the General Fund or a special revenue fund.
74578 (f) (i) Except as provided in Subsection (8)(f)(ii), capital assets acquired through
74579 agency appropriation may not be transferred to any internal service fund agency without
74580 legislative approval.
74581 (ii) Vehicles acquired by agencies from appropriated funds or monies appropriated to
74582 agencies to be used for vehicle purchases may be transferred to the Division of Fleet

74583 Operations and, when transferred, become part of the Fleet Operations Internal Service Fund.
74584 (iii) Vehicles acquired with funding from sources other than state appropriations or
74585 acquired through the federal surplus property donation program may be transferred to the
74586 Division of Fleet Operations and, when transferred, become part of the Fleet Operations
74587 Internal Service Fund.
74588 (iv) Unless otherwise approved by the Legislature, vehicles acquired under Subsection
74589 (8)(f)(iii) shall be accounted for as "do not replace" vehicles.
74590 (9) The Division of Finance shall adopt policies and procedures related to the
74591 accounting for assets, liabilities, equity, revenues, expenditures, and transfers of internal
74592 service funds agencies.
74593 Section 1633. Section **63J-1-307**, which is renumbered from Section 63-38-3.6 is
74594 renumbered and amended to read:
74595 **[~~63-38-3.6~~]. 63J-1-307. Appropriating from restricted accounts.**
74596 (1) As used in this section, "operating deficit" means that estimated General Fund or
74597 Uniform School Fund revenues are less than budgeted for the current or next fiscal year.
74598 (2) Notwithstanding any other statute that limits the Legislature's power to appropriate
74599 from a restricted account, if the Legislature determines that an operating deficit exists, unless
74600 prohibited by federal law or court order, the Legislature may, in eliminating the deficit,
74601 appropriate monies from a restricted account into the General Fund.
74602 Section 1634. Section **63J-1-308**, which is renumbered from Section 63-38-4 is
74603 renumbered and amended to read:
74604 **[~~63-38-4~~]. 63J-1-308. Duplicate payment of claims prohibited.**
74605 No claim against the state, the payment of which is provided for, shall be duplicated,
74606 and the amount of any appropriation for the payment of any such claim shall be withheld if it is
74607 covered by any other appropriation.
74608 Section 1635. Section **63J-1-309**, which is renumbered from Section 63-38-5 is
74609 renumbered and amended to read:
74610 **[~~63-38-5~~]. 63J-1-309. Appropriations from special funds or accounts --**
74611 **Transfer by proper official only.**
74612 Whenever appropriations are made from special funds, or a fund account, the transfer
74613 of moneys from such funds, or accounts, to the General Fund or any other fund for budgetary

74614 purposes shall be made by the proper state fiscal officer.
74615 Section 1636. Section **63J-1-310**, which is renumbered from Section 63-38-6 is
74616 renumbered and amended to read:
74617 **[~~63-38-6~~]. 63J-1-310. Warrants -- Not to be drawn until claim processed --**
74618 **Redemption.**
74619 (1) No warrant to cover any claim against any appropriation or fund shall be drawn until
74620 such claim has been processed as provided by law.
74621 (2) The state treasurer shall return all redeemed warrants to the state fiscal officer for
74622 purposes of reconciliation, post-audit and verification of the state treasurer's fund balances.
74623 Section 1637. Section **63J-1-311**, which is renumbered from Section 63-38-7 is
74624 renumbered and amended to read:
74625 **[~~63-38-7~~]. 63J-1-311. Cash funds -- Petty cash, application for -- Cash**
74626 **advances -- Revolving fund established by law excepted.**
74627 (1) Before any new petty cash funds may be established, the commission, department,
74628 or agency requesting the fund or funds shall apply in writing to the state fiscal officer, setting
74629 out the reasons for which it is needed and the amount requested.
74630 (2) The state fiscal officer shall review the application and submit it to the governor
74631 with [~~his~~] the state fiscal officer's recommendations, and the governor may establish the fund or
74632 funds from moneys in the state treasury.
74633 (3) The state fiscal officer may, in lieu of establishing petty cash, imprest cash, or
74634 revolving funds for state institutions of higher education, permit advances to be made from
74635 allotments to the institutions in sufficient amounts to provide necessary working bank balances
74636 to facilitate an orderly management of institutional affairs. The institutions shall make reports
74637 as required by the state fiscal officer for the expenditure of funds included in any advances.
74638 (4) Revolving funds established by law are not subject to the provisions of this section.
74639 Section 1638. Section **63J-1-401**, which is renumbered from Section 63-38-8 is
74640 renumbered and amended to read:
74641 **Part 4. Unused Balances**
74642 **[~~63-38-8~~]. 63J-1-401. End of fiscal year -- Unexpended balances -- Funds not**
74643 **to be closed out -- Pending claims -- Transfer of amounts from item of appropriation.**
74644 (1) As used in this section, "transaction control number" means the unique numerical

74645 identifier established by the Department of Health to track each medical claim, which indicates
74646 the date upon which the claim is entered.
74647 (2) On or before August 31 of each fiscal year, the director of the Division of Finance
74648 shall close out to the proper fund or account all remaining unexpended and unencumbered
74649 balances of appropriations made by the Legislature, except:
74650 (a) those funds classified under Title 51, Chapter 5, Funds Consolidation Act as:
74651 (i) enterprise funds;
74652 (ii) internal service funds;
74653 (iii) trust and agency funds;
74654 (iv) capital projects funds;
74655 (v) college and university funds;
74656 (vi) debt service funds; and
74657 (vii) permanent funds;
74658 (b) appropriations made to the Legislature and its committees;
74659 (c) restricted special revenue funds, unless specifically directed to close out the fund in
74660 the fund's enabling legislation;
74661 (d) acquisition and development funds appropriated to the Division of Parks and
74662 Recreation;
74663 (e) funds encumbered to pay purchase orders issued prior to May 1 for capital
74664 equipment if delivery is expected before June 30;
74665 (f) unexpended and unencumbered balances of appropriations that meet the
74666 requirements of Section [~~63-38-8.1~~] 63J-1-402; and
74667 (g) any other appropriations excepted by statute or by an annual appropriations act.
74668 (3) (a) Liabilities and related expenses for goods and services received on or before
74669 June 30 shall be recognized as expenses due and payable from appropriations made prior to
74670 June 30.
74671 (b) The liability and related expense shall be recognized within time periods
74672 established by the Division of Finance but shall be recognized not later than August 31.
74673 (c) Liabilities and expenses not so recognized may be paid from regular departmental
74674 appropriations for the subsequent fiscal year, if these claims do not exceed unexpended and
74675 unencumbered balances of appropriations for the years in which the obligation was incurred.

74676 (d) No amounts may be transferred from an item of appropriation of any department,
74677 institution, or agency into the Capital Projects Fund or any other fund without the prior express
74678 approval of the Legislature.
74679 (4) (a) For purposes of this chapter, claims processed under the authority of Title 26,
74680 Chapter 18, Medical Assistance Act:
74681 (i) may not be considered a liability or expense to the state for budgetary purposes
74682 unless they are received by the Division of Health Care Financing within the time periods
74683 established by the Division of Finance under Subsection (3)(b); and
74684 (ii) are not subject to the requirements of Subsection (3)(c).
74685 (b) The transaction control number recorded on each claim invoice by the division is
74686 considered the date of receipt.
74687 Section 1639. Section **63J-1-402**, which is renumbered from Section 63-38-8.1 is
74688 renumbered and amended to read:
74689 **[~~63-38-8.1~~]. 63J-1-402. Nonlapsing authority.**
74690 (1) As used in this section:
74691 (a) (i) "Agency" means each department, commission, board, council, agency,
74692 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,
74693 unit, bureau, panel, or other administrative unit of the state.
74694 (ii) "Agency" does not include those entities whose unappropriated and unencumbered
74695 balances are made nonlapsing by the operation of Subsection [~~63-38-8~~] 63J-1-401(2).
74696 (b) "Appropriation balance" means the unexpended and unencumbered balance of a
74697 line item appropriation made by the Legislature to an agency that exists at the end of a fiscal
74698 year.
74699 (c) "Nonlapsing" means that an agency's appropriation balance is not closed out to the
74700 appropriate fund at the end of a fiscal year as required by Section [~~63-38-8~~] 63J-1-401.
74701 (d) "One-time project" means a project or program that can be completed with the
74702 appropriation balance and includes such items as employee incentive awards and bonuses,
74703 purchase of equipment, and one-time training.
74704 (e) "One-time projects list" means:
74705 (i) a prioritized list of one-time projects, upon which an agency would like to spend
74706 any appropriation balance; and

74707 (ii) for each project, the maximum amount the agency is estimating for the project.
74708 (f) "Program" means a service provided by an agency to members of the public, other
74709 agencies, or to employees of the agency.
74710 (2) Notwithstanding the requirements of Section [~~63-38-8~~] 63J-1-401, an agency may,
74711 by following the procedures and requirements of this section, retain and expend any
74712 appropriation balance.
74713 (3) (a) Each agency that wishes to preserve any part or all of its appropriation balance
74714 as nonlapsing shall include a one-time projects list as part of the budget request that it submits
74715 to the governor and the Legislature at the annual general session of the Legislature immediately
74716 before the end of the fiscal year in which the agency may have an appropriation balance.
74717 (b) An agency may not include a proposed expenditure on its one-time projects list if:
74718 (i) the expenditure creates a new program;
74719 (ii) the expenditure enhances the level of an existing program; or
74720 (iii) the expenditure will require a legislative appropriation in the next fiscal year.
74721 (c) The governor:
74722 (i) may approve some or all of the items from an agency's one-time projects list; and
74723 (ii) shall identify and prioritize any approved one-time projects in the budget that [~~he~~]
74724 the governor submits to the Legislature.
74725 (4) The Legislature:
74726 (a) may approve some or all of the specific items from an agency's one-time projects
74727 list as authorized expenditures of an agency's appropriation balance;
74728 (b) shall identify any authorized one-time projects in the appropriate line item
74729 appropriation; and
74730 (c) may prioritize one-time projects in intent language.
74731 Section 1640. Section **63J-1-403**, which is renumbered from Section 63-38-8.2 is
74732 renumbered and amended to read:
74733 **[~~63-38-8.2~~]. 63J-1-403. Internal service funds -- End of fiscal year -- Unused**
74734 **authority for capital acquisition.**
74735 (1) An internal service fund agency's authority to acquire capital assets under
74736 Subsection [~~63-38-3.5~~] 63J-1-306(8)(a) shall lapse if the acquisition of the capital asset does
74737 not occur in the fiscal year in which the authorization is included in the appropriations act,

74738 unless the Legislature identifies the authority to acquire the capital asset as nonlapsing
74739 authority:
74740 (a) for a specific one-time project and a limited period of time in the Legislature's
74741 initial appropriation to the agency; or
74742 (b) in a supplemental appropriation in accordance with Subsection (2).
74743 (2) (a) An internal service fund agency's authority to acquire capital assets may be
74744 retained as nonlapsing authorization if the internal service fund agency includes a one-time
74745 project's list as part of the budget request that it submits to the governor and the Legislature at
74746 the annual general session of the Legislature immediately before the end of the fiscal year in
74747 which the agency may have unused capital acquisition authority.
74748 (b) The governor:
74749 (i) may approve some or all of the items from an agency's one-time project's list; and
74750 (ii) shall identify and prioritize any approved one-time projects in the budget that [~~he~~]
74751 the governor submits to the Legislature.
74752 (c) The Legislature:
74753 (i) may approve some or all of the specific items from an agency's one-time project's
74754 list as an approved capital acquisition for an agency's appropriation balance;
74755 (ii) shall identify any authorized one-time projects in the appropriate line item
74756 appropriation; and
74757 (iii) may prioritize one-time projects in intent language.
74758 (3) An internal service fund agency shall submit a status report of outstanding
74759 nonlapsing authority to acquire capital assets and associated one-time projects to the
74760 Governor's Office of Planning and Budget and the Legislative Fiscal Analyst's Office with the
74761 proposed budget required by Section [~~63-38-2~~] 63J-1-201.
74762 Section 1641. Section **63J-1-404**, which is renumbered from Section 63-38-9 is
74763 renumbered and amended to read:
74764 **[~~63-38-9~~]. 63J-1-404. Revenue types -- Disposition of funds collected or**
74765 **credited by a state agency.**
74766 (1) (a) The revenues enumerated in this section are established as major revenue types.
74767 (b) The Division of Finance shall:
74768 (i) account for revenues in accordance with generally accepted accounting principles;

74769 and
74770 (ii) use the major revenue types in internal accounting.
74771 (c) Each agency shall:
74772 (i) use the major revenue types enumerated in this section to account for revenues;
74773 (ii) deposit revenues and other public funds received by them by following the
74774 procedures and requirements of Title 51, Chapter 7, State Money Management Act; and
74775 (iii) expend revenues and public funds as required by this chapter.
74776 (2) The major revenue types are:
74777 (a) free revenue;
74778 (b) restricted revenue;
74779 (c) dedicated credits; and
74780 (d) fixed collections.
74781 (3) (a) Free revenue includes:
74782 (i) collections that are required by law to be deposited in the General Fund, the
74783 Education Fund, the Uniform School Fund, or the Transportation Fund;
74784 (ii) collections that are not otherwise designated by law;
74785 (iii) collections that are not externally restricted; and
74786 (iv) collections that are not included in an approved work program.
74787 (b) Each agency shall deposit its free revenues into the appropriate fund.
74788 (c) An agency may expend free revenues up to the amount specifically appropriated by
74789 the Legislature.
74790 (d) Any free revenue funds appropriated by the Legislature to an agency that remain
74791 unexpended at the end of the fiscal year lapse to the source fund unless the Legislature provides
74792 by law that those funds are nonlapsing.
74793 (4) (a) Restricted revenues are collections deposited by law into a separate fund or
74794 subfund that are designated for a specific program or purpose.
74795 (b) Each agency shall deposit its restricted revenues into a restricted fund.
74796 (c) The Legislature may appropriate restricted revenues from a restricted fund for the
74797 specific purpose or program designated by law.
74798 (d) If the fund equity of a restricted fund is insufficient to provide the funds
74799 appropriated from it by the Legislature, the Division of Finance may reduce the appropriation

74800 to a level that ensures that the fund equity is not less than zero.
74801 (e) Any restricted revenue funds appropriated by the Legislature to an agency that
74802 remain unexpended at the end of the fiscal year lapse to the restricted fund unless the
74803 Legislature provides by law that those funds, or the program or line item financed by those
74804 funds, are nonlapsing.
74805 (5) (a) Dedicated credits and federal revenues are collections by an agency that are
74806 deposited directly into an account for expenditure on a separate line item and program.
74807 (b) An agency may expend dedicated credits for any purpose within the program or line
74808 item.
74809 (c) (i) An agency may expend dedicated credits in excess of the amount appropriated as
74810 dedicated credits by the Legislature by following the procedures contained in this Subsection
74811 (5)(c).
74812 (ii) The agency shall develop a new work program and the justification for the work
74813 program and submit it to the Division of Finance and the director of the Governor's Office of
74814 Planning and Budget. Except for monies deposited as dedicated credits in the Drug Stamp Tax
74815 Fund under Section 59-19-105 or line items covering tuition and federal vocational funds at
74816 institutions of higher learning, any expenditure of dedicated credits in excess of amounts
74817 appropriated as dedicated credits by the Legislature may not be used to permanently increase
74818 personnel within the agency unless approved by the Legislature.
74819 (iii) The Division of Finance and the director of the Governor's Office of Planning and
74820 Budget shall review the program and submit their findings and recommendations to the
74821 governor.
74822 (iv) The governor may authorize the agency to expend its excess dedicated credits by
74823 approving the submitted work program.
74824 (v) The state's fiscal officer shall notify the Legislature by providing notice of the
74825 governor's action to the Office of Legislative Fiscal Analyst.
74826 (d) (i) All excess dedicated credits lapse to the appropriate fund at the end of the fiscal
74827 year unless the Legislature has designated the entire program or line item that is partially or
74828 fully funded from dedicated credits as nonlapsing.
74829 (ii) The Division of Finance shall determine the appropriate fund into which the
74830 dedicated credits lapse.

74831 (6) (a) Fixed collections are collections:
74832 (i) fixed by law or by the appropriation act at a specific amount; and
74833 (ii) required by law to be deposited into a separate line item and program.
74834 (b) The Legislature may establish by law the maximum amount of fixed collections
74835 that an agency may expend.
74836 (c) If an agency receives less than the maximum amount of expendable fixed
74837 collections established by law, the agency's authority to expend is limited to the amount of
74838 fixed collections that it receives.
74839 (d) If an agency receives fixed collections greater than the maximum amount of
74840 expendable fixed collections established by law, those excess amounts lapse to the General
74841 Fund, the Education Fund, the Uniform School Fund, or the Transportation Fund as designated
74842 by the director of the Division of Finance at the end of the fiscal year.
74843 (7) (a) Unless otherwise specifically provided by law, when an agency has a program
74844 or line item that is funded by more than one major revenue type, the agency shall expend its
74845 dedicated credits and fixed collections first.
74846 (b) Unless otherwise specifically provided by law, when programs or line items are
74847 funded by more than one major revenue type and include both free revenue and restricted
74848 revenue, an agency shall expend those sources based upon a proration of the amounts
74849 appropriated from each of those major revenue types.
74850 Section 1642. Section **63J-1-405**, which is renumbered from Section 63-38-10 is
74851 renumbered and amended to read:
74852 **[~~63-38-10~~]. 63J-1-405. Overexpenditure of budget by agency -- Prorating**
74853 **budget income shortfall.**
74854 (1) In providing for appropriations, the Legislature intends that expenditures of
74855 departments, agencies, and institutions of state government be kept within revenues available
74856 for such expenditures.
74857 (2) (a) The Legislature also intends that line items of appropriation not be
74858 overexpended.
74859 (b) If an agency's line item is overexpended at the close of a fiscal year:
74860 (i) the director of the Division of Finance may make payments from the line item to
74861 vendors for goods or services that were received on or before June 30; and

74862 (ii) the director of the Division of Finance shall immediately reduce the agency's line
74863 item budget in the current year by the amount of the overexpenditure.
74864 (c) Each agency with an overexpended line item shall produce a written report
74865 explaining the reasons for the overexpenditure and shall present the report to the Board of
74866 Examiners as required by Section [~~63-6-10~~] 63G-9-301.
74867 (3) If the total of all revenues accruing in any given fiscal year to the General Fund, or
74868 any other major fund type, collections, or dedicated credits, from which appropriations are
74869 made, are not sufficient to cover the appropriations made for that period, the governor shall
74870 reduce the budgetary allotments and transfer of funds by the amount of the deficiency.
74871 (4) (a) No department may receive any advance allotment, or allotments in excess of
74872 regular monthly allotments, that cannot be covered by anticipated revenue within the work
74873 program of the fiscal year, unless the governor allocates moneys from [~~his~~] the governor's
74874 emergency appropriations.
74875 (b) All allocations made from the governor's emergency appropriations shall be
74876 reported to the budget subcommittee of the Legislative Management Committee by notifying
74877 the Office of the Legislative Fiscal Analyst at least 15 days before the effective date of the
74878 allocation.
74879 (c) Emergency appropriations shall be allocated only to support activities having
74880 existing legislative approval and appropriation, and may not be allocated to any activity or
74881 function rejected directly or indirectly by the Legislature.
74882 Section 1643. Section **63J-1-406**, which is renumbered from Section 63-38-11 is
74883 renumbered and amended to read:
74884 **[~~63-38-11~~]. 63J-1-406. Director of finance to exercise accounting control --**
74885 **Work programs -- Allotments and expenditures.**
74886 (1) The director of finance shall exercise accounting control over all state departments,
74887 institutions, and agencies other than the Legislature and legislative committees.
74888 (2) (a) The director shall require the head of each department to submit, by May 15 of
74889 each year, a work program for the next fiscal year.
74890 (b) The director may require any department to submit a work program for any other
74891 period.
74892 (3) The work program shall include appropriations and all other funds from any source

74893 made available to the department for its operation and maintenance for the period and program
74894 authorized by the appropriation act.
74895 (4) The director of finance shall, upon request from the governor, revise, alter,
74896 decrease, or change work programs.
74897 (5) Notwithstanding the requirements of [~~Title 63, Chapter 38a~~] Title 63J, Chapter 2,
74898 Revenue Procedures and Control Act, the aggregate of the work program changes may not
74899 exceed the total appropriations or other funds from any source that are available to the
74900 department line item for the fiscal year in question.
74901 (6) The director of finance shall transmit a copy of the changes when approved by the
74902 governor to the head of the department concerned and also a copy to the legislative analyst.
74903 (7) Upon request, review, and approval by the governor, the director of finance shall
74904 permit all expenditures to be made from the appropriations or other funds from any source on
74905 the basis of those work programs.
74906 (8) (a) Except as provided by Subsection (8)(c), the director shall, through statistical
74907 sampling methods or other means, examine and approve or disapprove all requisitions and
74908 requests for proposed expenditures of the departments.
74909 (b) No requisitions of any of the departments shall be allowed nor shall any obligation
74910 be created without the approval and the certification of the director.
74911 (c) Notwithstanding the requirements of Subsection (8)(a), the director need only
74912 certify the availability of funds when the requisitions or proposed expenditures are for the
74913 judicial branch or to pay the salaries or compensation of officers fixed by law.
74914 Section 1644. Section **63J-1-407**, which is renumbered from Section 63-38-11.5 is
74915 renumbered and amended to read:
74916 **[~~63-38-11.5~~]. 63J-1-407. Reduction in federal funds -- Agencies to reduce**
74917 **budgets.**
74918 (1) In any fiscal year in which federal grants to be received by state agencies,
74919 departments, divisions, or institutions are reduced below the level estimated in the
74920 appropriations acts for that year, the programs supported by those grants must be reduced
74921 commensurate with the amount of the federal reduction unless the Legislature appropriates
74922 state funds to offset the loss in federal funding.
74923 (2) This program modification shall be reported to the Legislature through the

74924 Executive Appropriations Committee and the Office of the Legislative Fiscal Analyst.
74925 Section 1645. Section **63J-1-408**, which is renumbered from Section 63-38-12 is
74926 renumbered and amended to read:
74927 **[~~63-38-12~~]. 63J-1-408. Uniform School Fund -- Appropriations.**
74928 Appropriations made from the General Fund to the Uniform School Fund to assist in
74929 financing the state's portion of the minimum school program as provided by law, shall be
74930 conditioned upon available revenue.
74931 If revenues to the General Fund are not sufficient to permit transfers to the Uniform
74932 School Fund as provided by appropriation, the state fiscal officers, with the approval of the
74933 governor, shall withhold such transfers during the fiscal period, as in their judgment the
74934 available revenues justify, after other appropriations made by law have been provided for, and
74935 after any modifications in department and agency work program and allotments have been
74936 made; and provided further, that transfers to the Uniform School Fund shall be made at such
74937 times as required to equalize the property levy for each fiscal year.
74938 Section 1646. Section **63J-1-409**, which is renumbered from Section 63-38-13 is
74939 renumbered and amended to read:
74940 **[~~63-38-13~~]. 63J-1-409. Conditions on appropriations binding.**
74941 Any and all conditions as may be attached to items of appropriation made by the
74942 appropriations act not inconsistent with law shall be binding upon the recipient of any such
74943 appropriation.
74944 Section 1647. Section **63J-1-501**, which is renumbered from Section 63-38-14 is
74945 renumbered and amended to read:
74946 **Part 5. Budget Review**
74947 **[~~63-38-14~~]. 63J-1-501. Request for in-depth budget review of agency or**
74948 **program -- Form of budget submitted.**
74949 The Legislative Management Committee, upon recommendation of an appropriations
74950 subcommittee of the Legislature, may request of the governor for any designated fiscal year, an
74951 in-depth budget review of any state department, agency, institution or program. When
74952 responding to a request for an in-depth budget review, the governor shall submit for the
74953 department, agency, institution or program for the fiscal year indicated a budget prepared in
74954 accordance with Section [~~63-38-15~~] 63J-1-502 and using the format and procedures developed

74955 by the director of the Governor's Office of Planning and Budget in cooperation with the
74956 legislative fiscal analyst. This format shall be constructed to assist the analyst and the
74957 Legislature in reviewing the justification for selected departments, agencies, and institutions or
74958 any of their programs and activities.
74959 Section 1648. Section **63J-1-502**, which is renumbered from Section 63-38-15 is
74960 renumbered and amended to read:
74961 **[~~63-38-15~~]. 63J-1-502. Purpose of review -- Information submitted.**
74962 The purpose of an in-depth budget review is to determine whether each department,
74963 agency, institution or program warrants continuation of its current level of expenditure or at a
74964 different level, or if it should be terminated. The budget for a state department, agency,
74965 institution or program subject to an in-depth budget review shall be a detailed plan in which
74966 programs and activities within programs are organized and budgeted after analysis and
74967 evaluation are made of all proposed expenditures. In the presentation of the budget of a
74968 department, agency, institution or program subject to in-depth budget review, the governor
74969 shall include the following:
74970 (1) a statement of agency and program objectives, effectiveness measures, and program
74971 size indicators;
74972 (2) alternative funding levels for each program with effectiveness measures and
74973 program size indicators detailed for each alternative funding level. Alternative funding levels
74974 shall be determined as percentages of the appropriations level authorized by the Legislature for
74975 the current fiscal year. The percentages shall be determined for each in-depth budget review by
74976 the director of the Governor's Office of Planning and Budget in consultation with the
74977 legislative fiscal analyst;
74978 (3) a priority ranking of all programs and activities in successively increasing levels of
74979 performance and funding;
74980 (4) other budgetary information requested by the legislative fiscal analyst; and
74981 (5) a statement containing further recommendations of the governor as appropriate.
74982 Section 1649. Section **63J-1-503**, which is renumbered from Section 63-38-16 is
74983 renumbered and amended to read:
74984 **[~~63-38-16~~]. 63J-1-503. Selection of activities for review -- Coordination with**
74985 **audits.**

74986 The legislative auditor general shall consult with the Legislative Management
74987 Committee to determine the programs or activities to audit which will best assist the executive
74988 branch in preparing the in-depth budget and the Legislature in reviewing the in-depth budget
74989 for funding. The scope of the audits shall be determined by the legislative auditor general based
74990 upon need, manpower considerations and other audit priorities. It is the intent of the
74991 Legislature that the legislative fiscal analyst and the legislative auditor general coordinate the
74992 in-depth budget reviews insofar as possible with the audits performed by the legislative auditor
74993 general.
74994 Section 1650. Section **63J-2-101**, which is renumbered from Section 63-38a-101 is
74995 renumbered and amended to read:
74996 **CHAPTER 2. REVENUE PROCEDURES AND CONTROL ACT**
74997 **Part 1. General Provisions**
74998 **[~~63-38a-101~~]. 63J-2-101. Title.**
74999 This chapter [~~shall be~~] is known as the "Revenue Procedures and Control Act."
75000 Section 1651. Section **63J-2-102**, which is renumbered from Section 63-38a-102 is
75001 renumbered and amended to read:
75002 **[~~63-38a-102~~]. 63J-2-102. Definitions.**
75003 As used in this chapter:
75004 (1) (a) "Agency" means each department, commission, board, council, agency,
75005 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,
75006 unit, bureau, panel, or other administrative unit of the state.
75007 (b) "Agency" does not include the legislative branch, the board of regents, the Utah
75008 Higher Education Assistance Authority, the board of trustees of each higher education
75009 institution, each higher education institution and its associated branches, centers, divisions,
75010 institutes, foundations, hospitals, colleges, schools, or departments, a public education entity,
75011 or an independent agency.
75012 (2) (a) "Dedicated credits revenues" means revenues from collections by an agency that
75013 are deposited directly into an account for expenditure on a separate line item and program.
75014 (b) "Dedicated credits" does not mean:
75015 (i) federal revenues and the related pass through or the related state match paid by one
75016 agency to another;

75017 (ii) revenues that are not deposited in governmental funds;
75018 (iii) revenues from any contracts; and
75019 (iv) revenues received by the Attorney General's Office from billings for professional
75020 services.
75021 (3) "Fees" means revenue collected by an agency for performing a service or providing
75022 a function that the agency deposits or accounts for as dedicated credits or fixed collections.
75023 (4) (a) "Fixed collections revenues" means revenue from collections:
75024 (i) fixed by law or by the appropriation act at a specific amount; and
75025 (ii) required by law to be deposited into a separate line item and program.
75026 (b) "Fixed collections" does not mean:
75027 (i) federal revenues and the related pass through or the related state match paid by one
75028 agency to another;
75029 (ii) revenues that are not deposited in governmental funds;
75030 (iii) revenues from any contracts; and
75031 (iv) revenues received by the Attorney General's Office from billings for professional
75032 services.
75033 (5) (a) "Governmental fund" means funds used to account for the acquisition, use, and
75034 balances of expendable financial resources and related liabilities using a measurement focus
75035 that emphasizes the flow of financial resources.
75036 (b) "Governmental fund" does not include internal service funds, enterprise funds,
75037 capital projects funds, debt service funds, or trust and agency funds as established in Section
75038 51-5-4.
75039 (6) "Independent agency" means the Utah State Retirement Office, the Utah Housing
75040 Corporation, and the Workers' Compensation Fund.
75041 (7) "Program" means the function or service provided by an agency for which the
75042 agency collects fees.
75043 (8) "Revenue types" means the categories established by the Division of Finance under
75044 the authority of this chapter that classify revenue according to the purpose for which it is
75045 collected.
75046 Section 1652. Section **63J-2-201**, which is renumbered from Section 63-38a-103 is
75047 renumbered and amended to read:

75048 **Part 2. Procedures**

75049 **[~~63-38a-103~~]. 63J-2-201. Accounting for fee revenues.**

75050 (1) The Division of Finance shall:

75051 (a) establish revenue types;

75052 (b) develop a computerized master file of revenue types containing, for each revenue
75053 type:

75054 (i) the definition of each revenue type;

75055 (ii) if available, a historical record of the amount collected for the revenue type for
75056 each of the five years;

75057 (iii) the agency that collected the revenue;

75058 (iv) the program, organization, and fund into which the revenue was originally
75059 recorded each year;

75060 (v) a general description of the function where the largest portion of the revenue was
75061 spent each year;

75062 (vi) the specific legal authority that authorizes the agency to collect the revenue;

75063 (vii) the rates charged to the individuals or entities that pay the revenue;

75064 (viii) the general methodology used to determine the rate charged to individuals or
75065 entities that pay the revenue;

75066 (ix) for dedicated credits revenues and fixed collections revenues, the revenue estimate
75067 used by the agency to prepare their budget;

75068 (x) the amount appropriated as dedicated credits revenues and fixed collections
75069 revenues in the annual appropriation act; and

75070 (xi) for revenues other than dedicated credits revenues and fixed collections revenues,
75071 an estimate of the amount of revenue, if available or reasonably calculable; and

75072 (c) make the computerized file available to the Budget Office and the Office of
75073 Legislative Fiscal Analyst upon request.

75074 (2) Each agency shall provide the Division of Finance with the information required by
75075 this section.

75076 Section 1653. Section **63J-2-202**, which is renumbered from Section 63-38a-104 is
75077 renumbered and amended to read:

75078 **[~~63-38a-104~~]. 63J-2-202. Disposition of revenues.**

75079 (1) (a) Each agency shall include in its annual budget request estimates of dedicated
75080 credits revenues and fixed collections revenues that are identified by, collected for, or set by the
75081 agency.
75082 (b) If the Legislature or the Division of Finance establishes a new revenue type by law,
75083 the agency shall include that new revenue type in its budget request for the next fiscal year.
75084 (c) (i) Except as provided in Subsection (1)(c)(ii), if any agency fails to include the
75085 estimates of a revenue type in its annual budget request, the Division of Finance shall deposit
75086 the monies collected in that revenue type into the General Fund or other appropriate fund as
75087 free or restricted revenue.
75088 (ii) The Division of Finance may not deposit the monies collected from a revenue type
75089 not included in an agency's annual budget request into the General Fund or other appropriate
75090 fund if the agency did not include the estimates of the revenue type in its annual budget request
75091 because the Legislature had not yet established or authorized the new revenue type by law.
75092 (2) (a) (i) Except as provided in Subsection (2)(b), each agency that receives dedicated
75093 credits and fixed collections revenues greater than the amount appropriated to them by the
75094 Legislature in the annual appropriations act may expend the excess up to 25% of the amount
75095 appropriated if the expenditure is authorized by an amended work program approved as
75096 provided in Section [~~63-38-11~~] 63J-1-406. However, except for monies deposited as dedicated
75097 credits in the Illegal Drug Stamp Tax Fund under Section 59-19-105 or line items covering
75098 tuition and federal vocational funds at institutions of higher learning, any expenditure of
75099 dedicated credits in excess of amounts appropriated by the Legislature may not be used to
75100 permanently increase personnel within the agency unless approved by the Legislature.
75101 (ii) The Division of Finance shall deposit the balance of that excess into the General
75102 Fund or other appropriate fund as free or restricted revenue.
75103 (b) Notwithstanding the requirements of Subsection (2)(a), when an agency's dedicated
75104 credits and fixed collections revenues represent over 90% of the budget of the program for
75105 which they are collected, the agency may expend 100% of the excess of the amount
75106 appropriated if the expenditure is authorized by an amended work program approved as
75107 provided in Section [~~63-38-11~~] 63J-1-406.
75108 Section 1654. Section **63J-3-101**, which is renumbered from Section 63-38c-101 is
75109 renumbered and amended to read:

75110 **CHAPTER 3. STATE APPROPRIATIONS AND TAX LIMITATION ACT**
75111 **Part 1. General Provisions**
75112 **[~~63-38c-101~~]. 63J-3-101. Title.**
75113 This chapter is known as the "State Appropriations and Tax Limitation Act."
75114 Section 1655. Section **63J-3-102**, which is renumbered from Section 63-38c-102 is
75115 renumbered and amended to read:
75116 **[~~63-38c-102~~]. 63J-3-102. Purpose of chapter -- Limitations on state**
75117 **mandated property tax, state appropriations, and state debt.**
75118 (1) (a) It is the purpose of this chapter to:
75119 (i) place a limitation on the state mandated property tax rate under Title 53A, Chapter
75120 17a, Minimum School Program Act;
75121 (ii) place limitations on state government appropriations based upon the combined
75122 changes in population and inflation; and
75123 (iii) place a limitation on the state's outstanding general obligation debt.
75124 (b) The limitations imposed by this chapter are in addition to limitations on tax levies,
75125 rates, and revenues otherwise provided for by law.
75126 (2) (a) This chapter may not be construed as requiring the state to collect the full
75127 amount of tax revenues permitted to be appropriated by this chapter.
75128 (b) This chapter's purpose is to provide a ceiling, not a floor, limitation on the
75129 appropriations of state government.
75130 (3) The recommendations and budget analysis prepared by the Governor's Office of
75131 Planning and Budget and the Office of the Legislative Fiscal Analyst, as required by Title 36,
75132 Chapter 12, Legislative Organization, shall be in strict compliance with the limitations imposed
75133 under this chapter.
75134 Section 1656. Section **63J-3-103**, which is renumbered from Section 63-38c-103 is
75135 renumbered and amended to read:
75136 **[~~63-38c-103~~]. 63J-3-103. Definitions.**
75137 As used in this chapter:
75138 (1) (a) "Appropriations" means actual unrestricted capital and operating appropriations
75139 from unrestricted General Fund sources and from non-Uniform School Fund income tax
75140 revenues as presented in the governor's executive budgets.

75141 (b) Appropriations includes appropriations that are contingent upon available surpluses
75142 in the General Fund.
75143 (c) "Appropriations" does not mean:
75144 (i) debt service expenditures;
75145 (ii) emergency expenditures;
75146 (iii) expenditures from all other fund or subfund sources presented in the executive
75147 budgets;
75148 (iv) transfers or appropriations from the Education Fund to the Uniform School Fund;
75149 (v) transfers into, or appropriations made to, the General Fund Budget Reserve
75150 Account established in Section [~~63-38-2.5~~] 63J-1-202;
75151 (vi) transfers into, or appropriations made to, the Education Budget Reserve Account
75152 established in Section [~~63-38-2.6~~] 63J-1-203;
75153 (vii) transfers in accordance with Section [~~63-38-2.7~~] 63J-1-204 into, or appropriations
75154 made to the State Disaster Recovery Restricted Account created in Section 53-2-403;
75155 (viii) monies appropriated to fund the total one-time project costs for the construction
75156 of capital developments as defined in Section 63A-5-104;
75157 (ix) transfers or deposits into or appropriations made to the Centennial Highway Fund
75158 Restricted Account created by Section 72-2-118;
75159 (x) transfers or deposits into or appropriations made to the Transportation Investment
75160 Fund of 2005 created by Section 72-2-124; or
75161 (xi) transfers or deposits into or appropriations made to:
75162 (A) the Department of Transportation from any source; or
75163 (B) any transportation-related account or fund from any source.
75164 (2) "Base year real per capita appropriations" means the result obtained for the state by
75165 dividing the fiscal year 1985 actual appropriations of the state less debt monies by:
75166 (a) the state's July 1, 1983 population; and
75167 (b) the fiscal year 1983 inflation index divided by 100.
75168 (3) "Calendar year" means the time period beginning on January 1 of any given year
75169 and ending on December 31 of the same year.
75170 (4) "Fiscal emergency" means an extraordinary occurrence requiring immediate
75171 expenditures and includes the settlement under Chapter 4, Laws of Utah 1988, Fourth Special

75172 Session.
75173 (5) "Fiscal year" means the time period beginning on July 1 of any given year and
75174 ending on June 30 of the subsequent year.
75175 (6) "Fiscal year 1985 actual base year appropriations" means fiscal year 1985 actual
75176 capital and operations appropriations from General Fund and non-Uniform School Fund
75177 income tax revenue sources, less debt monies.
75178 (7) "Inflation index" means the change in the general price level of goods and services
75179 as measured by the Gross National Product Implicit Price Deflator of the Bureau of Economic
75180 Analysis, U.S. Department of Commerce calculated as provided in Section [~~63-38c-202~~]
75181 63J-3-202.
75182 (8) (a) "Maximum allowable appropriations limit" means the appropriations that could
75183 be, or could have been, spent in any given year under the limitations of this chapter.
75184 (b) "Maximum allowable appropriations limit" does not mean actual appropriations
75185 spent or actual expenditures.
75186 (9) "Most recent fiscal year's inflation index" means the fiscal year inflation index two
75187 fiscal years previous to the fiscal year for which the maximum allowable inflation and
75188 population appropriations limit is being computed under this chapter.
75189 (10) "Most recent fiscal year's population" means the fiscal year population two fiscal
75190 years previous to the fiscal year for which the maximum allowable inflation and population
75191 appropriations limit is being computed under this chapter.
75192 (11) "Population" means the number of residents of the state as of July 1 of each year
75193 as calculated by the Governor's Office of Planning and Budget according to the procedures and
75194 requirements of Section [~~63-38c-202~~] 63J-3-202.
75195 (12) "Revenues" means the revenues of the state from every tax, penalty, receipt, and
75196 other monetary exaction and interest connected with it that are recorded as unrestricted revenue
75197 of the General Fund and from non-Uniform School Fund income tax revenues, except as
75198 specifically exempted by this chapter.
75199 (13) "Security" means any bond, note, warrant, or other evidence of indebtedness,
75200 whether or not the bond, note, warrant, or other evidence of indebtedness is or constitutes an
75201 "indebtedness" within the meaning of any provision of the constitution or laws of this state.
75202 Section 1657. Section **63J-3-201**, which is renumbered from Section 63-38c-201 is

75203 renumbered and amended to read:

75204 **Part 2. Appropriations Limit**

75205 **[~~63-38c-201~~]. 63J-3-201. Appropriations limit -- Formula.**

75206 (1) There is established a state appropriations limit for each fiscal year beginning after
75207 June 30, 1988.

75208 (2) For each of these fiscal years, the annual legislative appropriations for this state, its
75209 agencies, departments, and institutions may not exceed that sum determined by applying the
75210 formula B* P* (I/100) in which:

75211 (a) "B" equals the base year real per capita appropriations for the state, its agencies,
75212 departments, and institutions;

75213 (b) "P" equals the most recent fiscal year's population; and

75214 (c) "I" equals the most recent fiscal year's inflation index adjusted to reflect fiscal year
75215 1989 as having an index value of 100.

75216 (3) The revenues specified in Section [~~63-38c-205~~] 63J-3-205 are not subject to the
75217 limitation in this section.

75218 Section 1658. Section **63J-3-202**, which is renumbered from Section 63-38c-202 is
75219 renumbered and amended to read:

75220 **[~~63-38c-202~~]. 63J-3-202. Computing formula elements.**

75221 (1) For purposes of calculating fiscal year inflation indexes for the previous fiscal year,
75222 the Governor's Office of Planning and Budget shall use:

75223 (a) the actual quarterly data released by the U.S. Department of Commerce as of
75224 January 31 of each year; and

75225 (b) the most recent U.S. Bureau of Census population estimates as of January 31 of
75226 each year.

75227 (2) (a) For purposes of computing the inflation index, the Governor's Office of
75228 Planning and Budget shall:

75229 (i) assign the bureau's 1982 calendar year inflation index value of 100 to fiscal year
75230 1989 for purposes of computing fiscal year index values;

75231 (ii) compute all subsequent fiscal year inflation indexes after having assigned the fiscal
75232 year 1989 inflation index a value of 100; and

75233 (iii) use the quarterly index values published by the Bureau of Economic Analysis,

75234 U.S. Department of Commerce, to compute fiscal year index values.
75235 (b) If the bureau changes its calendar base year, appropriate adjustments are to be made
75236 in this chapter to accommodate those changes.
75237 (3) (a) For purposes of computing the most recent fiscal year's population, the
75238 Governor's Office of Planning and Budget shall convert the April 1 decennial census estimate
75239 to a July 1 estimate, unless otherwise estimated by the Bureau of Census.
75240 (b) If the bureau changes the state's July 1, 1983 base year population after it conducts
75241 the 1990 Census, appropriate adjustments shall be made in this chapter to accommodate those
75242 changes.
75243 Section 1659. Section **63J-3-203**, which is renumbered from Section 63-38c-203 is
75244 renumbered and amended to read:
75245 **[~~63-38c-203~~]. 63J-3-203. Program and service adjustments to the**
75246 **limitation -- Funding level.**
75247 (1) If the state transfers partial or total responsibility of a program or service to another
75248 unit of government, the appropriations limitations shall be decreased by the amount of the
75249 transfer.
75250 (2) If the state accepts partial or total responsibility for a program or service from
75251 another unit of government, the appropriations limit shall be increased by the amount of the
75252 transfer.
75253 (3) If funding exempted under this chapter for a program or service administered by the
75254 state is reduced or eliminated and the Legislature elects to fund the program or service with tax
75255 revenue, the appropriations limitations shall be increased by the amount the Legislature elects
75256 to fund.
75257 (4) If the state transfers the funding source of a program or service from taxes to user
75258 charges or other exempted revenue sources specified in this chapter, the maximum allowable
75259 appropriations limitations shall be decreased by the amount of the transfer.
75260 (5) If the Legislature transfers the funding source of a program or service from user
75261 charges or other exempted revenue sources as specified in this chapter to tax revenues,
75262 appropriations limitations shall be increased by the amount of the transfer.
75263 (6) If the state transfers revenues from sources exempt under this chapter to funds
75264 containing revenues from nonexempt sources, the revenues transferred shall be part of and

75265 subject to the appropriations limits of this chapter.
75266 Section 1660. Section **63J-3-204**, which is renumbered from Section 63-38c-204 is
75267 renumbered and amended to read:
75268 **[~~63-38c-204~~]. 63J-3-204. Exceptions to limitation -- Fiscal emergency --**
75269 **Requirements -- Limits modified or exceeded by vote of the people.**
75270 (1) (a) The limits as provided in this chapter may be exceeded if a fiscal emergency is
75271 declared.
75272 (b) A fiscal emergency for the state shall be declared by the governor and confirmed by
75273 more than two-thirds of both houses of the Legislature.
75274 (2) (a) Funding for fiscal emergencies may not be included in the appropriations base
75275 for computing the maximum allowable appropriations in subsequent years.
75276 (b) Fiscal emergency appropriations shall remain separate from appropriations subject
75277 to limits imposed by this chapter and shall be assigned expiration dates.
75278 (3) Any limit in this chapter may be exceeded or modified by a majority vote of the
75279 people in a statewide election.
75280 Section 1661. Section **63J-3-205**, which is renumbered from Section 63-38c-205 is
75281 renumbered and amended to read:
75282 **[~~63-38c-205~~]. 63J-3-205. Monies excluded from the limitation.**
75283 Monies from the following sources are excluded from the revenues appropriated and
75284 used in determining a limitation:
75285 (1) monies received from the government of the United States including federal
75286 mineral lease payments;
75287 (2) monies received by the state from another unit of government, except the proceeds
75288 of taxes, fees, or penalties imposed by the state and collected by the other unit of government;
75289 (3) monies derived from the issuance of, or to pay interest, principal, or redemption
75290 premiums on, any security;
75291 (4) monies received from the sale of fixed assets or gains on fixed asset transfers;
75292 (5) the proceeds of contracts, grants, gifts, donations, and bequests made to the state for
75293 a purpose specified by the contractor or donor;
75294 (6) user charges derived by the state from the sale of a product or service pledged or
75295 legally available to repay any security or for which the quantity of the product or level of

75296 service provided to a user is at the discretion of the user; and
75297 (7) monies raised to meet fiscal emergencies.
75298 Section 1662. Section **63J-3-301**, which is renumbered from Section 63-38c-301 is
75299 renumbered and amended to read:
75300 **Part 3. State Auditor's Responsibilities**
75301 **[~~63-38c-301~~]. 63J-3-301. State auditor's responsibilities with respect to the**
75302 **limitation -- Correction of deficiencies.**
75303 The state auditor shall notify the state through the appropriate officer or officers of
75304 necessary corrective action if upon audit or examination of the results of an independent audit
75305 or a budget document of the state, the state auditor determines that:
75306 (1) funds have been improperly accounted or budgeted for in order to avoid the
75307 limitations imposed by this chapter;
75308 (2) funds have been improperly exempted from the limitations as provided in this
75309 chapter;
75310 (3) general government functions have been improperly financed by user or service
75311 charges; or
75312 (4) the limitations imposed by this chapter have been exceeded.
75313 Section 1663. Section **63J-3-401**, which is renumbered from Section 63-38c-401 is
75314 renumbered and amended to read:
75315 **Part 4. Property Tax Limitation**
75316 **[~~63-38c-401~~]. 63J-3-401. State mandated property tax limitation -- Vote**
75317 **requirement needed to exceed limitation.**
75318 The state mandated property tax rate in Title 53A, Chapter 17a, Minimum School
75319 Program Act, as of July 1, 1989, may not be increased without more than a two-thirds vote of
75320 both houses of the Legislature.
75321 Section 1664. Section **63J-3-402**, which is renumbered from Section 63-38c-402 is
75322 renumbered and amended to read:
75323 **[~~63-38c-402~~]. 63J-3-402. Debt limitation -- Vote requirement needed to**
75324 **exceed limitation -- Exceptions.**
75325 (1) (a) Except as provided in Subsection (1)(b), the outstanding general obligation debt
75326 of the state may not exceed 45% of the maximum allowable appropriations limit unless

75327 approved by more than a two-thirds vote of both houses of the Legislature.
75328 (b) Notwithstanding the limitation contained in Subsection (1)(a), debt issued under the
75329 authority of the following parts or sections is not subject to the debt limitation established by
75330 this section:
75331 (i) Title 63B, Chapter 6, Part 2, 1997 Highway General Obligation Bond
75332 Authorization;
75333 (ii) Title 63B, Chapter 6, Part 3, 1997 Highway Bond Anticipation Note Authorization;
75334 (iii) Title 63B, Chapter 7, Part 2, 1998 Highway General Obligation Bond
75335 Authorization;
75336 (iv) Title 63B, Chapter 7, Part 3, 1998 Highway Bond Anticipation Note
75337 Authorization;
75338 (v) Title 63B, Chapter 8, Part 2, 1999 Highway General Obligation Bond
75339 Authorization;
75340 (vi) Title 63B, Chapter 8, Part 3, 1999 Highway Bond Anticipation Note
75341 Authorization;
75342 (vii) Title 63B, Chapter 9, Part 2, 2000 Highway General Obligation Bond;
75343 (viii) Title 63B, Chapter 10, Part 1, 2001 Highway General Obligation Bond;
75344 (ix) Title 63B, Chapter 10, Part 2, 2001 Highway General Obligation Bond
75345 Anticipation Notes;
75346 (x) Title 63B, Chapter 11, Part 5, 2002 Highway General Obligation Bond for Salt
75347 Lake County;
75348 (xi) Title 63B, Chapter 11, Part 6, 2002 Highway General Obligation Bond
75349 Anticipation Notes for Salt Lake County Authorization;
75350 (xii) Section 63B-13-102;
75351 (xiii) Section 63B-16-101; and
75352 (xiv) Section 63B-16-102.
75353 (2) This section does not apply if contractual rights will be impaired.
75354 Section 1665. Section **63J-4-101**, which is renumbered from Section 63-38d-101 is
75355 renumbered and amended to read:
75356 **CHAPTER 4. GOVERNOR'S OFFICE OF PLANNING AND BUDGET**
75357 **Part 1. General Provisions**

75358 **[~~63-38d-101~~]. 63J-4-101. Title.**
75359 This chapter is known as the "Governor's Office of Planning and Budget."
75360 Section 1666. Section **63J-4-102**, which is renumbered from Section 63-38d-102 is
75361 renumbered and amended to read:
75362 **[~~63-38d-102~~]. 63J-4-102. Definitions.**
75363 As used in this chapter:
75364 (1) "Committee" means the Resource Development Coordinating Committee created
75365 by this chapter.
75366 (2) "Director" means the chief administrative officer of the Governor's Office of
75367 Planning and Budget appointed as provided in this chapter.
75368 (3) "Office" means the Governor's Office of Planning and Budget created by this
75369 chapter.
75370 (4) "Political subdivision" means a county, municipality, local district, special service
75371 district, school district, interlocal cooperation agreement entity, or any administrative subunit
75372 of them.
75373 (5) "State planning coordinator" means the person appointed as planning coordinator as
75374 provided in this chapter.
75375 Section 1667. Section **63J-4-201**, which is renumbered from Section 63-38d-201 is
75376 renumbered and amended to read:
75377 **Part 2. Creation - Appointments**
75378 **[~~63-38d-201~~]. 63J-4-201. Creation.**
75379 There is created within the governor's office the Governor's Office of Planning and
75380 Budget to be administered by a director.
75381 Section 1668. Section **63J-4-202**, which is renumbered from Section 63-38d-202 is
75382 renumbered and amended to read:
75383 **[~~63-38d-202~~]. 63J-4-202. Appointment of director, state planning**
75384 **coordinator.**
75385 (1) (a) The governor shall appoint, to serve at the governor's pleasure:
75386 (i) a director of the Governor's Office of Planning and Budget; and
75387 (ii) a state planning coordinator.
75388 (b) The state planning coordinator is considered part of the office for purposes of

75389 administration.
75390 (2) The governor shall establish the director's salary within the salary range fixed by
75391 the Legislature in Title 67, Chapter 22, State Officer Compensation.
75392 Section 1669. Section **63J-4-301**, which is renumbered from Section 63-38d-301 is
75393 renumbered and amended to read:
75394 **Part 3. Budget Duties**
75395 **[~~63-38d-301~~]. 63J-4-301. Budget duties of the director and office.**
75396 (1) The director and the office shall:
75397 (a) comply with the procedures and requirements of [~~Title 63, Chapter 38~~] Title 63J,
75398 Chapter 1, Budgetary Procedures Act;
75399 (b) under the direct supervision of the governor, assist the governor in the preparation
75400 of the governor's budget recommendations;
75401 (c) advise the governor with regard to approval or revision of agency work programs as
75402 specified in Section [~~63-38-11~~] 63J-1-406; and
75403 (d) perform other duties and responsibilities as assigned by the governor.
75404 (2) (a) The director of the Governor's Office of Planning and Budget or the director's
75405 designee is the Federal Assistance Management Officer.
75406 (b) In acting as the Federal Assistance Management Officer, the director or designee
75407 shall:
75408 (i) study the administration and effect of federal assistance programs in the state and
75409 advise the governor and the Legislature, through the Office of Legislative Fiscal Analyst and
75410 the Executive Appropriations Committee, of alternative recommended methods and procedures
75411 for the administration of these programs;
75412 (ii) assist in the coordination of federal assistance programs that involve or are
75413 administered by more than one state agency; and
75414 (iii) analyze and advise on applications for new federal assistance programs submitted
75415 to the governor for approval as required by Chapter 38e, Federal Funds Procedures.
75416 Section 1670. Section **63J-4-401**, which is renumbered from Section 63-38d-401 is
75417 renumbered and amended to read:
75418 **Part 4. Planning**
75419 **[~~63-38d-401~~]. 63J-4-401. Planning duties of the planning coordinator and**

75420 **office.**
75421 (1) The state planning coordinator shall:
75422 (a) act as the governor's adviser on state, regional, metropolitan, and local
75423 governmental planning matters relating to public improvements and land use;
75424 (b) counsel with the authorized representatives of the Department of Transportation,
75425 the State Building Board, the Department of Health, the Department of Workforce Services,
75426 the Labor Commission, the Department of Natural Resources, the School and Institutional
75427 Trust Lands Administration, and other proper persons concerning all state planning matters;
75428 (c) when designated to do so by the governor, receive funds made available to Utah by
75429 the federal government;
75430 (d) receive and review plans of the various state agencies and political subdivisions
75431 relating to public improvements and programs;
75432 (e) when conflicts occur between the plans and proposals of state agencies, prepare
75433 specific recommendations for the resolution of the conflicts and submit the recommendations
75434 to the governor for a decision resolving the conflict;
75435 (f) when conflicts occur between the plans and proposals of a state agency and a
75436 political subdivision or between two or more political subdivisions, advise these entities of the
75437 conflict and make specific recommendations for the resolution of the conflict;
75438 (g) act as the governor's planning agent in planning public improvements and land use
75439 and, in this capacity, undertake special studies and investigations;
75440 (h) provide information and cooperate with the Legislature or any of its committees in
75441 conducting planning studies;
75442 (i) cooperate and exchange information with federal agencies and local, metropolitan,
75443 or regional agencies as necessary to assist with federal, state, regional, metropolitan, and local
75444 programs; and
75445 (j) make recommendations to the governor that the planning coordinator considers
75446 advisable for the proper development and coordination of plans for state government and
75447 political subdivisions.
75448 (2) The state planning coordinator may:
75449 (a) perform regional and state planning and assist state government planning agencies
75450 in performing state planning;

75451 (b) provide planning assistance to Indian tribes regarding planning for Indian
75452 reservations; and
75453 (c) assist city, county, metropolitan, and regional planning agencies in performing
75454 local, metropolitan, and regional planning, provided that the state planning coordinator and
75455 [~~his~~] the state planning coordinator's agents and designees recognize and promote the plans,
75456 policies, programs, processes, and desired outcomes of each planning agency whenever
75457 possible.
75458 (3) When preparing or assisting in the preparation of plans, policies, programs, or
75459 processes related to the management or use of federal lands or natural resources on federal
75460 lands in Utah, the state planning coordinator shall:
75461 (a) incorporate the plans, policies, programs, processes, and desired outcomes of the
75462 counties where the federal lands or natural resources are located, to the maximum extent
75463 consistent with state and federal law, provided that this requirement shall not be interpreted to
75464 infringe upon the authority of the governor;
75465 (b) identify inconsistencies or conflicts between the plans, policies, programs,
75466 processes, and desired outcomes prepared under Subsection (3)(a) and the plans, programs,
75467 processes, and desired outcomes of local government as early in the preparation process as
75468 possible, and seek resolution of the inconsistencies through meetings or other conflict
75469 resolution mechanisms involving the necessary and immediate parties to the inconsistency or
75470 conflict;
75471 (c) present to the governor the nature and scope of any inconsistency or other conflict
75472 that is not resolved under the procedures in Subsection (3)(b) for the governor's decision about
75473 the position of the state concerning the inconsistency or conflict;
75474 (d) develop, research, and use factual information, legal analysis, and statements of
75475 desired future condition for the state, or subregion of the state, as necessary to support the
75476 plans, policies, programs, processes, and desired outcomes of the state and the counties where
75477 the federal lands or natural resources are located;
75478 (e) establish and coordinate agreements between the state and federal land management
75479 agencies, federal natural resource management agencies, and federal natural resource
75480 regulatory agencies to facilitate state and local participation in the development, revision, and
75481 implementation of land use plans, guidelines, regulations, other instructional memoranda, or

75482 similar documents proposed or promulgated for lands and natural resources administered by
75483 federal agencies; and
75484 (f) work in conjunction with political subdivisions to establish agreements with federal
75485 land management agencies, federal natural resource management agencies, and federal natural
75486 resource regulatory agencies to provide a process for state and local participation in the
75487 preparation of, or coordinated state and local response to, environmental impact analysis
75488 documents and similar documents prepared pursuant to law by state or federal agencies.
75489 (4) The state planning coordinator shall comply with the requirements of Subsection
75490 63C-4-102(7) before submitting any comments on a draft environmental impact statement or
75491 on an environmental assessment for a proposed land management plan.
75492 (5) The state planning coordinator shall cooperate with and work in conjunction with
75493 appropriate state agencies and political subdivisions to develop policies, plans, programs,
75494 processes, and desired outcomes authorized by this section by coordinating the development of
75495 positions:
75496 (a) through the Resource Development Coordinating Committee;
75497 (b) in conjunction with local government officials concerning general local government
75498 plans;
75499 (c) by soliciting public comment through the Resource Development Coordinating
75500 Committee; and
75501 (d) by working with the Public Lands Policy Coordinating Office.
75502 (6) The state planning coordinator shall recognize and promote the following principles
75503 when preparing any policies, plans, programs, processes, or desired outcomes relating to
75504 federal lands and natural resources on federal lands pursuant to this section:
75505 (a) (i) the citizens of the state are best served by applying multiple-use and
75506 sustained-yield principles in public land use planning and management; and
75507 (ii) multiple-use and sustained-yield management means that federal agencies should
75508 develop and implement management plans and make other resource-use decisions that:
75509 (A) achieve and maintain in perpetuity a high-level annual or regular periodic output of
75510 mineral and various renewable resources from public lands;
75511 (B) support valid existing transportation, mineral, and grazing privileges at the highest
75512 reasonably sustainable levels;

75513 (C) support the specific plans, programs, processes, and policies of state agencies and
75514 local governments;
75515 (D) are designed to produce and provide the desired vegetation for the watersheds,
75516 timber, food, fiber, livestock forage, and wildlife forage, and minerals that are necessary to
75517 meet present needs and future economic growth and community expansion without permanent
75518 impairment of the productivity of the land;
75519 (E) meet the recreational needs and the personal and business-related transportation
75520 needs of the citizens of the state by providing access throughout the state;
75521 (F) meet the recreational needs of the citizens of the state;
75522 (G) meet the needs of wildlife;
75523 (H) provide for the preservation of cultural resources, both historical and
75524 archaeological;
75525 (I) meet the needs of economic development;
75526 (J) meet the needs of community development; and
75527 (K) provide for the protection of water rights;
75528 (b) managing public lands for "wilderness characteristics" circumvents the statutory
75529 wilderness process and is inconsistent with the multiple-use and sustained-yield management
75530 standard that applies to all Bureau of Land Management and U.S. Forest Service lands that are
75531 not wilderness areas or wilderness study areas;
75532 (c) all waters of the state are:
75533 (i) owned exclusively by the state in trust for its citizens;
75534 (ii) are subject to appropriation for beneficial use; and
75535 (iii) are essential to the future prosperity of the state and the quality of life within the
75536 state;
75537 (d) the state has the right to develop and use its entitlement to interstate rivers;
75538 (e) all water rights desired by the federal government must be obtained through the
75539 state water appropriation system;
75540 (f) land management and resource-use decisions which affect federal lands should give
75541 priority to and support the purposes of the compact between the state and the United States
75542 related to school and institutional trust lands;
75543 (g) development of the solid, fluid, and gaseous mineral resources of the state is an

75544 important part of the economy of the state, and of local regions within the state;
75545 (h) the state should foster and support industries that take advantage of the state's
75546 outstanding opportunities for outdoor recreation;
75547 (i) wildlife constitutes an important resource and provides recreational and economic
75548 opportunities for the state's citizens;
75549 (j) proper stewardship of the land and natural resources is necessary to ensure the
75550 health of the watersheds, timber, forage, and wildlife resources to provide for a continuous
75551 supply of resources for the people of the state and the people of the local communities who
75552 depend on these resources for a sustainable economy;
75553 (k) forests, rangelands, timber, and other vegetative resources:
75554 (i) provide forage for livestock;
75555 (ii) provide forage and habitat for wildlife;
75556 (iii) provide resources for the state's timber and logging industries;
75557 (iv) contribute to the state's economic stability and growth; and
75558 (v) are important for a wide variety of recreational pursuits;
75559 (l) management programs and initiatives that improve watersheds, forests, and increase
75560 forage for the mutual benefit of wildlife species and livestock, logging, and other agricultural
75561 industries by utilizing proven techniques and tools are vital to the state's economy and the
75562 quality of life in Utah; and
75563 (m) (i) land management plans, programs, and initiatives should provide that the
75564 amount of domestic livestock forage, expressed in animal unit months, for permitted, active
75565 use as well as the wildlife forage included in that amount, be no less than the maximum
75566 number of animal unit months sustainable by range conditions in grazing allotments and
75567 districts, based on an on-the-ground and scientific analysis;
75568 (ii) the state opposes the relinquishment or retirement of grazing animal unit months in
75569 favor of conservation, wildlife, and other uses;
75570 (iii) (A) the state favors the best management practices that are jointly sponsored by
75571 cattlemen's, sportsmen's, and wildlife management groups such as chaining, logging, seeding,
75572 burning, and other direct soil and vegetation prescriptions that are demonstrated to restore
75573 forest and rangeland health, increase forage, and improve watersheds in grazing districts and
75574 allotments for the mutual benefit of domestic livestock and wildlife;

75575 (B) when practices described in Subsection (6)(m)(iii)(A) increase a grazing
75576 allotment's forage beyond the total permitted forage use that was allocated to that allotment in
75577 the last federal land use plan or allotment management plan still in existence as of January 1,
75578 2005, a reasonable and fair portion of the increase in forage beyond the previously allocated
75579 total permitted use should be allocated to wildlife as recommended by a joint, evenly balanced
75580 committee of livestock and wildlife representatives that is appointed and constituted by the
75581 governor for that purpose;
75582 (C) the state favors quickly and effectively adjusting wildlife population goals and
75583 population census numbers in response to variations in the amount of available forage caused
75584 by drought or other climatic adjustments, and state agencies responsible for managing wildlife
75585 population goals and population census numbers will give due regard to both the needs of the
75586 livestock industry and the need to prevent the decline of species to a point where listing under
75587 the terms of the Endangered Species Act when making such adjustments;
75588 (iv) the state opposes the transfer of grazing animal unit months to wildlife for
75589 supposed reasons of rangeland health;
75590 (v) reductions in domestic livestock animal unit months must be temporary and
75591 scientifically based upon rangeland conditions;
75592 (vi) policies, plans, programs, initiatives, resource management plans, and forest plans
75593 may not allow the placement of grazing animal unit months in a suspended use category unless
75594 there is a rational and scientific determination that the condition of the rangeland allotment or
75595 district in question will not sustain the animal unit months sought to be placed in suspended
75596 use;
75597 (vii) any grazing animal unit months that are placed in a suspended use category should
75598 be returned to active use when range conditions improve;
75599 (viii) policies, plans, programs, and initiatives related to vegetation management
75600 should recognize and uphold the preference for domestic grazing over alternate forage uses in
75601 established grazing districts while upholding management practices that optimize and expand
75602 forage for grazing and wildlife in conjunction with state wildlife management plans and
75603 programs in order to provide maximum available forage for all uses; and
75604 (ix) in established grazing districts, animal unit months that have been reduced due to
75605 rangeland health concerns should be restored to livestock when rangeland conditions improve,

75606 and should not be converted to wildlife use.
75607 (7) The state planning coordinator shall recognize and promote the following findings
75608 in the preparation of any policies, plans, programs, processes, or desired outcomes relating to
75609 federal lands and natural resources on federal lands under this section:
75610 (a) as a coholder of R.S. 2477 rights-of-way with the counties, the state supports its
75611 recognition by the federal government and the public use of R.S. 2477 rights-of-way and urges
75612 the federal government to fully recognize the rights-of-way and their use by the public as
75613 expeditiously as possible;
75614 (b) it is the policy of the state to use reasonable administrative and legal measures to
75615 protect and preserve valid existing rights-of-way granted by Congress under R.S. 2477, and to
75616 support and work in conjunction with counties to redress cases where R.S. 2477 rights-of-way
75617 are not recognized or are impaired; and
75618 (c) transportation and access routes to and across federal lands, including all
75619 rights-of-way vested under R.S. 2477, are vital to the state's economy and to the quality of life
75620 in the state, and must provide, at a minimum, a network of roads throughout the resource
75621 planning area that provides for:
75622 (i) movement of people, goods, and services across public lands;
75623 (ii) reasonable access to a broad range of resources and opportunities throughout the
75624 resource planning area, including:
75625 (A) livestock operations and improvements;
75626 (B) solid, fluid, and gaseous mineral operations;
75627 (C) recreational opportunities and operations, including motorized and nonmotorized
75628 recreation;
75629 (D) search and rescue needs;
75630 (E) public safety needs; and
75631 (F) access for transportation of wood products to market;
75632 (iii) access to federal lands for people with disabilities and the elderly; and
75633 (iv) access to state lands and school and institutional trust lands to accomplish the
75634 purposes of those lands.
75635 (8) The state planning coordinator shall recognize and promote the following findings
75636 in the preparation of any plans, policies, programs, processes, or desired outcomes relating to

75637 federal lands and natural resources on federal lands pursuant to this section:
75638 (a) the state's support for the addition of a river segment to the National Wild and
75639 Scenic Rivers System, 16 U.S.C. Sec. 1271 et seq., will be withheld until:
75640 (i) it is clearly demonstrated that water is present and flowing at all times;
75641 (ii) it is clearly demonstrated that the required water-related value is considered
75642 outstandingly remarkable within a region of comparison consisting of one of the three
75643 physiographic provinces in the state, and that the rationale and justification for the conclusions
75644 are disclosed;
75645 (iii) it is clearly demonstrated that the inclusion of each river segment is consistent
75646 with the plans and policies of the state and the county or counties where the river segment is
75647 located as those plans and policies are developed according to Subsection (3);
75648 (iv) the effects of the addition upon the local and state economies, agricultural and
75649 industrial operations and interests, outdoor recreation, water rights, water quality, water
75650 resource planning, and access to and across river corridors in both upstream and downstream
75651 directions from the proposed river segment have been evaluated in detail by the relevant federal
75652 agency;
75653 (v) it is clearly demonstrated that the provisions and terms of the process for review of
75654 potential additions have been applied in a consistent manner by all federal agencies;
75655 (vi) the rationale and justification for the proposed addition, including a comparison
75656 with protections offered by other management tools, is clearly analyzed within the multiple-use
75657 mandate, and the results disclosed;
75658 (vii) it is clearly demonstrated that the federal agency with management authority over
75659 the river segment, and which is proposing the segment for inclusion in the National Wild and
75660 Scenic River System will not use the actual or proposed designation as a basis to impose
75661 management standards outside of the federal land management plan;
75662 (viii) it is clearly demonstrated that the terms and conditions of the federal land and
75663 resource management plan containing a recommendation for inclusion in the National Wild
75664 and Scenic River System:
75665 (A) evaluates all eligible river segments in the resource planning area completely and
75666 fully for suitability for inclusion in the National Wild and Scenic River System;
75667 (B) does not suspend or terminate any studies for inclusion in the National Wild and

75668 Scenic River System at the eligibility phase;
75669 (C) fully disclaims any interest in water rights for the recommended segment as a result
75670 of the adoption of the plan; and
75671 (D) fully disclaims the use of the recommendation for inclusion in the National Wild
75672 and Scenic River System as a reason or rationale for an evaluation of impacts by proposals for
75673 projects upstream, downstream, or within the recommended segment;
75674 (ix) it is clearly demonstrated that the agency with management authority over the river
75675 segment commits not to use an actual or proposed designation as a basis to impose Visual
75676 Resource Management Class I or II management prescriptions that do not comply with the
75677 provisions of Subsection (8)(t); and
75678 (x) it is clearly demonstrated that including the river segment and the terms and
75679 conditions for managing the river segment as part of the National Wild and Scenic River
75680 System will not prevent, reduce, impair, or otherwise interfere with:
75681 (A) the state and its citizens' enjoyment of complete and exclusive water rights in and
75682 to the rivers of the state as determined by the laws of the state; or
75683 (B) local, state, regional, or interstate water compacts to which the state or any county
75684 is a party;
75685 (b) the conclusions of all studies related to potential additions to the National Wild and
75686 Scenic River System, 16 U.S.C. Sec. 1271 et seq., are submitted to the state for review and
75687 action by the Legislature and governor, and the results, in support of or in opposition to, are
75688 included in any planning documents or other proposals for addition and are forwarded to the
75689 United States Congress;
75690 (c) the state's support for designation of an Area of Critical Environmental Concern
75691 (ACEC), as defined in 43 U.S.C. Sec. 1702, within federal land management plans will be
75692 withheld until:
75693 (i) it is clearly demonstrated that the proposed area satisfies all the definitional
75694 requirements of the Federal Land Policy and Management Act of 1976, 43 U.S.C. Sec.
75695 1702(a);
75696 (ii) it is clearly demonstrated that the area proposed for designation as an ACEC is
75697 limited in geographic size and that the proposed management prescriptions are limited in scope
75698 to the minimum necessary to specifically protect and prevent irreparable damage to the relevant

75699 and important values identified, or limited in geographic size and management prescriptions to
75700 the minimum required to specifically protect human life or safety from natural hazards;
75701 (iii) it is clearly demonstrated that the proposed area is limited only to areas that are
75702 already developed or used or to areas where no development is required;
75703 (iv) it is clearly demonstrated that the proposed area contains relevant and important
75704 historic, cultural or scenic values, fish or wildlife resources, or natural processes which are
75705 unique or substantially significant on a regional basis, or contain natural hazards which
75706 significantly threaten human life or safety;
75707 (v) the federal agency has analyzed regional values, resources, processes, or hazards for
75708 irreparable damage and its potential causes resulting from potential actions which are
75709 consistent with the multiple-use, sustained-yield principles, and the analysis describes the
75710 rationale for any special management attention required to protect, or prevent irreparable
75711 damage to the values, resources, processes, or hazards;
75712 (vi) it is clearly demonstrated that the proposed designation is consistent with the plans
75713 and policies of the state and of the county where the proposed designation is located as those
75714 plans and policies are developed according to Subsection (3);
75715 (vii) it is clearly demonstrated that the proposed ACEC designation will not be applied
75716 redundantly over existing protections provided by other state and federal laws for federal lands
75717 or resources on federal lands, and that the federal statutory requirement for special management
75718 attention for a proposed ACEC will discuss and justify any management requirements needed
75719 in addition to those specified by the other state and federal laws;
75720 (viii) the difference between special management attention required for an ACEC and
75721 normal multiple-use management has been identified and justified, and that any determination
75722 of irreparable damage has been analyzed and justified for short and long-term horizons;
75723 (ix) it is clearly demonstrated that the proposed designation:
75724 (A) is not a substitute for a wilderness suitability recommendation;
75725 (B) is not a substitute for managing areas inventoried for wilderness characteristics
75726 after 1993 under the BLM interim management plan for valid wilderness study areas; and
75727 (C) it is not an excuse or justification to apply de facto wilderness management
75728 standards; and
75729 (x) the conclusions of all studies are submitted to the state, as a cooperating agency, for

75730 review, and the results, in support of or in opposition to, are included in all planning
75731 documents;
75732 (d) sufficient federal lands are made available for government-to-government
75733 exchanges of school and institutional trust lands and federal lands without regard for a
75734 resource-to-resource correspondence between the surface or mineral characteristics of the
75735 offered trust lands and the offered federal lands;
75736 (e) federal agencies should support government-to-government exchanges of land with
75737 the state based on a fair process of valuation which meets the fiduciary obligations of both the
75738 state and federal governments toward trust lands management, and which assures that revenue
75739 authorized by federal statute to the state from mineral or timber production, present or future, is
75740 not diminished in any manner during valuation, negotiation, or implementation processes;
75741 (f) agricultural and grazing lands should continue to produce the food and fiber needed
75742 by the citizens of the state and the nation, and the rural character and open landscape of rural
75743 Utah should be preserved through a healthy and active agricultural and grazing industry,
75744 consistent with private property rights and state fiduciary duties;
75745 (g) the resources of the forests and rangelands of the state should be integrated as part
75746 of viable, robust, and sustainable state and local economies, and available forage should be
75747 evaluated for the full complement of herbivores the rangelands can support in a sustainable
75748 manner, and forests should contain a diversity of timber species, and disease or insect
75749 infestations in forests should be controlled using logging or other best management practices;
75750 (h) the state opposes any additional evaluation of national forest service lands as
75751 "roadless" or "unroaded" beyond the forest service's second roadless area review evaluation and
75752 opposes efforts by agencies to specially manage those areas in a way that:
75753 (i) closes or declassifies existing roads unless multiple side by side roads exist running
75754 to the same destination and state and local governments consent to close or declassify the extra
75755 roads;
75756 (ii) permanently bars travel on existing roads;
75757 (iii) excludes or diminishes traditional multiple-use activities, including grazing and
75758 proper forest harvesting;
75759 (iv) interferes with the enjoyment and use of valid, existing rights, including water
75760 rights, local transportation plan rights, R.S. 2477 rights, grazing allotment rights, and mineral

75761 leasing rights; or
75762 (v) prohibits development of additional roads reasonably necessary to pursue
75763 traditional multiple-use activities;
75764 (i) the state's support for any forest plan revision or amendment will be withheld until
75765 the appropriate plan revision or plan amendment clearly demonstrates that:
75766 (i) established roads are not referred to as unclassified roads or a similar classification;
75767 (ii) lands in the vicinity of established roads are managed under the multiple-use,
75768 sustained-yield management standard; and
75769 (iii) no roadless or unroaded evaluations or inventories are recognized or upheld
75770 beyond those that were recognized or upheld in the forest service's second roadless area review
75771 evaluation;
75772 (j) the state's support for any recommendations made under the statutory requirement to
75773 examine the wilderness option during the revision of land and resource management plans by
75774 the U.S. Forest Service will be withheld until it is clearly demonstrated that:
75775 (i) the duly adopted transportation plans of the state and county or counties within the
75776 planning area are fully and completely incorporated into the baseline inventory of information
75777 from which plan provisions are derived;
75778 (ii) valid state or local roads and rights-of-way are recognized and not impaired in any
75779 way by the recommendations;
75780 (iii) the development of mineral resources by underground mining is not affected by
75781 the recommendations;
75782 (iv) the need for additional administrative or public roads necessary for the full use of
75783 the various multiple-uses, including recreation, mineral exploration and development, forest
75784 health activities, and grazing operations is not unduly affected by the recommendations;
75785 (v) analysis and full disclosure is made concerning the balance of multiple-use
75786 management in the proposed areas, and that the analysis compares the full benefit of
75787 multiple-use management to the recreational, forest health, and economic needs of the state and
75788 the counties to the benefits of the requirements of wilderness management; and
75789 (vi) the conclusions of all studies related to the requirement to examine the wilderness
75790 option are submitted to the state for review and action by the Legislature and governor, and the
75791 results, in support of or in opposition to, are included in any planning documents or other

75792 proposals that are forwarded to the United States Congress;
75793 (k) the invasion of noxious weeds and undesirable invasive plant species into the state
75794 should be reversed, their presence eliminated, and their return prevented;
75795 (l) management and resource-use decisions by federal land management and regulatory
75796 agencies concerning the vegetative resources within the state should reflect serious
75797 consideration of the proper optimization of the yield of water within the watersheds of the
75798 state;
75799 (m) (i) it is the policy of the state that:
75800 (A) mineral and energy production and environmental protection are not mutually
75801 exclusive;
75802 (B) it is technically feasible to permit appropriate access to mineral and energy
75803 resources while preserving nonmineral and nonenergy resources;
75804 (C) resource management planning should seriously consider all available mineral and
75805 energy resources;
75806 (D) the development of the solid, fluid, and gaseous mineral resources of the state and
75807 the renewable resources of the state should be encouraged;
75808 (E) the waste of fluid and gaseous minerals within developed areas should be
75809 prohibited; and
75810 (F) requirements to mitigate or reclaim mineral development projects should be based
75811 on credible evidence of significant impacts to natural or cultural resources;
75812 (ii) the state's support for mineral development provisions within federal land
75813 management plans will be withheld until the appropriate land management plan environmental
75814 impact statement clearly demonstrates:
75815 (A) that the authorized planning agency has:
75816 (I) considered and evaluated the mineral and energy potential in all areas of the
75817 planning area as if the areas were open to mineral development under standard lease
75818 agreements; and
75819 (II) evaluated any management plan prescription for its impact on the area's baseline
75820 mineral and energy potential;
75821 (B) that the development provisions do not unduly restrict access to public lands for
75822 energy exploration and development;

75823 (C) that the authorized planning agency has supported any closure of additional areas
75824 to mineral leasing and development or any increase of acres subject to no surface occupancy
75825 restrictions by adhering to:
75826 (I) the relevant provisions of the Federal Land Policy and Management Act of 1976, 43
75827 U.S.C. Sec. 1701 et seq.;
75828 (II) other controlling mineral development laws; and
75829 (III) the controlling withdrawal and reporting procedures set forth in the Federal Land
75830 Policy and Management Act of 1976, 43 U.S.C. Sec. 1701 et seq.;
75831 (D) that the authorized planning agency evaluated whether to repeal any moratorium
75832 that may exist on the issuance of additional mining patents and oil and gas leases;
75833 (E) that the authorized planning agency analyzed all proposed mineral lease
75834 stipulations and considered adopting the least restrictive necessary to protect against damage to
75835 other significant resource values;
75836 (F) that the authorized planning agency evaluated mineral lease restrictions to
75837 determine whether to waive, modify, or make exceptions to the restrictions on the basis that
75838 they are no longer necessary or effective;
75839 (G) that the authorized federal agency analyzed all areas proposed for no surface
75840 occupancy restrictions, and that the analysis evaluated:
75841 (I) whether directional drilling is economically feasible and ecologically necessary for
75842 each proposed no surface occupancy area;
75843 (II) whether the directional drilling feasibility analysis, or analysis of other
75844 management prescriptions, demonstrates that the proposed no surface occupancy prescription,
75845 in effect, sterilizes the mineral and energy resources beneath the area; and
75846 (III) whether, if the minerals are effectively sterilized, the area must be reported as
75847 withdrawn under the provisions of the Federal Land Policy and Management Act; and
75848 (H) that the authorized planning agency has evaluated all directional drilling
75849 requirements in no surface occupancy areas to determine whether directional drilling is feasible
75850 from an economic, ecological, and engineering standpoint;
75851 (n) motorized, human, and animal-powered outdoor recreation should be integrated
75852 into a fair and balanced allocation of resources within the historical and cultural framework of
75853 multiple-uses in rural Utah, and outdoor recreation should be supported as part of a balanced

75854 plan of state and local economic support and growth;
75855 (o) off-highway vehicles should be used responsibly, the management of off-highway
75856 vehicles should be uniform across all jurisdictions, and laws related to the use of off-highway
75857 vehicles should be uniformly applied across all jurisdictions;
75858 (p) (i) rights-of-way granted and vested under the provisions of R.S. 2477 should be
75859 preserved and acknowledged;
75860 (ii) land use management plans, programs, and initiatives should be consistent with
75861 both state and county transportation plans developed according to Subsection (3) in order to
75862 provide a network of roads throughout the planning area that provides for:
75863 (A) movement of people, goods, and services across public lands;
75864 (B) reasonable access to a broad range of resources and opportunities throughout the
75865 planning area, including access to livestock, water, and minerals;
75866 (C) economic and business needs;
75867 (D) public safety;
75868 (E) search and rescue;
75869 (F) access for people with disabilities and the elderly;
75870 (G) access to state lands; and
75871 (H) recreational opportunities;
75872 (q) transportation and access provisions for all other existing routes, roads, and trails
75873 across federal, state, and school trust lands within the state should be determined and
75874 identified, and agreements should be executed and implemented, as necessary to fully authorize
75875 and determine responsibility for maintenance of all routes, roads, and trails;
75876 (r) the reasonable development of new routes and trails for motorized, human, and
75877 animal-powered recreation should be implemented;
75878 (s) (i) forests, rangelands, and watersheds, in a healthy condition, are necessary and
75879 beneficial for wildlife, livestock grazing, and other multiple-uses;
75880 (ii) management programs and initiatives that are implemented to increase forage for
75881 the mutual benefit of the agricultural industry, livestock operations, and wildlife species should
75882 utilize all proven techniques and tools;
75883 (iii) the continued viability of livestock operations and the livestock industry should be
75884 supported on the federal lands within the state by management of the lands and forage

75885 resources, by the proper optimization of animal unit months for livestock, in accordance with
75886 the multiple-use provisions of the Federal Land Policy and Management Act of 1976, 43
75887 U.S.C. 1701 et seq., the provisions of the Taylor Grazing Act of 1934, 43 U.S.C. 315 et seq.,
75888 and the provisions of the Public Rangelands Improvement Act of 1978, 43 U.S.C. 1901 et seq.;
75889 (iv) provisions for predator control initiatives or programs under the direction of state
75890 and local authorities should be implemented; and
75891 (v) resource-use and management decisions by federal land management and
75892 regulatory agencies should support state-sponsored initiatives or programs designed to stabilize
75893 wildlife populations that may be experiencing a scientifically demonstrated decline in those
75894 populations; and
75895 (t) management and resource use decisions by federal land management and regulatory
75896 agencies concerning the scenic resources of the state must balance the protection of scenery
75897 with the full management requirements of the other authorized uses of the land under
75898 multiple-use management, and should carefully consider using Visual Resource Management
75899 Class I protection only for areas of inventoried Class A scenery or equivalent.
75900 (9) Nothing contained in this section may be construed to restrict or supersede the
75901 planning powers conferred upon state departments, agencies, instrumentalities, or advisory
75902 councils of the state or the planning powers conferred upon political subdivisions by any other
75903 existing law.
75904 (10) Nothing in this section may be construed to affect any lands withdrawn from the
75905 public domain for military purposes, which are administered by the United States Army, Air
75906 Force, or Navy.
75907 Section 1671. Section **63J-4-501**, which is renumbered from Section 63-38d-501 is
75908 renumbered and amended to read:
75909 **Part 5. Resource Development Coordinating Committee**
75910 **[~~63-38d-501~~]. 63J-4-501. Creation.**
75911 There is created the Resource Development Coordinating Committee within the
75912 Governor's Office of Planning and Budget to:
75913 (1) assist the state planning coordinator in fulfilling the responsibilities of reviewing
75914 and coordinating technical and policy actions that may affect the physical resources of the state;
75915 and

75916 (2) facilitate the exchange of information on those actions among state agencies and
75917 other levels of government.
75918 Section 1672. Section **63J-4-502**, which is renumbered from Section 63-38d-502 is
75919 renumbered and amended to read:
75920 **[~~63-38d-502~~]. 63J-4-502. Membership -- Terms -- Chair -- Expenses.**
75921 (1) The Resource Development Coordinating Committee shall consist of the following
75922 25 members:
75923 (a) the state science advisor;
75924 (b) a representative from the Department of Agriculture and Food appointed by the
75925 executive director;
75926 (c) a representative from the Department of Community and Culture appointed by the
75927 executive director;
75928 (d) a representative from the Department of Environmental Quality appointed by the
75929 executive director;
75930 (e) a representative from the Department of Natural Resources appointed by the
75931 executive director;
75932 (f) a representative from the Department of Transportation appointed by the executive
75933 director;
75934 (g) a representative from the Governor's Office of Economic Development appointed
75935 by the director;
75936 (h) a representative from the Division of Housing and Community Development
75937 appointed by the director;
75938 (i) a representative from the Division of State History appointed by the director;
75939 (j) a representative from the Division of Air Quality appointed by the director;
75940 (k) a representative from the Division of Drinking Water appointed by the director;
75941 (l) a representative from the Division of Environmental Response and Remediation
75942 appointed by the director;
75943 (m) a representative from the Division of Radiation appointed by the director;
75944 (n) a representative from the Division of Solid and Hazardous Waste appointed by the
75945 director;
75946 (o) a representative from the Division of Water Quality appointed by the director;

75947 (p) a representative from the Division of Oil, Gas, and Mining appointed by the
75948 director;
75949 (q) a representative from the Division of Parks and Recreation appointed by the
75950 director;
75951 (r) a representative from the Division of Forestry, Fire and State Lands appointed by
75952 the director;
75953 (s) a representative from the Utah Geological Survey appointed by the director;
75954 (t) a representative from the Division of Water Resources appointed by the director;
75955 (u) a representative from the Division of Water Rights appointed by the director;
75956 (v) a representative from the Division of Wildlife Resources appointed by the director;
75957 (w) a representative from the School and Institutional Trust Lands Administration
75958 appointed by the director;
75959 (x) a representative from the Division of Facilities Construction and Management
75960 appointed by the director; and
75961 (y) a representative from the Division of Homeland Security appointed by the director.
75962 (2) (a) As particular issues require, the committee may, by majority vote of the
75963 members present, and with the concurrence of the state planning coordinator, appoint
75964 additional temporary members to serve as ex officio voting members.
75965 (b) Those ex officio members may discuss and vote on the issue or issues for which
75966 they were appointed.
75967 (3) A chair shall be selected by a majority vote of committee members with the
75968 concurrence of the state planning coordinator.
75969 (4) (a) (i) Members who are not government employees shall receive no compensation
75970 or benefits for their services, but may receive per diem and expenses incurred in the
75971 performance of the member's official duties at the rates established by the Division of Finance
75972 under Sections 63A-3-106 and 63A-3-107.
75973 (ii) Members may decline to receive per diem and expenses for their service.
75974 (b) (i) State government officer and employee members who do not receive salary, per
75975 diem, or expenses from their agency for their service may receive per diem and expenses
75976 incurred in the performance of their official duties from the council at the rates established by
75977 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

75978 (ii) State government officer and employee members may decline to receive per diem
75979 and expenses for their service.
75980 Section 1673. Section **63J-4-503**, which is renumbered from Section 63-38d-503 is
75981 renumbered and amended to read:
75982 **[~~63-38d-503~~]. 63J-4-503. Planning coordinator responsibilities.**
75983 The state planning coordinator shall:
75984 (1) administer this part;
75985 (2) subject to the direction and approval of the governor, take necessary action for its
75986 implementation; and
75987 (3) inform political subdivision representatives, in advance, of all committee meetings.
75988 Section 1674. Section **63J-4-504**, which is renumbered from Section 63-38d-504 is
75989 renumbered and amended to read:
75990 **[~~63-38d-504~~]. 63J-4-504. Duties.**
75991 (1) The committee shall assist the state planning coordinator:
75992 (a) in the review of:
75993 (i) proposed state actions affecting physical resources;
75994 (ii) federal and federally assisted actions for which state review is provided by federal
75995 law, regulation, or policy; and
75996 (iii) proposed federal regulations and policies pertaining to natural resource issues; and
75997 (b) in the development and implementation of a procedure that will expedite the review
75998 of proposed energy and industrial facilities that require permits to be issued by more than one
75999 state agency.
76000 (2) The state planning coordinator shall review and forward the comments and
76001 recommendations of the committee to:
76002 (a) the governor;
76003 (b) the initiating state agency, in the case of a proposed state action; and
76004 (c) the Office of Legislative Research and General Counsel.
76005 Section 1675. Section **63J-4-505**, which is renumbered from Section 63-38d-505 is
76006 renumbered and amended to read:
76007 **[~~63-38d-505~~]. 63J-4-505. Powers of state agencies and local governments**
76008 **not limited.**

76009 This part does not limit powers conferred upon state departments, agencies, or
76010 instrumentalities of the state or political subdivisions by existing law.
76011 Section 1676. Section **63J-4-601**, which is renumbered from Section 63-38d-601 is
76012 renumbered and amended to read:
76013 **Part 6. Public Lands Policy Coordination**
76014 **[~~63-38d-601~~]. 63J-4-601. Definitions.**
76015 As used in this part:
76016 (1) "Coordinator" means the public lands policy coordinator appointed in this part.
76017 (2) "Council" means the Public Lands Policy Coordinating Council created by this part.
76018 (3) "Office" means the Public Lands Policy Coordinating Office created by this part.
76019 (4) "Political subdivision" means a county, municipality, local district, special service
76020 district, school district, interlocal cooperation agreement entity, or any administrative subunit
76021 of them.
76022 (5) "State planning coordinator" means the person appointed under Subsection
76023 [~~63-38d-202~~] 63J-4-202(1)(a)(ii).
76024 Section 1677. Section **63J-4-602**, which is renumbered from Section 63-38d-602 is
76025 renumbered and amended to read:
76026 **[~~63-38d-602~~]. 63J-4-602. Public Lands Policy Coordinating Office --**
76027 **Coordinator -- Appointment -- Qualifications -- Compensation.**
76028 (1) There is created within state government the Public Lands Policy Coordinating
76029 Office. The office shall be administered by a public lands policy coordinator.
76030 (2) The coordinator shall be appointed by the governor with the consent of the Senate
76031 and shall serve at the pleasure of the governor.
76032 (3) The coordinator shall have demonstrated the necessary administrative and
76033 professional ability through education and experience to efficiently and effectively manage the
76034 office's affairs.
76035 (4) The coordinator and employees of the office shall receive compensation as
76036 provided in Title 67, Chapter 19, Utah State Personnel Management Act.
76037 Section 1678. Section **63J-4-603**, which is renumbered from Section 63-38d-603 is
76038 renumbered and amended to read:
76039 **[~~63-38d-603~~]. 63J-4-603. Powers and duties of coordinator and office.**

76040 (1) The coordinator and the office shall:
76041 (a) assist the state planning coordinator in fulfilling the duties outlined in Section
76042 [~~63-38d-401~~] 63J-4-401 as those duties relate to the development of public lands policies by:
76043 (i) developing cooperative contracts and agreements between the state, political
76044 subdivisions, and agencies of the federal government for involvement in the development of
76045 public lands policies;
76046 (ii) producing research, documents, maps, studies, analysis, or other information that
76047 supports the state's participation in the development of public lands policy;
76048 (iii) preparing comments to ensure that the positions of the state and political
76049 subdivisions are considered in the development of public lands policy;
76050 (iv) partnering with state agencies and political subdivisions in an effort to:
76051 (A) prepare coordinated public lands policies;
76052 (B) develop consistency reviews and responses to public lands policies;
76053 (C) develop management plans that relate to public lands policies; and
76054 (D) develop and maintain a statewide land use plan that is based on cooperation and in
76055 conjunction with political subdivisions; and
76056 (v) providing other information or services related to public lands policies as requested
76057 by the state planning coordinator; and
76058 (b) facilitate and coordinate the exchange of information, comments, and
76059 recommendations on public lands policies between and among:
76060 (i) state agencies;
76061 (ii) political subdivisions;
76062 (iii) the Rural Development Program created under Section [~~63-38f-1602~~]
76063 63M-1-1602;
76064 (iv) the Resource Development Coordinating Committee created under Section
76065 [~~63-38d-501~~] 63J-4-501;
76066 (v) School and Institutional Trust Lands Administration created under Section
76067 53C-1-201;
76068 (vi) the committee created under Section 63F-1-508 to award grants to counties to
76069 inventory and map R.S. 2477 rights-of-way, associated structures, and other features; and
76070 (vii) the Constitutional Defense Council created under Section 63C-4-101;

76071 (c) perform the duties established in Title 9, Chapter 8, Part 3, Antiquities, and Title 9,
76072 Chapter 8, Part 4, Historic Sites; and
76073 (d) consistent with other statutory duties, encourage agencies to responsibly preserve
76074 archaeological resources.
76075 (2) In providing assistance to the state planning coordinator under Subsection (1)(a),
76076 the coordinator and office shall take into consideration the:
76077 (a) findings provided under Subsections [~~63-38d-401~~] 63J-4-401(6) and (7); and
76078 (b) recommendations of the council.
76079 Section 1679. Section **63J-4-604**, which is renumbered from Section 63-38d-604 is
76080 renumbered and amended to read:
76081 **[~~63-38d-604~~]. 63J-4-604. Public Lands Policy Coordinating Council --**
76082 **Creation -- Membership -- Funding.**
76083 (1) There is created the Public Lands Policy Coordinating Council composed of the
76084 following seven members:
76085 (a) one individual, appointed by the governor, who shall serve as chair of the council;
76086 (b) one member of the Senate appointed by the president of the Senate;
76087 (c) one member of the House of Representatives appointed by the speaker of the House
76088 of Representatives;
76089 (d) two individuals appointed by the Utah Association of Counties; and
76090 (e) the executive director of the Department of Natural Resources and the director of
76091 the School and Institutional Trust Lands Administration as ex officio, nonvoting members.
76092 (2) Members shall be appointed for four-year terms.
76093 (3) When a vacancy occurs in the membership for any reason, the replacement shall be
76094 appointed for the unexpired term in the same manner as the original appointment.
76095 (4) (a) (i) State government officer and employee members who do not receive salary,
76096 per diem, or expenses from their agency for their service may receive per diem and expenses
76097 incurred in the performance of their official duties from the council at the rates established by
76098 the Division of Finance under Sections 63A-3-106 and 63A-3-107.
76099 (ii) State government officer and employee members may decline to receive per diem
76100 and expenses for their service.
76101 (b) (i) Local government members who do not receive salary, per diem, or expenses

76102 from the entity that they represent for their service may receive per diem and expenses incurred
76103 in the performance of their official duties at the rates established by the Division of Finance
76104 under Sections 63A-3-106 and 63A-3-107.
76105 (ii) Local government members may decline to receive per diem and expenses for their
76106 service.
76107 (c) Legislators on the committee shall receive compensation and expenses as provided
76108 by law and legislative rule.
76109 (5) The council shall be funded from the Constitutional Defense Restricted Account
76110 created in Section 63C-4-103.
76111 Section 1680. Section **63J-4-605**, which is renumbered from Section 63-38d-605 is
76112 renumbered and amended to read:
76113 **[~~63-38d-605~~]. 63J-4-605. Council duties.**
76114 The council shall provide advice and recommendations on the development of public
76115 lands policies to the:
76116 (1) Public Lands Policy Coordinating office;
76117 (2) state planning coordinator; and
76118 (3) governor.
76119 Section 1681. Section **63J-5-101** is enacted to read:
76120 **CHAPTER 5. FEDERAL FUNDS PROCEDURES ACT**
76121 **Part 1. General Provisions**
76122 **63J-5-101. Title.**
76123 This chapter is known as the "Federal Funds Procedures Act."
76124 Section 1682. Section **63J-5-102**, which is renumbered from Section 63-38e-101 is
76125 renumbered and amended to read:
76126 **[~~63-38e-101~~]. 63J-5-102. Definitions.**
76127 (1) As used in this chapter:
76128 (a) (i) "Agency" means a department, division, committee, commission, council, court,
76129 or other administrative subunit of the state.
76130 (ii) "Agency" includes executive branch entities and judicial branch entities.
76131 (iii) "Agency" does not mean higher education institutions or political subdivisions.
76132 (b) (i) "Federal funds" means cash or other monies received from the United States

76133 government or from other individuals or entities for or on behalf of the United States and
76134 deposited with the state treasurer or any agency of the state.
76135 (ii) "Federal funds" includes federal assistance and federal assistance programs,
76136 however described.
76137 (iii) "Federal funds" does not include monies received from the United States
76138 government to reimburse the state for monies expended by the state.
76139 (c) "Federal funds reauthorization" means the formal submission from an agency to the
76140 federal government:
76141 (i) applying for or seeking reauthorization of federal funds; or
76142 (ii) applying for or seeking reauthorization to participate in a federal program that will
76143 result in federal funds being transferred to an agency.
76144 (d) "Federal funds request summary" means a document detailing:
76145 (i) the amount of money that is being requested or is available to be received by the
76146 state from the federal government for each federal funds reauthorization or new federal funds
76147 request;
76148 (ii) those federal funds reauthorizations and new federal funds requests that are
76149 included as part of the agency's proposed budget for the fiscal year, and the amount of those
76150 requests;
76151 (iii) the amount of new state monies, if any, that will be required to receive the federal
76152 funds or participate in the federal program;
76153 (iv) the number of additional permanent full-time employees, additional permanent
76154 part-time employees, or combination of additional permanent full-time employees and
76155 additional permanent part-time employees, if any, that the state estimates are needed in order to
76156 receive the federal funds or participate in the federal program; and
76157 (v) any requirements that the state must meet as a condition for receiving the federal
76158 funds or participating in the federal program.
76159 (e) "Federal maintenance of effort requirements" means any matching, level of effort,
76160 or earmarking requirements, as defined in Office of Management and Budget Circular A-133,
76161 Compliance Requirement G, that are imposed on an agency as a condition of receiving federal
76162 funds.
76163 (f) "New federal funds" means:

76164 (i) federal assistance or other federal funds that are available from the federal
76165 government and that the state is not currently receiving;
76166 (ii) a federal assistance program or other federal program in which the state is not
76167 currently participating;
76168 (iii) each federal funds reauthorization that would require the state, as a condition for
76169 receiving the federal funds, to:
76170 (A) add additional permanent full-time employees, permanent part-time employees, or
76171 combination of additional permanent full-time employees and permanent part-time employees;
76172 (B) increase the amount of state matching funds required to receive the federal funds or
76173 participate in the federal program; or
76174 (C) comply with new requirements in order to receive the federal funds or participate
76175 in the federal program.
76176 (g) "New federal funds request" means the formal submission from an agency to the
76177 federal government:
76178 (i) applying for or otherwise seeking to obtain new federal funds;
76179 (ii) applying for or seeking to participate in a new federal program that will result in
76180 federal funds being transferred to an agency.
76181 (h) (i) "New state monies" means monies, whether specifically appropriated by the
76182 legislature or not, that the federal government requires Utah to expend as a condition for
76183 receiving the federal funds or participating in the federal program.
76184 (ii) "New state monies" includes monies expended to meet federal maintenance of
76185 effort requirements.
76186 (i) "Pass-through federal funds" means federal funds provided to an agency that are
76187 distributed to local governments or private entities without being used by the agency.
76188 (j) "State" means the state of Utah and all of its agencies, and any administrative
76189 subunits of those agencies.
76190 (2) When this chapter describes an employee as a "permanent full-time employee" or a
76191 "permanent part-time employee," it is not intended to, and may not be construed to, affect the
76192 employee's status as an at-will employee.
76193 Section 1683. Section **63J-5-103**, which is renumbered from Section 63-38e-102 is
76194 renumbered and amended to read:

76195 **[~~63-38e-102~~]. 63J-5-103. Scope and applicability of chapter.**
76196 (1) Except as provided in Subsection (2), and except as otherwise provided by a statute
76197 superseding provisions of this chapter by explicit reference to this chapter, the provisions of
76198 this chapter apply to each agency and govern each federal funds request.
76199 (2) This chapter does not govern federal funds requests for:
76200 (a) the Medical Assistance Program, commonly known as Medicaid;
76201 (b) the Children's Health Insurance Program;
76202 (c) the Women, Infant, and Children program;
76203 (d) the Temporary Assistance to Needy Families program;
76204 (e) Social Security Act monies;
76205 (f) the Substance Abuse Prevention and Treatment program;
76206 (g) Child Care Block grants;
76207 (h) Food Stamp Administration and Training monies;
76208 (i) Unemployment Insurance Operations monies;
76209 (j) Federal Highway Administration monies;
76210 (k) the Utah National Guard; or
76211 (l) pass-through federal funds.
76212 (3) The governor need not seek legislative review or approval of federal funds received
76213 by the state when the governor has declared a state of emergency and the federal funds are
76214 received to assist disaster victims under Subsection [~~63-5a-3~~] 63K-4-201(2).
76215 Section 1684. Section **63J-5-201**, which is renumbered from Section 63-38e-201 is
76216 renumbered and amended to read:
76217 **Part 2. Federal Funds Review and Approval**
76218 **[~~63-38e-201~~]. 63J-5-201. Legislative Appropriation Subcommittees to**
76219 **review certain federal funds reauthorizations -- Executive Appropriations review --**
76220 **Legislative approval.**
76221 (1) The Governor's Office of Planning and Budget shall annually prepare and submit a
76222 federal funds request summary for each agency to the Legislative Fiscal Analyst at the same
76223 time the governor submits the confidential draft budget under Section [~~63-38-2~~] 63J-1-201.
76224 (2) (a) The Legislative Fiscal Analyst shall submit a federal funds request summary for
76225 each agency to the legislative appropriations subcommittee responsible for that agency's budget

76226 for review during each annual general session.
76227 (b) Each legislative appropriations subcommittee shall review the federal funds request
76228 summary and may:
76229 (i) recommend that the agency accept the federal funds or participate in the federal
76230 program for the fiscal year under consideration; or
76231 (ii) recommend that the agency not accept the federal funds or not participate in the
76232 federal program for the fiscal year under consideration.
76233 (3) The Legislative Executive Appropriations Committee shall:
76234 (a) review each subcommittee's recommendation;
76235 (b) determine whether or not the agency should be authorized to accept the federal
76236 funds or participate in the federal program; and
76237 (c) direct the Legislative Fiscal Analyst to include those federal funds and federal
76238 programs that the committee approves in the annual appropriations act for approval by the
76239 Legislature.
76240 Section 1685. Section **63J-5-202**, which is renumbered from Section 63-38e-202 is
76241 renumbered and amended to read:
76242 **[~~63-38e-202~~]. 63J-5-202. Governor to approve certain new federal funds**
76243 **requests.**
76244 (1) (a) Before obligating the state to accept or receive new federal funds or to
76245 participate in a new federal program, and no later than three months after submitting a new
76246 federal funds request, and, where possible, before formally submitting the new federal funds
76247 request, an executive branch agency shall submit a federal funds request summary to the
76248 governor or the governor's designee for approval or rejection when:
76249 (i) the state will receive total payments of $1,000,000 or less per year if the new federal
76250 funds request is approved;
76251 (ii) receipt of the new federal funds will require no additional permanent full-time
76252 employees, permanent part-time employees, or combination of additional permanent full-time
76253 employees and permanent part-time employees; and
76254 (iii) no new state monies will be required to match the new federal funds or to
76255 implement the new federal program for which the grant is issued.
76256 (b) The Governor's Office of Planning and Budget shall report each new federal funds

76257 request that is approved by the governor or the governor's designee and each new federal funds
76258 request granted by the federal government to:
76259 (i) the Legislature's Executive Appropriations Committee;
76260 (ii) the Office of the Legislative Fiscal Analyst; and
76261 (iii) the Office of Legislative Research and General Counsel.
76262 (2) The governor or the governor's designee shall approve or reject each new federal
76263 funds request submitted under the authority of this section.
76264 (3) (a) If the governor or the governor's designee approves the new federal funds
76265 request, the executive branch agency may accept the new federal funds or participate in the new
76266 federal program.
76267 (b) If the governor or the governor's designee rejects the new federal funds request, the
76268 executive branch agency may not accept the new federal funds or participate in the new federal
76269 program.
76270 (4) If an executive branch agency fails to obtain the governor's or the governor's
76271 designee's approval under this section, the governor may require the agency to:
76272 (a) withdraw the new federal funds request;
76273 (b) return the federal funds;
76274 (c) withdraw from the federal program; or
76275 (d) any combination of Subsections (4)(a), (4)(b), and (4)(c).
76276 Section 1686. Section **63J-5-203**, which is renumbered from Section 63-38e-203 is
76277 renumbered and amended to read:
76278 **[~~63-38e-203~~]. 63J-5-203. Judicial council to approve certain new federal**
76279 **funds requests.**
76280 (1) (a) Before obligating the state to accept or receive new federal funds or to
76281 participate in a new federal program, and no later than three months after submitting a new
76282 federal funds request, and, where possible, before formally submitting the new federal funds
76283 request, a judicial branch agency shall submit a federal funds request summary to the Judicial
76284 Council for its approval or rejection when:
76285 (i) the state will receive total payments of $1,000,000 or less per year if the new federal
76286 funds request is approved;
76287 (ii) receipt of the new federal funds will require no additional permanent full-time

76288 employees, additional permanent part-time employees, or combination of additional permanent
76289 full-time employees and permanent part-time employees; and
76290 (iii) no new state monies will be required to match the new federal funds or to
76291 implement the new federal program for which the grant is issued.
76292 (b) The Judicial Council shall report each new federal funds request that is approved by
76293 it and each new federal funds request granted by the federal government to:
76294 (i) the Legislature's Executive Appropriations Committee;
76295 (ii) the Office of the Legislative Fiscal Analyst; and
76296 (iii) the Office of Legislative Research and General Counsel.
76297 (2) The Judicial Council shall approve or reject each new federal funds request
76298 submitted to it under the authority of this section.
76299 (3) (a) If the Judicial Council approves the new federal funds request, the judicial
76300 branch agency may accept the new federal funds or participate in the new federal program.
76301 (b) If the Judicial Council rejects the new federal funds request, the judicial branch
76302 agency may not accept the new federal funds or participate in the new federal program.
76303 (4) If a judicial branch agency fails to obtain the Judicial Council's approval under this
76304 section, the Judicial Council may require the agency to:
76305 (a) withdraw the new federal funds request;
76306 (b) return the federal funds;
76307 (c) withdraw from the federal program; or
76308 (d) any combination of Subsections (4)(a), (4)(b), and (4)(c).
76309 Section 1687. Section **63J-5-204**, which is renumbered from Section 63-38e-204 is
76310 renumbered and amended to read:
76311 **[~~63-38e-204~~]. 63J-5-204. Legislative review and approval of certain new**
76312 **federal funds requests.**
76313 (1) As used in this section:
76314 (a) "High impact federal funds request" means a new federal funds request that will or
76315 could:
76316 (i) result in the state receiving total payments of $10,000,000 or more per year from the
76317 federal government;
76318 (ii) require the state to add 11 or more permanent full-time employees, 11 or more

76319 permanent part-time employees, or combination of permanent full-time and permanent
76320 part-time employees equal to 11 or more in order to receive the new federal funds or participate
76321 in the new federal program; or
76322 (iii) require the state to expend more than $1,000,000 of new state monies in a fiscal
76323 year in order to receive or administer the new federal funds or participate in the new federal
76324 program.
76325 (b) "Medium impact federal funds request" means a new federal funds request that will
76326 or could:
76327 (i) result in the state receiving total payments of more than $1,000,000 but less than
76328 $10,000,000 per year from the federal government;
76329 (ii) require the state to add more than zero but less than 11 permanent full-time
76330 employees, more than zero but less than 11 permanent part-time employees, or a combination
76331 of permanent full-time employees and permanent part-time employees equal to more than zero
76332 but less than 11 in order to receive or administer the new federal funds or participate in the new
76333 federal program; or
76334 (iii) require the state to expend $1 to $1,000,000 of new state monies in a fiscal year in
76335 order to receive or administer the new federal funds or participate in the new federal program.
76336 (2) (a) Before obligating the state to accept or receive new federal funds or to
76337 participate in a new federal program under a medium impact federal funds request, and no later
76338 than three months after submitting a medium impact federal funds request, and, where possible,
76339 before formally submitting the medium impact federal funds request, an agency shall:
76340 (i) submit the federal funds request summary to the governor or the Judicial Council, as
76341 appropriate, for approval or rejection; and
76342 (ii) if the governor or Judicial Council approves the new federal funds request, submit
76343 the federal funds request summary to the Legislative Executive Appropriations Committee for
76344 its review and recommendations.
76345 (b) The Legislative Executive Appropriations Committee shall review the federal funds
76346 request summary and may:
76347 (i) recommend that the agency accept the new federal funds;
76348 (ii) recommend that the agency not accept the new federal funds; or
76349 (iii) recommend to the governor that the governor call a special session of the

76350 Legislature to review and approve or reject the acceptance of the new federal funds.
76351 (3) (a) Before obligating the state to accept or receive new federal funds or to
76352 participate in a new federal program under a high impact federal funds request, and no later
76353 than three months after submitting a high impact federal funds request, and, where possible,
76354 before formally submitting the high impact federal funds request, an agency shall:
76355 (i) submit the federal funds request summary to the governor or Judicial Council, as
76356 appropriate, for approval or rejection; and
76357 (ii) if the governor or Judicial Council approves the new federal funds request, submit
76358 the federal funds request summary to the Legislature for its approval or rejection in an annual
76359 general session or a special session.
76360 (b) (i) If the Legislature approves the new federal funds request, the agency may accept
76361 the new federal funds or participate in the new federal program.
76362 (ii) If the Legislature fails to approve the new federal funds request, the agency may not
76363 accept the new federal funds or participate in the new federal program.
76364 (c) If an agency fails to obtain the Legislature's approval under this Subsection (3):
76365 (i) the governor or Judicial Council, as appropriate, may require the agency to
76366 withdraw the new federal funds request or refuse or return the new federal funds;
76367 (ii) the Legislature may, if federal law allows, opt out or decline to participate in the
76368 new federal program or decline to receive the new federal funds; or
76369 (iii) the Legislature may reduce the agency's General Fund appropriation in an amount
76370 less than, equal to, or greater than the amount of federal funds received by the agency.
76371 Section 1688. Section **63J-6-101** is enacted to read:
76372 **CHAPTER 6. TAX ANTICIPATION NOTES ACT**
76373 **Part 1. General Provisions**
76374 **<u>63J-6-101.</u> Title.**
76375 <u>This chapter is known as the "Tax Anticipation Notes Act."</u>
76376 Section 1689. Section **63J-6-201**, which is renumbered from Section 63-61-1 is
76377 renumbered and amended to read:
76378 **Part 2. Procedures**
76379 **[~~63-61-1~~]. <u>63J-6-201.</u> Borrowing authorized -- Limitation -- Issuance of notes**
76380 **-- Maximum term.**

76381 The state treasurer may borrow money for the state in anticipation of (a) income or
76382 revenue from taxes, whether the taxes are specific, ad valorem, excise, sales, income, franchise,
76383 or fees for the current fiscal year, or that portion of the taxes not collected or previously
76384 anticipated at the time of borrowing, and (b) other non-tax revenues of the state, in a principal
76385 sum not greater than 75% of such income or revenue which the director of the Division of
76386 Finance certifies to the state treasurer are to be reasonably anticipated to be collected during the
76387 current fiscal year. Each loan shall be evidenced by the issuance and sale of tax and revenue
76388 anticipation notes of the state, for fixed periods not to exceed 12 months or the end of the
76389 current fiscal year, whichever is sooner.
76390 Section 1690. Section **63J-6-202**, which is renumbered from Section 63-61-2 is
76391 renumbered and amended to read:
76392 **[~~63-61-2~~]. 63J-6-202. Issuance -- Financing plan required -- Contents -- Order**
76393 **setting terms of notes -- Recitations in notes -- Report of sales -- Disposition of proceeds.**
76394 (1) If the state treasurer considers it to be in the best interests of the state to issue tax
76395 and revenue anticipation notes under Section [~~63-61-1~~] 63J-6-201, the state treasurer shall
76396 issue the notes in accordance with this chapter.
76397 (2) (a) Prior to the issuance and sale of any tax or revenue anticipation note to other
76398 than a state fund or account, the state treasurer shall prepare a written plan of financing which
76399 shall be filed with the governor. The plan of financing shall provide for the terms and
76400 conditions under which the notes will be issued, sold, and delivered, the taxes or revenues to be
76401 anticipated, the maximum amount of notes which may be outstanding at any one time under the
76402 plan of financing, the sources of payment of the notes issued pursuant to the plan of financing,
76403 and all other details relating to the issuance, sale, and delivery of the notes. The sources of
76404 payment of the notes issued pursuant to the plan of financing may include the proceeds of sale
76405 of notes issued to refund outstanding tax or revenue anticipation notes and to pay accrued
76406 interest on them.
76407 (b) The plan of financing shall specify the rates of interest, if any, on the notes or a
76408 method, formula, or index pursuant to which the interest rates on the notes may be determined
76409 during the time the notes are outstanding.
76410 (c) The state treasurer may include in the plan of financing the terms and conditions of
76411 arrangements entered into by the state treasurer on behalf of the state with financial and other

76412 institutions for letters of credit, standby letters of credit, reimbursement agreements, and
76413 remarketing, indexing, and tender agent agreements to secure the tax anticipation notes,
76414 including payment from any legally available source of fees, charges, or other amounts coming
76415 due under the agreements entered into by the treasurer.
76416 (3) The interest, form, manner of execution, payment, manner of sale, prices at, above,
76417 or below face value, and all details of issuance of the notes shall be set forth in an order of the
76418 state treasurer. The order and the details set forth in the order shall conform with any
76419 applicable plan of financing and with this chapter.
76420 (4) Each note shall recite that it is a valid obligation of the state and that the faith and
76421 credit of the state are pledged for the payment of the principal of and interest on the note from
76422 the revenues of the fiscal year in which the note is issued in accordance with its terms and the
76423 constitution and laws of Utah.
76424 (5) Immediately upon the completion of any sale, the state treasurer shall make a
76425 verified return of the sale to the state auditor, specifying the amount of notes sold, the persons
76426 to whom the notes were sold, and the price, terms, and conditions of the sale. Immediately
76427 upon the sale of any notes, the state treasurer shall credit the proceeds of sale, other than
76428 accrued interest, to the General Fund.
76429 Section 1691. Section **63J-6-203**, which is renumbered from Section 63-61-3 is
76430 renumbered and amended to read:
76431 **[~~63-61-3~~]. 63J-6-203. Redemption fund -- Creation -- Sources -- Use --**
76432 **Investment -- Income.**
76433 (1) There is created a special fund to be known as the "Tax and Revenue Anticipation
76434 Note Redemption Fund," referred to in this chapter as the "redemption fund." When any notes
76435 have been issued in anticipation of income or revenue under this chapter, not less than two days
76436 before the principal and interest on the notes comes due, income or revenue realized from the
76437 tax or nontax sources specified in the approved plan of financing to be anticipated or from any
76438 other source or sources of monies legally available for such purpose shall be placed in the
76439 redemption fund so that the amount in the redemption fund is sufficient to pay the principal
76440 amount of all notes outstanding, together with interest on them.
76441 (2) The money in the redemption fund is appropriated solely for the payment of the
76442 principal of and interest on the notes issued under this chapter. The payment of the principal

76443 and interest on the notes issued under this chapter is not limited solely to the income and
76444 revenues from the specific tax or nontax sources in anticipation of which the notes were issued.
76445 Accrued interest received upon the sale of the notes shall be deposited by the state treasurer in
76446 the redemption fund.
76447 (3) The state treasurer may invest all money in the redemption fund in accordance with
76448 Title 51, Chapter 7, State Money Management Act of 1974, maturing at a time which will
76449 permit payment of the principal of and interest on the notes in a timely manner when due. The
76450 state treasurer may covenant with the purchasers of the notes as to the manner of holding
76451 money in the redemption fund, the investment of money in the redemption fund, and the
76452 disposition of any investment income therefrom by retaining investment income in the
76453 redemption fund to be used to pay principal of and interest on notes when due or by paying the
76454 investment income to the state treasurer for deposit into the General Fund. If there is sufficient
76455 money in the redemption fund to pay all principal of and interest on all outstanding notes
76456 payable therefrom, all investment income on it shall be paid to the state treasurer for deposit
76457 into the General Fund.
76458 Section 1692. Section **63J-6-204**, which is renumbered from Section 63-61-4 is
76459 renumbered and amended to read:
76460 **[~~63-61-4~~]. 63J-6-204. Expenses of notes paid from proceeds.**
76461 All expenses incident to the issuance of tax and revenue anticipation notes under this
76462 chapter shall be paid from the proceeds of sale of the notes credited to the General Fund.
76463 Section 1693. Section **63K-1-101**, which is renumbered from Section 63-5b-101 is
76464 renumbered and amended to read:
76465 **TITLE 63K. EMERGENCY MANAGEMENT**
76466 **CHAPTER 1. EMERGENCY INTERIM SUCCESSION ACT**
76467 **Part 1. General Provisions**
76468 **[~~63-5b-101~~]. 63K-1-101. Title.**
76469 (1) This title is known as "Emergency Management."
76470 (2) This chapter is known as the "Emergency Interim Succession Act."
76471 Section 1694. Section **63K-1-102**, which is renumbered from Section 63-5b-102 is
76472 renumbered and amended to read:
76473 **[~~63-5b-102~~]. 63K-1-102. Definitions.**

76474 (1) (a) "Absent" means:
76475 (i) not physically present or not able to be communicated with for 48 hours; or
76476 (ii) for local government officers, as defined by local ordinances.
76477 (b) "Absent" does not include a person who can be communicated with via telephone,
76478 radio, or telecommunications.
76479 (2) "Attack" means a nuclear, conventional, biological, or chemical warfare action
76480 against the United States of America or this state.
76481 (3) "Department" means the Department of Administrative Services, the Department of
76482 Agriculture and Food, the Alcoholic Beverage Control Commission, the Department of
76483 Commerce, the Department of Community and Culture, the Department of Corrections, the
76484 Department of Environmental Quality, the Department of Financial Institutions, the
76485 Department of Health, the Department of Human Resource Management, the Department of
76486 Workforce Services, the Labor Commission, the National Guard, the Department of Insurance,
76487 the Department of Natural Resources, the Department of Public Safety, the Public Service
76488 Commission, the Department of Human Services, the State Tax Commission, the Department
76489 of Technology Services, the Department of Transportation, any other major administrative
76490 subdivisions of state government, the State Board of Education, the State Board of Regents, the
76491 Utah Housing Corporation, the Workers' Compensation Fund, the State Retirement Board, and
76492 each institution of higher education within the system of higher education.
76493 (4) "Disaster" means a situation causing, or threatening to cause, widespread damage,
76494 social disruption, or injury or loss of life or property resulting from attack, internal disturbance,
76495 natural phenomenon, or technological hazard.
76496 (5) "Division" means the Division of Homeland Security established in Title 53,
76497 Chapter 2, Part 1, Homeland Security Act.
76498 (6) "Emergency interim successor" means a person designated by this chapter to
76499 exercise the powers and discharge the duties of an office when the person legally exercising the
76500 powers and duties of the office is unavailable.
76501 (7) "Executive director" means the person with ultimate responsibility for managing
76502 and overseeing the operations of each department, however denominated.
76503 (8) "Internal disturbance" means a riot, prison break, disruptive terrorism, or strike.
76504 (9) "Natural phenomenon" means any earthquake, tornado, storm, flood, landslide,

76505 avalanche, forest or range fire, drought, epidemic, or other catastrophic event.
76506 (10) (a) "Office" includes all state and local offices, the powers and duties of which are
76507 defined by constitution, statutes, charters, optional plans, ordinances, articles, or by-laws.
76508 (b) "Office" does not include the office of governor or the legislative or judicial offices.
76509 (11) "Place of governance" means the physical location where the powers of an office
76510 are being exercised.
76511 (12) "Political subdivision" includes counties, cities, towns, townships, districts,
76512 authorities, and other public corporations and entities whether organized and existing under
76513 charter or general law.
76514 (13) "Political subdivision officer" means a person holding an office in a political
76515 subdivision.
76516 (14) "State officer" means the attorney general, the state treasurer, the state auditor, and
76517 the executive director of each department.
76518 (15) "Technological hazard" means any hazardous materials accident, mine accident,
76519 train derailment, air crash, radiation incident, pollution, structural fire, or explosion.
76520 (16) "Unavailable" means:
76521 (a) absent from the place of governance during a disaster that seriously disrupts normal
76522 governmental operations, whether or not that absence or inability would give rise to a vacancy
76523 under existing constitutional or statutory provisions; or
76524 (b) as otherwise defined by local ordinance.
76525 Section 1695. Section **63K-1-201**, which is renumbered from Section 63-5b-201 is
76526 renumbered and amended to read:
76527 **Part 2. Executive Branch Succession**
76528 **[~~63-5b-201~~]. 63K-1-201. Emergency interim successor to office of**
76529 **governor.**
76530 (1) If the governor is unavailable, and if the lieutenant governor, president of the
76531 Senate, and the speaker of the House of Representatives are unavailable to exercise the powers
76532 and duties of the office of governor, the attorney general, state auditor, or state treasurer shall,
76533 in the order named, exercise the powers and duties of the office of governor until:
76534 (a) the governor, lieutenant governor, president of the Senate, or speaker of the House
76535 of Representatives becomes available; or

76536 (b) a new governor is elected and qualified.
76537 (2) Notwithstanding the provisions of Subsection (1), no emergency interim successor
76538 to the lieutenant governor, president of the Senate, speaker of the House of Representatives,
76539 attorney general, state auditor, or state treasurer may serve as governor.
76540 Section 1696. Section **63K-1-202**, which is renumbered from Section 63-5b-202 is
76541 renumbered and amended to read:
76542 **[~~63-5b-202~~]. 63K-1-202. Emergency interim successors for state officers.**
76543 (1) By July 1 of each year, each state officer shall:
76544 (a) designate three qualified emergency interim successors from within [~~his~~] the state
76545 officer's department who meet the constitutional qualifications for the office, if any;
76546 (b) specify their order of succession;
76547 (c) provide a list of those designated successors to the division; and
76548 (d) notify emergency interim successors within 30 days of designation.
76549 (2) (a) If any state officer is unavailable following a disaster, and if [~~his~~] the state
76550 officer's deputy, if any, is also unavailable, a designated emergency interim successor shall
76551 exercise the powers and duties of the office according to the order of succession specified by
76552 the state officer.
76553 (b) An emergency interim successor other than the attorney general, state auditor, or
76554 state treasurer shall exercise the state officer's powers and duties only until:
76555 (i) the person exercising the powers and duties of the office of governor appoints a
76556 successor to fill the vacancy;
76557 (ii) a permanent successor is appointed or elected and qualified as provided by law; or
76558 (iii) the state officer, [~~his~~] the state officer's deputy, or an emergency interim successor
76559 earlier in the order of succession becomes available to exercise or resume the exercise of the
76560 powers and duties of the office.
76561 (c) An emergency interim successor of the attorney general, state auditor, or state
76562 treasurer shall exercise the powers and duties of those offices only until:
76563 (i) a permanent successor is appointed or elected and qualified as provided by law; or
76564 (ii) the attorney general, state auditor, or state treasurer, their deputy, or an emergency
76565 interim successor earlier in the order of succession becomes available to exercise or resume the
76566 exercise of the powers and duties of the office.

76567 Section 1697. Section **63K-1-301**, which is renumbered from Section 63-5b-301 is
76568 renumbered and amended to read:
76569 **Part 3. Legislative and Judicial Branch Succession**
76570 **[~~63-5b-301~~]. 63K-1-301. Division to consult with legislative and judicial**
76571 **branch.**
76572 The Division of Homeland Security may consult with the Legislative Management
76573 Committee, the Judicial Council, and legislative and judicial staff offices to assist them in
76574 preparing emergency succession plans and procedures.
76575 Section 1698. Section **63K-1-302**, which is renumbered from Section 63-5b-302 is
76576 renumbered and amended to read:
76577 **[~~63-5b-302~~]. 63K-1-302. Place of legislative session.**
76578 (1) (a) If the governor or [~~his~~] the governor's interim successor declares a state of
76579 emergency, the governor shall call the Legislature into session as soon as practicable.
76580 (b) Each legislator shall proceed to the place of session as expeditiously as practicable.
76581 (2) If the governor or [~~his~~] the governor's interim successor declares a state of
76582 emergency or finds that a state of emergency is imminent, and the governor or the interim
76583 successor determines that the prescribed place of session is unsafe, [~~he~~] the governor may
76584 change the place of session to any place in Utah that [~~he~~] the governor considers safe and
76585 convenient.
76586 Section 1699. Section **63K-1-401**, which is renumbered from Section 63-5b-401 is
76587 renumbered and amended to read:
76588 **Part 4. Local Succession**
76589 **[~~63-5b-401~~]. 63K-1-401. Emergency interim successors for local officers.**
76590 (1) By July 1 of each year, each political subdivision officer shall:
76591 (a) designate three emergency interim successors;
76592 (b) specify their order of succession; and
76593 (c) provide a list of those designated successors to the division.
76594 (2) In the event that a political subdivision does not designate emergency interim
76595 successors as required under Subsection (1), the order of succession shall be as follows:
76596 (a) the chief executive officer of the political subdivision;
76597 (b) the chief deputy executive officer of the political subdivision;

76598 (c) the chair of the legislative body of the political subdivision; and
76599 (d) the chief law enforcement officer of the political subdivision.
76600 (3) (a) Notwithstanding any other provision of law:
76601 (i) if any political subdivision officer or [~~his~~] the political subdivision officer's legal
76602 deputy, if any, is unavailable, a designated emergency interim successor shall exercise the
76603 powers and duties of the office according to the order of succession specified by the political
76604 subdivision officer; or
76605 (ii) counties may provide by ordinance that one member of the county legislative body
76606 may act as the county legislative body if the other members are absent.
76607 (b) An emergency interim successor shall exercise the powers and duties of the office
76608 only until:
76609 (i) the vacancy is filled in accordance with the constitution or statutes; or
76610 (ii) the political subdivision officer, [~~his~~] the political subdivision officer's deputy, or
76611 an emergency interim successor earlier in the order of succession becomes available to exercise
76612 the powers and duties of the office.
76613 (4) The legislative bodies of each political subdivision may enact resolutions or
76614 ordinances consistent with this chapter and also provide for emergency interim successors to
76615 officers of the political subdivision not governed by this section.
76616 Section 1700. Section **63K-1-501**, which is renumbered from Section 63-5b-501 is
76617 renumbered and amended to read:
76618 **Part 5. Succession Process**
76619 **[~~63-5b-501~~]. 63K-1-501. Formalities of taking office.**
76620 (1) At the time that they are appointed as emergency interim successors or special
76621 emergency judges, emergency interim successors and special emergency judges shall sign
76622 prospectively whatever oath is required to enable them to exercise the powers and duties of the
76623 office to which they may succeed.
76624 (2) Notwithstanding any other provision of law, no person is required to comply with
76625 any other provision of law relative to taking office as a prerequisite to the exercise of the
76626 powers or discharge of the duties of an office to which [~~he~~] the person succeeds.
76627 Section 1701. Section **63K-1-502**, which is renumbered from Section 63-5b-502 is
76628 renumbered and amended to read:

76629 **[~~63-5b-502~~]. 63K-1-502. Period in which authority may be exercised.**
76630 (1) Persons authorized to act as governor, emergency interim successors, and special
76631 emergency judges shall exercise the powers and duties of the office to which they succeed only
76632 when a disaster has occurred.
76633 (2) (a) Emergency interim successors serve for 30 days after the date the governor or
76634 the governor's emergency successor calls the Legislature into special session, unless the
76635 unavailability of the elected official ends or an emergency interim successor earlier in the order
76636 of succession becomes available before expiration of the 30-day period.
76637 (b) Notwithstanding the provisions of Subsection (a), if the emergency interim
76638 successor is serving for a legislator who is killed or resigns, the emergency interim successor
76639 shall serve until the legislator's legal replacement is sworn in.
76640 (3) The Legislature, by concurrent resolution, may:
76641 (a) terminate the authority of any or all emergency interim successors and special
76642 emergency judges to exercise the powers and duties of their office at any time; and
76643 (b) extend the time during which any or all emergency interim successors and special
76644 emergency judges may exercise the powers and duties of their office.
76645 Section 1702. Section **63K-1-503**, which is renumbered from Section 63-5b-503 is
76646 renumbered and amended to read:
76647 **[~~63-5b-503~~]. 63K-1-503. Removal of designees.**
76648 Until the persons designated as emergency interim successors or special emergency
76649 judges succeed to the exercise of the powers and duties of an office, they shall serve as
76650 emergency interim successors or special emergency judges at the pleasure of the designating
76651 authority and may be removed and replaced by the designating authority at any time, with or
76652 without cause.
76653 Section 1703. Section **63K-1-504**, which is renumbered from Section 63-5b-504 is
76654 renumbered and amended to read:
76655 **[~~63-5b-504~~]. 63K-1-504. Disputes.**
76656 Except for factual disputes concerning the office of governor, the governor shall
76657 adjudicate any dispute concerning a question of fact arising under this chapter concerning a
76658 state officer. [~~His~~] The governor's decision is final.
76659 Section 1704. Section **63K-1-601**, which is renumbered from Section 63-5b-601 is

76660 renumbered and amended to read:

76661 **Part 6. Emergency Seat of Government**

76662 **[~~63-5b-601~~]. 63K-1-601. Governor to declare location of emergency seat**
76663 **of government.**

76664 (1) Whenever, due to an emergency resulting from the effects of a disaster, it becomes
76665 imprudent, inexpedient, or impossible to conduct the affairs of the state government in Salt
76666 Lake City, Utah, the governor shall:

76667 (a) by proclamation, declare an emergency temporary location for the seat of
76668 government in Utah; and

76669 (b) take whatever action and issue whatever orders are necessary for an orderly
76670 transition of the affairs of the state government to that emergency temporary location.

76671 (2) That emergency temporary location shall remain as the seat of government until the
76672 Legislature establishes a new location by law, or until the emergency is declared to be ended by
76673 the governor and the seat of government is returned to its normal location.

76674 (3) Local governments may provide, by ordinance, for temporary emergency locations
76675 for the seat of government.

76676 Section 1705. Section **63K-1-602**, which is renumbered from Section 63-5b-602 is
76677 renumbered and amended to read:

76678 **[~~63-5b-602~~]. 63K-1-602. Official acts at emergency seat of government --**
76679 **Validity.**

76680 During the time when the seat of government remains at an emergency location, all
76681 official acts required by law to be performed at the seat of government by any officer, agency,
76682 department, or authority of this state or local government, including the convening and meeting
76683 of the Legislature in regular, extraordinary, or emergency session, shall be as valid and binding
76684 as when performed at the normal location of the seat of government.

76685 Section 1706. Section **63K-2-101** is enacted to read:

76686 **CHAPTER 2. ENERGY EMERGENCY POWERS OF THE GOVERNOR ACT**

76687 **Part 1. General Provisions**

76688 **63K-2-101. Title.**

76689 This chapter is known as the "Energy Emergency Powers of the Governor Act."

76690 Section 1707. Section **63K-2-102**, which is renumbered from Section 63-53a-2 is

76691 renumbered and amended to read:
76692 **[~~63-53a-2~~]. 63K-2-102. Legislative findings and purpose.**
76693 (1) The Legislature finds that the lack of energy resources and other energy resource
76694 emergencies may threaten the availability of essential services and transportation and the
76695 operation of the economy, jeopardizing the peace, health, safety, and welfare of the people of
76696 this state.
76697 (2) The Legislature further finds that it is necessary to provide an orderly procedure for
76698 anticipating and responding to energy resource shortages and disruptions and to grant, under
76699 conditions prescribed in this act, emergency powers to the governor to order involuntary
76700 curtailments in the use of energy resources.
76701 (3) The Legislature further finds and declares that it is the policy of this state to assist
76702 the United States in effective management and control of such factors and situations as
76703 contribute to an emergency affecting or likely to affect this state; to cooperate with other states
76704 in matters related to an emergency affecting or likely to affect this state; to meet extraordinary
76705 conditions in this state arising out of the crisis by taking such steps as are necessary and
76706 appropriate; and generally to protect the peace, health, safety, and welfare of the people of this
76707 state.
76708 Section 1708. Section **63K-2-103**, which is renumbered from Section 63-53a-1 is
76709 renumbered and amended to read:
76710 **[~~63-53a-1~~]. 63K-2-103. "Energy resources" defined.**
76711 As used in this act, "energy resources" includes electricity, natural gas, gasoline and
76712 middle distillates, coal, wood fuels, geothermal sources, radioactive materials, and any other
76713 resource yielding energy.
76714 Section 1709. Section **63K-2-201**, which is renumbered from Section 63-53a-3 is
76715 renumbered and amended to read:
76716 **Part 2. Energy Emergency Powers**
76717 **[~~63-53a-3~~]. 63K-2-201. Information-gathering powers -- Subpoena power --**
76718 **Coordination with other regulatory authorities.**
76719 (1) On a continuing basis the governor may obtain all necessary information from
76720 energy resource producers, manufacturers, suppliers, and consumers doing business within, and
76721 from political subdivisions in, this state as necessary to determine whether shortages or an

76722 emergency will require energy resource conservation measures. This information may include,
76723 but shall not be limited to:
76724 (a) sales volumes;
76725 (b) forecasts of energy resource requirements;
76726 (c) from manufacturers, suppliers, and consumers, an inventory of energy resources;
76727 and
76728 (d) local distribution patterns of the information described in Subsections (1)(a), (1)(b),
76729 and (1)(c).
76730 (2) In obtaining information at any time from energy resource producers,
76731 manufacturers, suppliers, or consumers under Subsection (1)(c) and in obtaining any other
76732 information under Subsection (1) during a state of emergency proclaimed, the governor may
76733 subpoena witnesses, material and relevant books, papers, accounts, records, and memoranda,
76734 administer oaths, and cause the depositions of persons residing within or without the state to be
76735 taken in the manner prescribed for depositions in civil actions in district courts, to obtain
76736 information relevant to energy resources that are the subject of the proclaimed emergency.
76737 (3) In obtaining information under this section the governor shall:
76738 (a) seek to avoid eliciting information already furnished by a person or political
76739 subdivision in this state to a federal, state, or local regulatory authority that is available for [~~his~~]
76740 the governor's study; and
76741 (b) cause reporting procedures, including forms, to conform to existing requirements of
76742 federal, state, and local regulatory authorities wherever possible.
76743 Section 1710. Section **63K-2-202**, which is renumbered from Section 63-53a-4 is
76744 renumbered and amended to read:
76745 **[~~63-53a-4~~]. 63K-2-202. Confidential nature of information preserved -- Relief**
76746 **from subpoena -- Unauthorized disclosure as misdemeanor -- Removal from office.**
76747 (1) Information furnished pursuant to Section [~~63-53a-3~~] 63K-2-201 and designated by
76748 that person as confidential shall be maintained as confidential by the governor and any person
76749 who obtains information which [~~he~~] the person knows to be confidential under this act. The
76750 governor shall not make known in any manner any particulars of such information to persons
76751 other than those specified in Subsection (4). No subpoena or judicial order may be issued
76752 compelling the governor or any other person to divulge or make known such confidential

76753 information, except when relevant to a prosecution for violation of Subsection (5).
76754 (2) Nothing in this section shall prohibit the use of confidential information to prepare
76755 statistics or other general data for publication, so presented as to prevent identification of
76756 particular persons.
76757 (3) Any person who is served with a subpoena to give testimony orally or in writing, or
76758 to produce books, papers, correspondence, memoranda, agreements, or other documents or
76759 records pursuant to this act may apply to any district court of this state for protection against
76760 abuse or hardship in the manner provided by law.
76761 (4) References to the governor in this section include the governor and any other
76762 individuals designated for this purpose in writing by the governor.
76763 (5) Any person who wilfully discloses confidential information in violation of this
76764 section is guilty of a class A misdemeanor and, in addition, may be subject to removal from
76765 office or immediate dismissal from public employment.
76766 Section 1711. Section **63K-2-203**, which is renumbered from Section 63-53a-5 is
76767 renumbered and amended to read:
76768 **[~~63-53a-5~~]. 63K-2-203. Curtailment of energy use -- Standby priorities --**
76769 **Restriction on involuntary curtailment.**
76770 In consultation with appropriate federal and state officials and officials of political
76771 subdivisions in this state, the governor shall cause to be established, and revised as appropriate,
76772 standby priorities for curtailment in the use of energy resources. Involuntary curtailments,
76773 however, may be ordered only by means of executive orders issued pursuant to this act.
76774 Section 1712. Section **63K-2-204**, which is renumbered from Section 63-53a-6 is
76775 renumbered and amended to read:
76776 **[~~63-53a-6~~]. 63K-2-204. Proclamation of emergency -- Effective period --**
76777 **Extension of renewal by Legislature.**
76778 (1) (a) The governor may issue a proclamation declaring that a state of emergency
76779 exists with regard to one or more energy resources if the governor determines that an existing
76780 or imminent severe disruption or impending shortage in the supply of one or more energy
76781 resources, in this state or elsewhere:
76782 (i) threatens:
76783 (A) the availability of essential services or transportation; or

76784 (B) the operation of the economy; and
76785 (ii) because of the threats described in Subsection (1)(a)(i), jeopardizes the peace,
76786 health, safety, and welfare of the people of this state.
76787 (b) The proclamation declaring a state of emergency described in Subsection (1)(a)
76788 shall state with specificity the nature of the disruption or shortage in an energy resource.
76789 (c) (i) Within seven calendar days of the day on which the governor issues a
76790 proclamation declaring a state of emergency under this section, the Legislative Management
76791 Committee shall:
76792 (A) review the proclamation; and
76793 (B) advise the governor on the proclamation.
76794 (ii) The failure of the Legislative Management Committee to meet as required by
76795 Subsection (1)(c)(i) does not affect the validity of the proclamation declaring a state of
76796 emergency.
76797 (2) (a) A proclamation issued under this section, and any order or rule issued as a result
76798 of the proclamation shall continue in effect until 60 days from the date of the proclamation of
76799 the state of emergency unless the governor rescinds the proclamation and declares the
76800 emergency ended prior to the expiration of this 60-day period.
76801 (b) A proclamation issued within 30 days of the expiration of a prior proclamation for
76802 the same emergency shall be considered a renewal or extension subject to Subsection (3).
76803 (3) A proclamation may be renewed or extended only by joint resolution of the
76804 Legislature.
76805 Section 1713. Section **63K-2-205**, which is renumbered from Section 63-53a-7 is
76806 renumbered and amended to read:
76807 **[~~63-53a-7~~]. 63K-2-205. Curtailment, adjustment and allocation of energy use by**
76808 **executive orders -- Limitations and considerations in issuance and application.**
76809 (1) Upon issuance of a proclamation pursuant to Section [~~63-53a-6~~] 63K-2-204, the
76810 governor in addition may by executive order:
76811 (a) require reduction in energy resource usage and the application of conservation,
76812 prevention of waste, and the salvaging of energy resources and the materials, services, and
76813 facilities derived therefrom or dependent thereon, by state agencies and political subdivisions
76814 in this state;

76815 (b) direct the establishment by state agencies and political subdivisions in this state of
76816 programs necessary to implement and comply with federal energy conservation programs
76817 where these programs have not theretofore been so established, including, but not limited to,
76818 allocation or rationing of energy resources and the distribution of the state's discretionary
76819 allotments;
76820 (c) require involuntary curtailments, adjustments, or allocations in the supply and
76821 consumption of energy resources applicable to all suppliers and consumers including, but not
76822 limited to, specification of the times and manner in which these resources are supplied or
76823 consumed; or
76824 (d) prescribe and direct activities promoting the conservation, prevention of waste, and
76825 salvage of energy resources and the materials, services, and facilities derived therefrom or
76826 dependent thereon, including, but not limited to, the modification of transportation routes and
76827 schedules, or the suspension of weight limits or other restrictions from the transportation of
76828 energy resources, to the extent permissible under federal law and regulations.
76829 (2) Any restrictions, curtailments, adjustments, or allocations pursuant to Subsection
76830 (1) shall:
76831 (a) be ordered and continue only so long as demonstrably necessary for the
76832 maintenance of essential services or transportation, or the continued operation of the economy
76833 but no longer than the duration of the proclamation;
76834 (b) be applied as uniformly as practicable within each class of suppliers and consumers
76835 and without discrimination within a class; and
76836 (c) give due consideration to the needs of commercial, retail, professional, and service
76837 establishments whose normal function is to supply goods or services or both of an essential
76838 nature, including, but not limited to, food, lodging, fuel, or medical care facilities during times
76839 of the day other than conventional daytime working hours.
76840 Section 1714. Section **63K-2-206**, which is renumbered from Section 63-53a-10 is
76841 renumbered and amended to read:
76842 **[~~63-53a-10~~]. 63K-2-206. Other emergency powers of governor unaffected.**
76843 The powers vested in the governor under this act shall be in addition to, and not in lieu
76844 of, any other emergency powers otherwise constitutionally or statutorily vested in the governor.
76845 Section 1715. Section **63K-2-301**, which is renumbered from Section 63-53a-8 is

76846 renumbered and amended to read:

76847 **Part 3. Implementation and Orders**

76848 **[~~63-53a-8~~]. 63K-2-301. Existing agencies to be used in implementation.**

76849 The governor shall use, to the extent practicable, existing state boards, commissions, or
76850 agencies or officers or employees for the purpose of carrying out the provisions of this act.

76851 Section 1716. Section **63K-2-302**, which is renumbered from Section 63-53a-9 is
76852 renumbered and amended to read:

76853 **[~~63-53a-9~~]. 63K-2-302. Enforcement of orders and rules.**

76854 The governor may apply to any district court for appropriate equitable relief against any
76855 person violating or failing to carry out the provisions of this act or any order or rule issued
76856 pursuant to this act.

76857 Section 1717. Section **63K-2-303**, which is renumbered from Section 63-53a-11 is
76858 renumbered and amended to read:

76859 **[~~63-53a-11~~]. 63K-2-303. Rules and regulations -- Approval by**
76860 **Legislature.**

76861 The board, commission, or agency designated by the governor for carrying out the
76862 provisions of this act is authorized to promulgate such rules and regulations as are necessary
76863 for effective administration of this act with approval of the Legislature.

76864 Section 1718. Section **63K-3-101** is enacted to read:

76865 **CHAPTER 3. EMERGENCY MANAGEMENT ACT**

76866 **Part 1. General Provisions**

76867 **63K-3-101. Title.**

76868 This chapter is known as the "Emergency Management Act."

76869 Section 1719. Section **63K-3-102**, which is renumbered from Section 63-5-2 is
76870 renumbered and amended to read:

76871 **[~~63-5-2~~]. 63K-3-102. Definitions.**

76872 As used in this chapter:

76873 (1) "Disaster" means a situation causing, or threatening to cause, widespread damage,
76874 social disruption, or injury or loss of life or property resulting from attack, internal disturbance,
76875 natural phenomena or technological hazard.

76876 (2) "Attack" means a nuclear, conventional, biological, or chemical warfare action

76877 against the United States of America or this state.
76878 (3) "Internal disturbance" means a riot, prison break, disruptive terrorism or strike.
76879 (4) "Natural phenomena" means any earthquake, tornado, storm, flood, landslide,
76880 avalanche, forest or range fire, drought, or epidemic.
76881 (5) "Technological hazard" means any hazardous materials accident, mine accident,
76882 train derailment, air crash, radiation incident, pollution, structural fire or explosion.
76883 Section 1720. Section **63K-3-201**, which is renumbered from Section 63-5-4 is
76884 renumbered and amended to read:
76885 **Part 2. Advisory Counsel**
76886 **[~~63-5-4~~]. 63K-3-201. Disaster Emergency Advisory Council created --**
76887 **Function -- Composition -- Expenses.**
76888 (1) A Disaster Emergency Advisory Council is created to provide advice to the
76889 governor on matters relating to state government emergency disaster response and recovery
76890 actions and activities.
76891 (2) The council shall meet at the call of the governor.
76892 (3) The Disaster Emergency Advisory Council comprises the:
76893 (a) lieutenant governor;
76894 (b) attorney general;
76895 (c) president of the Senate;
76896 (d) speaker of the House of Representatives;
76897 (e) heads of the following state agencies:
76898 (i) Public Safety;
76899 (ii) Division of Homeland Security;
76900 (iii) Building Board; and
76901 (iv) Governor's Office of Planning and Budget;
76902 (f) executive directors of the following departments:
76903 (i) Transportation;
76904 (ii) Human Services;
76905 (iii) Health;
76906 (iv) Environmental Quality;
76907 (v) Community and Economic Development; and

76908 (vi) Natural Resources;
76909 (g) representative of the National Guard appointed by the governor with the consent of
76910 the Senate;
76911 (h) commissioner of agriculture and food;
76912 (i) state planning coordinator; and
76913 (j) representatives from two statewide, nongovernmental service organizations
76914 appointed by the governor with the consent of the Senate.
76915 (4) The commissioner of Public Safety shall serve as the chair of the council.
76916 (5) (a) (i) State government officer and employee members who do not receive salary,
76917 per diem, or expenses from their agency for their service may receive per diem and expenses
76918 incurred in the performance of their official duties from the council at the rates established by
76919 the Division of Finance under Sections 63A-3-106 and 63A-3-107.
76920 (ii) State government officer and employee members may decline to receive per diem
76921 and expenses for their service.
76922 (b) Legislators on the committee shall receive compensation and expenses as provided
76923 by law and legislative rule.
76924 Section 1721. Section **63K-3-301**, which is renumbered from Section 63-5-5 is
76925 renumbered and amended to read:
76926 **Part 3. Hazardous Chemical Emergency Response Commission**
76927 **[~~63-5-5~~]. 63K-3-301. Hazardous Chemical Emergency Response Commission**
76928 **-- Allocation of responsibilities -- Local planning committees -- Specified federal law**
76929 **considered law of state -- Application to federal agencies and facilities.**
76930 (1) (a) The commissioner of the Department of Public Safety and the executive director
76931 of the Department of Environmental Quality, or their respective designees, are designated as
76932 the state's Hazardous Chemical Emergency Response Commission for purposes of carrying out
76933 all requirements of the federal Emergency Planning and Community Right To Know Act of
76934 1986.
76935 (b) (i) State government officer and employee members who do not receive salary, per
76936 diem, or expenses from their agency for their service may receive per diem and expenses
76937 incurred in the performance of their official duties from the commission at the rates established
76938 by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

76939 (ii) State government officer and employee members may decline to receive per diem
76940 and expenses for their service.
76941 (2) The Department of Public Safety has primary responsibility for all emergency
76942 planning activities under the federal Emergency Planning and Community Right To Know Act
76943 of 1986, and shall prepare policy and procedure and make rules necessary for implementation
76944 of that act in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
76945 Administrative Rulemaking Act.
76946 (3) The Department of Environmental Quality has primary responsibility for receiving,
76947 processing, and managing hazardous chemical information and notifications under the federal
76948 Emergency Planning and Community Right To Know Act of 1986, including preparation of
76949 policy and procedure, and promulgation of rules necessary for implementation of that act.
76950 Funding for this program must be from the appropriation acts.
76951 (4) The Department of Public Safety and the Department of Environmental Quality
76952 shall enter into an interagency agreement providing for exchange of information and
76953 coordination of their respective duties and responsibilities under this section.
76954 (5) (a) The Hazardous Chemical Emergency Response Commission shall appoint a
76955 local planning committee for each local planning district that it establishes, as required by the
76956 federal Emergency Planning and Community Right To Know Act of 1986, and to the extent
76957 possible, shall use an existing local governmental organization as the local planning committee.
76958 (b) (i) Local government members who do not receive salary, per diem, or expenses
76959 from the entity that they represent for their service may receive per diem and expenses incurred
76960 in the performance of their official duties at the rates established by the Division of Finance
76961 under Sections 63A-3-106 and 63A-3-107.
76962 (ii) Local government members may decline to receive per diem and expenses for their
76963 service.
76964 (6) Requirements of the federal Emergency Planning and Community Right To Know
76965 Act of 1986 pertaining to notification and submission of information are the law of this state,
76966 and apply equally to federal agencies, departments, installations, and facilities located in this
76967 state, as well as to other facilities that are subject to that act.
76968 Section 1722. Section **63K-4-101** is enacted to read:
76969 **CHAPTER 4. DISASTER RESPONSE AND RECOVERY ACT**

76970 **Part 1. General Provisions**
76971 **63K-4-101. Title.**
76972 This chapter is known as the "Disaster Response and Recovery Act."
76973 Section 1723. Section **63K-4-102**, which is renumbered from Section 63-5a-1 is
76974 renumbered and amended to read:
76975 **[~~63-5a-1~~]. 63K-4-102. Legislative findings -- Purpose -- Short title.**
76976 (1) The legislature finds that existing and increasing threats of the occurrence of
76977 destructive disasters resulting from attack, internal disturbance, natural phenomenon or
76978 technological hazard could greatly affect the health, safety and welfare of the people of this
76979 state, and it is therefore necessary to grant to the governor of this state and its political
76980 subdivisions special emergency disaster authority.
76981 (2) It is the purpose of this act to assist the governor of this state and its political
76982 subdivisions to effectively provide emergency disaster response and recovery assistance in
76983 order to protect the lives and property of the people. This act shall be known and cited as the
76984 "Disaster Response and Recovery Act."
76985 Section 1724. Section **63K-4-103**, which is renumbered from Section 63-5a-2 is
76986 renumbered and amended to read:
76987 **[~~63-5a-2~~]. 63K-4-103. Definitions.**
76988 (1) "Attack" means a nuclear, conventional, biological, or chemical warfare action
76989 against the United States of America or this state.
76990 (2) "Chief executive officer" means:
76991 (a) for a municipality:
76992 (i) the mayor for a municipality operating under all forms of municipal government
76993 except the council-manager form of government; or
76994 (ii) the city manager for a municipality operating under the council-manager form of
76995 government; or
76996 (b) for a county:
76997 (i) the chair of the county commission for a county operating under the county
76998 commission or expanded county commission form of government;
76999 (ii) the county executive officer for a county operating under the county-executive
77000 council form of government; or

77001 (iii) the county manager for a county operating under the council-manager form of
77002 government.
77003 (3) "Disaster" means a situation causing, or threatening to cause, widespread damage,
77004 social disruption, or injury or loss of life or property resulting from attack, internal disturbance,
77005 natural phenomenon or technological hazard.
77006 (4) "Internal disturbance" means a riot, prison break, disruptive terrorism or strike.
77007 (5) "Local emergency" means a condition in any political subdivision of the state which
77008 requires that emergency assistance be provided by the affected political subdivision to save
77009 lives and protect property within its jurisdiction in response to a disaster, or to avoid or reduce
77010 the threat of a disaster.
77011 (6) "Natural phenomenon" means any earthquake, tornado, storm, flood, landslide,
77012 avalanche, forest or range fire, drought, or epidemic.
77013 (7) "Political subdivision" means municipality or county.
77014 (8) "State of emergency" means a condition in any part of this state which requires state
77015 government emergency assistance to supplement the local efforts of the affected political
77016 subdivision to save lives and to protect property, public health, welfare, and safety in the event
77017 of a disaster or to avoid or reduce the threat of a disaster.
77018 (9) "Technological hazard" means any hazardous materials accident, mine accident,
77019 train derailment, truck wreck, air crash, radiation incident, pollution, structural fire or
77020 explosion.
77021 Section 1725. Section **63K-4-201**, which is renumbered from Section 63-5a-3 is
77022 renumbered and amended to read:
77023 **Part 2. States of Emergency**
77024 **[~~63-5a-3~~]. 63K-4-201. Authority of governor -- Federal assistance -- Fraud in**
77025 **application for financial assistance -- Penalty.**
77026 (1) In addition to any other authorities conferred upon the governor, the governor
77027 during the declared state of emergency is authorized and empowered to:
77028 (a) utilize all available resources of state government as reasonably necessary to cope
77029 with a "state of emergency";
77030 (b) employ measures and give direction to state and local officers and agencies which
77031 are reasonable and necessary for the purpose of securing compliance with the provisions of this

77032 act and with orders, rules and regulations made pursuant to this act;
77033 (c) recommend and advise the evacuation of all or part of the population from any
77034 stricken or threatened area within the state if necessary for the preservation of life;
77035 (d) recommend routes, modes of transportation, and destination in connection with
77036 evacuation;
77037 (e) in connection with evacuation suspend or limit the sale, dispensing, or
77038 transportation of alcoholic beverages, explosives, and combustibles, not to include the lawful
77039 bearing of arms;
77040 (f) control ingress and egress to and from a disaster area, the movement of persons
77041 within the area, and recommend the occupancy or evacuation of premises in a disaster area;
77042 (g) clear or remove from publicly or privately owned land or water through the use of
77043 state departments or agencies, debris or wreckage which may threaten public health, public
77044 safety, or private property as hereinafter provided:
77045 (i) whenever the governor provides for clearance of debris or wreckage pursuant to this
77046 subsection, employees of the designated state agencies are authorized to enter upon private land
77047 or waters and perform any tasks necessary for the removal or clearance operation;
77048 (ii) authority under this subsection shall not be exercised unless the affected political
77049 subdivision, corporation, organization or individual shall first present an unconditional
77050 authorization for removal of such debris or wreckage from private property and agree to
77051 indemnify the state government against any claim arising from such removal;
77052 (h) recommend to the legislature additional action [~~he~~] the governor deems necessary
77053 to carry out the provisions of this act.
77054 (2) When the governor has proclaimed a "state of emergency" under this act and when
77055 the president of the United States, at the request of the governor, has declared an "emergency"
77056 or a "major disaster" to exist in this state, the governor is authorized:
77057 (a) to enter into agreement with any agency of the United States for temporary housing
77058 units to be occupied by disaster victims and to make such units available to any political
77059 subdivision of this state;
77060 (b) to assist any political subdivision of this state to acquire sites and utilities necessary
77061 for such temporary housing by passing through any funds made available to the governor by an
77062 agency of the United States for this purpose;

77063 (c) to temporarily suspend or modify by proclamation, during the period of the
77064 emergency, any public health, safety, zoning, transportation or other requirement of the law or
77065 regulation within this state if such action is essential to provide temporary housing for disaster
77066 victims;
77067 (d) upon determination that a political subdivision of the state will suffer a substantial
77068 loss of tax and other revenues because of a disaster and the political subdivision so affected has
77069 demonstrated a need for financial assistance to perform its governmental functions, in
77070 accordance with the provisions of the Utah Constitution, Article XIV, Sections 3 and 4, and
77071 Section 10-8-6, to apply to the federal government for a loan on behalf of the political
77072 subdivision, and to receive and disburse the proceeds to the applicant political subdivision. No
77073 application amount shall exceed 25% of the annual operating budget of the applicant political
77074 subdivision for the fiscal year in which the disaster occurs;
77075 (e) to accept funds from the federal government and make grants to any political
77076 subdivision for the purpose of removing debris or wreckage from publicly owned land or
77077 water;
77078 (f) upon determination that financial assistance is essential to meet disaster related
77079 expenses of individuals or families adversely affected by a disaster which cannot be sufficiently
77080 met from other means of assistance, to apply for, accept and expend a grant by the federal
77081 government to fund such financial assistance, subject to the terms and conditions imposed
77082 upon the grant.
77083 (3) Any person who fraudulently or willfully makes a misstatement of fact in
77084 connection with an application for financial assistance under this section shall, upon conviction
77085 of each offense, be subject to a fine of not more than $5,000 or imprisonment for not more than
77086 one year, or both.
77087 Section 1726. Section **63K-4-202**, which is renumbered from Section 63-5a-4 is
77088 renumbered and amended to read:
77089 **[~~63-5a-4~~]. <u>63K-4-202.</u> Authority of chief executive officers of political**
77090 **subdivisions -- Ordering of evacuations.**
77091 (1) (a) In order to protect life and property when a state of emergency or local
77092 emergency has been declared, the chief executive officer of each political subdivision of the
77093 state is authorized to:

77094 (i) carry out, in the chief executive officer's jurisdiction, the measures as may be
77095 ordered by the governor under this chapter; and
77096 (ii) take any additional measures the chief executive officer may consider necessary,
77097 subject to the limitations and provisions of this chapter.
77098 (b) The chief executive officer may not take an action that is inconsistent with any
77099 order, rule, regulation, or action of the governor.
77100 (2) When a state of emergency or local emergency is declared, the authority of the chief
77101 executive officer includes:
77102 (a) utilizing all available resources of the political subdivision as reasonably necessary
77103 to manage a state of emergency or local emergency;
77104 (b) employing measures and giving direction to local officers and agencies which are
77105 reasonable and necessary for the purpose of securing compliance with the provisions of this
77106 chapter and with orders, rules, and regulations made under this chapter;
77107 (c) if necessary for the preservation of life, issuing an order for the evacuation of all or
77108 part of the population from any stricken or threatened area within the political subdivision;
77109 (d) recommending routes, modes of transportation, and destinations in relation to an
77110 evacuation;
77111 (e) suspending or limiting the sale, dispensing, or transportation of alcoholic beverages,
77112 explosives, and combustibles in relation to an evacuation, except that the chief executive
77113 officer may not restrict the lawful bearing of arms;
77114 (f) controlling ingress and egress to and from a disaster area, controlling the movement
77115 of persons within a disaster area, and ordering the occupancy or evacuation of premises in a
77116 disaster area;
77117 (g) clearing or removing debris or wreckage that may threaten public health, public
77118 safety, or private property from publicly or privately owned land or waters, except that where
77119 there is no immediate threat to public health or safety, the chief executive officer shall not
77120 exercise this authority in relation to privately owned land or waters unless:
77121 (i) the owner authorizes the employees of designated local agencies to enter upon the
77122 private land or waters to perform any tasks necessary for the removal or clearance; and
77123 (ii) the owner provides an unconditional authorization for removal of the debris or
77124 wreckage and agrees to indemnify the local and state government against any claim arising

77125 from the removal; and
77126 (h) invoking the provisions of any mutual aid agreement entered into by the political
77127 subdivision.
77128 (3) (a) If the chief executive is unavailable to issue an order for evacuation under
77129 Subsection (2)(c), the chief law enforcement officer having jurisdiction for the area may issue
77130 an urgent order for evacuation, for a period not to exceed 36 hours, if the order is necessary for
77131 the preservation of life.
77132 (b) The chief executive officer may ratify, modify, or revoke the chief law enforcement
77133 officer's order.
77134 (4) Notice of an order or the ratification, modification, or revocation of an order issued
77135 under this section shall be:
77136 (a) given to the persons within the jurisdiction by the most effective and reasonable
77137 means available; and
77138 (b) filed in accordance with Subsection [~~63-5a-7~~] 63K-4-401(1).
77139 Section 1727. Section **63K-4-203**, which is renumbered from Section 63-5a-5 is
77140 renumbered and amended to read:
77141 **[~~63-5a-5~~]. 63K-4-203. State of emergency -- Declaration -- Termination --**
77142 **Commander-in-chief of military forces.**
77143 (1) A "state of emergency" may be declared by proclamation of the governor after a
77144 proclamation of local emergency as provided under Section [~~63-5a-6~~] 63K-4-301 if the
77145 governor finds a disaster has occurred or the occurrence or threat of a disaster is imminent in
77146 any area of the state in which state government assistance is required to supplement the
77147 response and recovery efforts of the affected political subdivision or political subdivisions. The
77148 "state of emergency" shall continue until the governor finds the threat or danger has passed or
77149 the disaster reduced to the extent that emergency conditions no longer exist. No "state of
77150 emergency" may continue for longer than 30 days unless extended by joint resolution of the
77151 Legislature, which may also terminate a "state of emergency" by joint resolution at any time.
77152 The governor shall issue an executive order or proclamation ending the "state of emergency" on
77153 receipt of the Legislature's resolution. All executive orders or proclamations issued under this
77154 subsection shall state:
77155 (a) the nature of the "state of emergency";

77156 (b) the area or areas threatened;
77157 (c) the conditions creating such an emergency or those conditions allowing termination
77158 of the "state of emergency."
77159 (2) During the continuance of any "state of emergency" the governor is
77160 commander-in-chief of the military forces of the state in accordance with the provisions of
77161 Article VII, Section 4, of the Constitution of Utah, and Title 39, Chapter 1.
77162 Section 1728. Section **63K-4-301**, which is renumbered from Section 63-5a-6 is
77163 renumbered and amended to read:
77164 **Part 3. Local Emergencies**
77165 **[~~63-5a-6~~]. 63K-4-301. Local emergency -- Declarations.**
77166 (1) (a) A local emergency may be declared by proclamation of the chief executive
77167 officer of a political subdivision.
77168 (b) A local emergency shall not be continued or renewed for a period in excess of 30
77169 days except by or with the consent of the governing body of the political subdivision.
77170 (c) Any order or proclamation declaring, continuing, or terminating a local emergency
77171 shall be filed promptly with the office of the clerk of the affected political subdivision.
77172 (2) A declaration of a local emergency:
77173 (a) constitutes an official recognition that a disaster situation exists within the affected
77174 political subdivision;
77175 (b) provides a legal basis for requesting and obtaining state or federal government
77176 disaster assistance;
77177 (c) activates the response and recovery aspects of any and all applicable local disaster
77178 emergency plans; and
77179 (d) authorizes the furnishing of aid and assistance in relation to the proclamation.
77180 (3) A local emergency proclamation issued under this section shall state:
77181 (a) the nature of the local emergency;
77182 (b) the area or areas that are affected or threatened; and
77183 (c) the conditions which caused the emergency.
77184 Section 1729. Section **63K-4-401**, which is renumbered from Section 63-5a-7 is
77185 renumbered and amended to read:
77186 **Part 4. Powers and Orders**

77187 **[~~63-5a-7~~]. 63K-4-401. Orders, rules, and regulations having force of law --**
77188 **Filing requirements -- Suspension of state agency rules.**
77189 (1) All orders, rules, and regulations promulgated by the governor, a political
77190 subdivision, or other agency authorized by this act to make orders, rules, and regulations, not in
77191 conflict with existing laws except as specifically provided herein, shall have the full force and
77192 effect of law during the state of emergency, when a copy of the order, rule, or regulation is filed
77193 with:
77194 (a) the Division of Administrative Rules, if issued by the governor or a state agency; or
77195 (b) the office of the clerk of the political subdivision, if issued by the chief executive
77196 officer of a political subdivision of the state or agency of the state.
77197 (2) The governor may suspend the provisions of any order, rule, or regulation of any
77198 state agency, if the strict compliance with the provisions of the order, rule, or regulation would
77199 substantially prevent, hinder, or delay necessary action in coping with the emergency or
77200 disaster.
77201 Section 1730. Section **63K-4-402**, which is renumbered from Section 63-5a-8 is
77202 renumbered and amended to read:
77203 **[~~63-5a-8~~]. 63K-4-402. Acquisition of property for public use -- Compensation**
77204 **of owners.**
77205 (1) (a) Upon proclamation of a state of emergency, the governor may purchase or lease
77206 public or private property for public use including:
77207 (i) food and medical supplies;
77208 (ii) clothing;
77209 (iii) shelter;
77210 (iv) means of transportation;
77211 (v) fuels;
77212 (vi) oils; or
77213 (vii) buildings or lands.
77214 (b) The governor may not purchase private home storage nor privately owned arms.
77215 (2) (a) The governor may use property purchased under authority of this section for any
77216 purpose to meet the needs of an emergency, including its use to relieve want, distress, and
77217 disease.

77218 (b) Any property used by the governor to meet the needs of an emergency is a public
77219 use.
77220 (3) (a) The governor shall compensate the owner of property taken or used under
77221 authority of this section by complying with the procedures established in Title 78, Chapter 34,
77222 Eminent Domain.
77223 (b) The governor shall pay for those purchases or leases from the funds available to the
77224 Division of Homeland Security under:
77225 (i) this chapter; or
77226 (ii) Title 53, Chapter 2, Part 4, Disaster Recovery Funding Act, to the extent provided
77227 for in that chapter.
77228 (4) Nothing in this section applies to or authorizes compensation for the destruction or
77229 damage of standing timber or other property in order to provide a fire break or to the release of
77230 waters or the breach of impoundments in order to reduce pressure or other danger from actual
77231 or threatened flood.
77232 Section 1731. Section **63K-4-403**, which is renumbered from Section 63-5a-9 is
77233 renumbered and amended to read:
77234 **[~~63-5a-9~~]. 63K-4-403. Interstate agreements authorized -- Termination --**
77235 **Mutual-aid compacts between subdivisions.**
77236 (1) The governor is authorized to execute an interstate agreement or compact on behalf
77237 of this state with any other state or states only consistent with the powers herein granted
77238 concerning matters relating to a disaster affecting or likely to affect this state.
77239 (2) The agreement or compact shall continue in force and remain binding on each party
77240 state until the Legislature or the governor of such party state takes action to withdraw
77241 therefrom. Such action shall not be effective until 30 days after notice thereof has been sent by
77242 the governor of such party state desiring to withdraw to the governors of all other party states.
77243 (3) Political subdivisions are authorized to enter into mutual-aid compacts with other
77244 political subdivisions within the state of Utah concerning matters involving cooperative
77245 disaster response and recovery assistance support, consistent with this act.
77246 Section 1732. Section **63K-4-404**, which is renumbered from Section 63-5a-11 is
77247 renumbered and amended to read:
77248 **[~~63-5a-11~~]. 63K-4-404. Authority additional to other emergency authority.**

77249 The special disaster emergency authority vested in the governor and political
77250 subdivisions of the state pursuant to this act shall be in addition to, and not in lieu of, any other
77251 emergency authority otherwise constitutionally or statutorily vested in the governor and
77252 political subdivisions of the state.
77253 Section 1733. Section **63L-1-101** is enacted to read:
77254 **TITLE 63L. LANDS**
77255 **CHAPTER 1. FEDERAL JURISDICTION**
77256 **Part 1. General Provisions**
77257 **63L-1-101. Title.**
77258 (1) This title is known as "Lands."
77259 (2) This chapter is known as "Federal Jurisdiction."
77260 Section 1734. Section **63L-1-201**, which is renumbered from Section 63-8-1 is
77261 renumbered and amended to read:
77262 **Part 2. Federal and State Jurisdiction**
77263 **[~~63-8-1~~]. 63L-1-201. Jurisdiction over land acquired by United States --**
77264 **Reservations by state -- Duration of jurisdiction.**
77265 Jurisdiction is hereby ceded to the United States in, to and over any and all lands or
77266 territory within this state which have heretofore been acquired by the United States by
77267 purchase, condemnation or otherwise for military or naval purposes and for forts, magazines,
77268 arsenals, dockyards and other needful buildings of every kind whenever authorized by Act of
77269 Congress, and in, to and over any and all lands or territory within this state now held by the
77270 United States under lease, use permit, or reserved from the public domain for any of the
77271 purposes aforesaid; this state, however, reserving the right to execute its process, both criminal
77272 and civil, within such territory. The jurisdiction so ceded shall continue so long as the United
77273 States shall own, hold or reserve land for any of the aforesaid purposes, or in connection
77274 therewith, and no longer.
77275 Section 1735. Section **63L-1-202**, which is renumbered from Section 63-8-2 is
77276 renumbered and amended to read:
77277 **[~~63-8-2~~]. 63L-1-202. Governor to execute conveyances.**
77278 The governor is hereby authorized and empowered to execute all proper conveyances in
77279 the cession herein granted, upon request of the United States or the proper officers thereof,

77280 whenever any land shall have been acquired, leased, used, or reserved from the public domain
77281 for such purposes.
77282 Section 1736. Section **63L-1-203**, which is renumbered from Section 63-8-3 is
77283 renumbered and amended to read:
77284 **[~~63-8-3~~]. 63L-1-203. Jurisdiction over certain military reservations ceded --**
77285 **Reservation.**
77286 Jurisdiction is ceded to the United States in and over all lands comprised within the
77287 limits of the military reservations of Fort Douglas and Fort Duchesne in this state, to continue
77288 so long as the United States shall hold and own the same for military purposes or in connection
77289 therewith, and no longer; reserving, however, to this state the right to serve all civil process and
77290 such criminal process as may lawfully issue under the authority of this state against persons
77291 charged with crimes against the laws of this state committed within or without said
77292 reservations.
77293 Section 1737. Section **63L-1-204**, which is renumbered from Section 63-8-4 is
77294 renumbered and amended to read:
77295 **[~~63-8-4~~]. 63L-1-204. Concurrent jurisdiction with United States -- Taxation**
77296 **of businesses on federal lands.**
77297 (1) The state of Utah retains concurrent jurisdiction, both civil and criminal, with the
77298 United States over all lands affected by this act.
77299 (2) The state and all of its political subdivisions also reserve the right to impose taxes
77300 on individuals, partnerships, corporations, associations, and all other business entities doing
77301 business on the lands affected by this chapter in respect to such business or on any property of
77302 these entities situated on these lands.
77303 Section 1738. Section **63L-1-205**, which is renumbered from Section 63-8-5 is
77304 renumbered and amended to read:
77305 **[~~63-8-5~~]. 63L-1-205. Concurrent jurisdiction over certain minor violations at**
77306 **Dugway Proving Ground.**
77307 The state of Utah hereby cedes to the United States, retaining also the same to itself,
77308 concurrent jurisdiction over class B and C misdemeanors and traffic violations no more serious
77309 than a class B misdemeanor within the following described boundaries in the Counties of
77310 Tooele and Juab, State of Utah, in the Salt Lake Meridian:

77311 BEGINNING at the NE corner of Section 1, T8S, R9W;
77312 1. Thence, South along the Range line between R8W and R9W, 9 miles and 2.57
77313 chains to the SE corner of Section 13, T9S, R9W;
77314 2. Thence, West, along the South line of Sections 13, 14, 15 and 16, T9S, R9W, 4
77315 miles to the NE corner of Section 20, T9S, R9W;
77316 3. Thence, South, along the East line of said Section 20 to the SE corner of said
77317 Section 20;
77318 4. Thence, Southwesterly in a straight line to the Southwest corner of Section 31,
77319 T10S, R10W;
77320 5. Thence, continuing Southwesterly along said line to a point in Section 1, T11S,
77321 R11W, said point bears 0.7 mile along said Southwesterly line from the SW corner of said
77322 Section 31;
77323 6. Thence, Northwesterly, in a straight line from said point, to the SW corner of
77324 Section 34, T9S, R11W;
77325 7. Thence, North along the West line of said Section 34 to the NW corner of said
77326 Section 34;
77327 8. Thence, West along the South line of Sections 28 and 29, T9S, R11W, to the SE
77328 corner of Section 30, T9S, R11W;
77329 9. Thence, Northwest in a straight line to the NE corner of Section 23, T9S, R12W;
77330 10. Thence, West along the North line of Sections 23, 22, and projected Sections 21,
77331 20 and 19 to the Range line between R12W and R13W;
77332 11. Thence, South along said Range line to the South line of T10S;
77333 12. Thence, West along last said Township line to the Range line common to R16W
77334 and R17W;
77335 13. Thence, North along last said Range line to the West quarter corner of Section 6,
77336 T10S, R16W;
77337 14. Thence, East along the East-West centerline of said Section 6 to the North-South
77338 centerline of said Section 6;
77339 15. Thence, North along said North-South centerline to the North quarter corner of said
77340 Section 6;
77341 16. Thence, East along the North line of said Section 6 to the NE corner of said Section

77342 6;
77343 17. Thence, North along the East line of Section 31, T9S, R16W, to the NE corner of
77344 the SE 1/4 SE 1/4 of said Section 31;
77345 18. Thence, West along the North line of the S 1/2 S 1/2 of last said Section 31, T9S,
77346 R16W, to the West line of said Section 31;
77347 19. Thence, North along said West line to the East-West line of last said Section 31;
77348 20. Thence, East along said East-West line to the SE corner of the SW 1/4 NW 1/4 of
77349 last said Section 31;
77350 21. Thence, North along the East line of said SW 1/4 NW 1/4 to the NE corner of SW
77351 1/4 NW 1/4 of last said Section 31;
77352 22. Thence, West along the North line of said SW 1/4 NW 1/4 to the NW corner of
77353 said SW 1/4 NW 1/4 of last said Section 31, said corner also being on the Range line common
77354 to R16W and R17W;
77355 23. Thence, North along last said Range line to the NW corner of Section 6, T6S,
77356 R16W;
77357 24. Thence, East along the North line of T6S to the NE corner of Section 1, T6S,
77358 R13W;
77359 25. Thence, North along the West line of R13W to the NW corner of Section 6, T6S,
77360 R12W;
77361 26. Thence, East along the North line of T6S to the NE corner of Section 1, T6S,
77362 R12W;
77363 27. Thence, North along the Range line between R11W and R12W, 5 miles and 37.68
77364 chains to the closing corner of T5S, R11W and T5S, R12W, said corner bears East 10.97
77365 chains from the standard corner of T4S, R11W and T4S, R12W;
77366 28. Thence, East along the Township line common to T4S and T5S, 6 miles and 74.49
77367 chains to the divide crest of the Cedar Mountain Range;
77368 29. Thence, Southeasterly, along or near the crest of the Cedar Mountain Range
77369 through T5S, R10W, T6S, R10W, and T6S, R9W, the following courses:
77370 30. Thence, S 1° 29' W, 69.63 chains;
77371 31. Thence, S 4° 18' E, 94.83 chains;
77372 32. Thence, S 5° 21' E, 87.44 chains;

77373 33. Thence, S 63° 27' E, 26.60 chains;
77374 34. Thence, S 17° 15' E, 70.51 chains;
77375 35. Thence, S 55° 37' E, 132.09 chains;
77376 36. Thence, S 56° 22' E, 108.71 chains;
77377 37. Thence, S 24° 31' E, 20.92 chains; to a point which bears West, 125.29 chains from
77378 the SW corner of T5S, R9W;
77379 38. Thence, S 28° 06' E, 70.05 chains;
77380 39. Thence, S 69° 15' E, 26.73 chains;
77381 40. Thence, S 41° 32' E, 55.35 chains;
77382 41. Thence, N 89° 19' E, 30.79 chains;
77383 42. Thence, S 25° 40' E, 36.19 chains;
77384 43. Thence, N 66° 24' E, 56.38 chains;
77385 44. Thence, S 63° 17' E, 76.05 chains;
77386 45. Thence, S 38° 48' E, 29.84 chains;
77387 46. Thence, S 82° 20' E, 71.44 chains;
77388 47. Thence, S 35° 07' E, 32.82 chains;
77389 48. Thence, S 36° 24' W, 18.77 chains;
77390 49. Thence, S 01° 41' W, 61.73 chains;
77391 50. Thence, N 65° 19' E, 25.68 chains;
77392 51. Thence, S 52° 59' E, 41.19 chains;
77393 52. Thence, N 85° 57' E, 44.22 chains;
77394 53. Thence, S 58° 52' E, 69.09 chains;
77395 54. Thence, S 82° 14' E, 46.21 chains;
77396 55. Thence, S 26° 06' E, 74.82 chains;
77397 56. Thence, S 88° 42' E, 14.59 chains to a point on the Range line common to R8W
77398 and R9W, said point bears South 12.78 chains from the NW corner of Section 31, T6S, R8W;
77399 57. Thence, leaving the Cedar Mountain Crest, South along said Range line common to
77400 R8W and R9W, 68.85 chains to the SW corner of T6S, R8W;
77401 58. Thence, East along the Township line between Ts. 6 and 7 S., 4 miles, 9.5 chains,
77402 to the closing corner of Sections 2 and 3, T7S, R8W;
77403 59. Thence, South, along Section line, 3 miles, 73.37 chains, to the corner of Sections

77404 22, 23, 26 and 27, T7S, R8W;
77405 60. Thence, West, along Section lines, 4 miles 0.45 chains, to the closing corner of
77406 Sections 19 and 30, on the West boundary of T7S, R8W;
77407 61. Thence, South, along the Range lines between Rs. 8 and 9 W, 1 mile 37.14 chains
77408 to the Northeast corner of T8S, R9W, and the POINT OF BEGINNING.
77409 TOGETHER with all that land in Section 36, T10S, R11W lying Southwesterly of the
77410 line described in Course No. 6 of this description.
77411 EXCEPTING THEREFROM: NW 1/4 of Section 9, T8S, R13W; and the NE 1/4 SW
77412 1/4 of Section 30, T10S, R16W.
77413 The operative provisions of this section also apply to the property within the following
77414 described boundaries:
77415 Township 6 South, Range 4 West, Salt Lake Meridian, Section 4, S 1/2; Section 5, Lots
77416 3 and 4, S 1/2 NW 1/4 and S 1/2; Sections 6 to 9, inclusive; Section 15, W 1/2; Sections 16 to
77417 21, inclusive; Section 22, W 1/2; Section 27, W 1/2; Sections 28 to 30.
77418 Township 6 South, Range 5 West, Salt Lake Meridian, Sections 1 to 3, inclusive;
77419 Sections 11 to 14, inclusive; Sections 23 to 26, inclusive; those portions of Sections 4, 9, 10,
77420 15, 22, and 27 lying East of the Union Pacific Railroad Right-of-Way, and situated within the
77421 boundary of the Deseret Chemical Depot (formerly St. John Ordnance Depot) County of
77422 Tooele, State of Utah, which lands were withdrawn from all forms of appropriation under the
77423 public land laws, including the mining and mineral leasing laws and reserved for use by the
77424 Department of Army (formerly War Department) as an Ordnance Storage Depot by the Public
77425 Land Order No. 15 dated July 21, 1942, and Public Land Order No. 66 dated November 30,
77426 1942; and which are within the Rush Valley Unit of the Bonneville Grazing District No. 2,
77427 Utah.
77428 Section 1739. Section **63L-1-206**, which is renumbered from Section 63-8-6 is
77429 renumbered and amended to read:
77430 **[~~63-8-6~~]. 63L-1-206. Concurrent jurisdiction.**
77431 The state of Utah hereby accepts from the United States concurrent jurisdiction, both
77432 civil and criminal, with the United States over the following described boundaries in the county
77433 of Weber, state of Utah, in the Salt Lake Meridian:
77434 (1) As described more particularly in Subsection (2), a part of Section 7 in Township 6

77435 North, Range 1 West and a part of Section 12 in Township 6 North, Range 2 West.
77436 (2) Beginning at a point South 0 degrees 46 minutes 27 seconds West 1540.37 feet and
77437 North 89 degrees 03 minutes 15 seconds West 258.80 feet and North 3 degrees 57 minutes 30
77438 seconds West 10,877.85 feet and North 86 degrees 11 minutes 50 seconds East 80.74 feet and
77439 North 3 degrees 52 minutes 20 seconds West 655.22 feet from the Northeast corner of the
77440 Northwest Quarter of Section 19 in said Township 6 North, Range 1 West; said point also
77441 being North 89 degrees 03 minutes 15 seconds West 253.25 feet and North 3 degrees 57
77442 minutes 30 seconds West 10,945.10 feet and North 86 degrees 11 minutes 50 seconds East
77443 80.74 feet and North 3 degrees 52 minutes 20 seconds West 655.22 feet from the Ogden City
77444 survey monument at the intersection of the monument line of 12th Street and the East line of
77445 the Northwest Quarter of said Section 19; said point also being North 86 degrees 11 minutes 50
77446 seconds East and North 3 degrees 52 minutes 20 seconds West 655.22 from the Southwest
77447 corner of the Ogden City property (parcel 11-023-0029):
77448 (a) thence South 86 degrees 03 minutes 22 seconds West 2398.03 feet more or less
77449 along an existing fenceline separating properties used by Defense Depot Ogden and the U. S.
77450 Army Reserve to a point on the East line of 1200 West Street;
77451 (b) thence North 1 degree 16 minutes 15 seconds East 66.27 feet along said East line of
77452 1200 West Street;
77453 (c) thence North 86 degrees 03 minutes 22 seconds East 2392.09 feet more or less to a
77454 point on the West line of the Weber-Ogden Fairgrounds Complex; and
77455 (d) thence South 3 degrees 52 minutes 20 seconds East 66.00 feet along said West line
77456 of the Weber-Ogden Fairgrounds Complex to the point of beginning.
77457 Section 1740. Section **63L-1-207**, which is renumbered from Section 63-8-7 is
77458 renumbered and amended to read:
77459 **[~~63-8-7~~]. 63L-1-207. Concurrent jurisdiction -- Utah Test and Training**
77460 **Range.**
77461 The state of Utah cedes to the United States, retaining also the same to itself, concurrent
77462 jurisdiction within the following described boundaries in the county of Tooele, state of Utah, in
77463 the Salt Lake Base and Meridian, to continue so long as the United States owns, holds, or
77464 reserves the land for military purposes or in connection with military purposes, and no longer:
77465 (1) Township 2 North, Range 15 West, all of:

77466 (a) Section 16;
77467 (b) Section 32;
77468 (c) Section 36; and
77469 (d) Section 2, Lots 1-4, S 1/2 N 1/2, S 1/2;
77470 (2) Township 2 South, Range 14 West, all of:
77471 (a) Section 32; and
77472 (b) Section 36;
77473 (3) Township 2 South, Range 15 West, all of:
77474 (a) Section 36; and
77475 (b) Section 32, W 1/2;
77476 (4) Township 3 South, Range 15 West, all of:
77477 (a) Section 16;
77478 (b) Section 32;
77479 (c) Section 36; and
77480 (d) Section 2, Lots 1-4, S 1/2 N 1/2, S 1/2;
77481 (5) Township 2 South, Range 16 West, all of:
77482 (a) Section 32; and
77483 (b) Section 36;
77484 (6) Township 2 South, Range 17 West, all of:
77485 (a) Section 32; and
77486 (b) Section 36;
77487 (7) Township 2 South, Range 18 West, all of Section 36;
77488 (8) Township 3 South, Range 18 West, all of:
77489 (a) Section 16;
77490 (b) Section 32;
77491 (c) Section 36; and
77492 (d) Section 2, Lots 1-4, S 1/2 N 1/2, S 1/2;
77493 (9) Township 3 South, Range 19 West, all of:
77494 (a) Section 16;
77495 (b) Section 32;
77496 (c) Section 36; and

77497 (d) Section 2, Lots 1-4, S 1/2 N 1/2, S 1/2; and
77498 (10) Township 4 South, Range 19 West, all of:
77499 (a) Section 16;
77500 (b) Section 32;
77501 (c) Section 36; and
77502 (d) Section 2, Lots 1-4, S 1/2 N 1/2, S 1/2.
77503 Section 1741. Section **63L-2-101** is enacted to read:
77504 **CHAPTER 2. TRANSFER OF STATE LANDS TO**
77505 **UNITED STATES GOVERNMENT ACT**
77506 **Part 1. General Provisions**
77507 **63L-2-101. Title.**
77508 This chapter is known as the "Transfer of State Lands to United States Government
77509 Act."
77510 Section 1742. Section **63L-2-201**, which is renumbered from Section 63-34b-101 is
77511 renumbered and amended to read:
77512 **Part 2. Procedures for Acquisition of Property**
77513 **[~~63-34b-101~~]. 63L-2-201. Federal government acquisition of real property**
77514 **in the state.**
77515 (1) As used in this section:
77516 (a) "Agency" is defined in Section [~~63-38b-101~~] 63G-10-102.
77517 (b) "Agency" includes:
77518 (i) the School and Institutional Trust Lands Administration created in Section
77519 53C-1-201; and
77520 (ii) the School and Institutional Trust Lands Board of Trustees created in Section
77521 53C-1-202.
77522 (2) (a) Before legally binding the state by executing an agreement to sell or transfer to
77523 the United States government 10,000 or more acres of any state lands or school and
77524 institutional trust lands, an agency shall submit the agreement or proposal:
77525 (i) to the Legislature for its approval or rejection; or
77526 (ii) in the interim, to the Legislative Management Committee for review of the
77527 agreement or proposal.

77528 (b) The Legislative Management Committee may:
77529 (i) recommend that the agency execute the agreement or proposal;
77530 (ii) recommend that the agency reject the agreement or proposal; or
77531 (iii) recommend to the governor that [~~he~~] the governor call a special session of the
77532 Legislature to review and approve or reject the agreement or proposal.
77533 (3) Before legally binding the state by executing an agreement to sell or transfer to the
77534 United States government less than 10,000 acres of any state lands or school and institutional
77535 trust lands, an agency shall report to the Natural Resources, Agriculture, and Environment
77536 Interim Committee.
77537 (4) Notwithstanding Subsections (2) and (3), the Legislature approves all conveyances
77538 of school trust lands to the United States government made for the purpose of completing the
77539 Red Cliffs Desert Reserve in Washington County.
77540 Section 1743. Section **63L-3-101**, which is renumbered from Section 63-90-1 is
77541 renumbered and amended to read:
77542 **CHAPTER 3. PRIVATE PROPERTY PROTECTION ACT**
77543 **Part 1. General Provisions**
77544 **[~~63-90-1~~]. 63L-3-101. Title.**
77545 This chapter [~~shall be~~] is known as the "Private Property Protection Act."
77546 Section 1744. Section **63L-3-102**, which is renumbered from Section 63-90-2 is
77547 renumbered and amended to read:
77548 **[~~63-90-2~~]. 63L-3-102. Definitions.**
77549 As used in this chapter:
77550 (1) "Constitutional taking" or "taking" means a governmental action that results in a
77551 taking of private property so that compensation to the owner of the property is required by:
77552 (a) the Fifth or Fourteenth Amendment of the Constitution of the United States; or
77553 (b) Utah Constitution Article I, Section 22.
77554 (2) (a) "Governmental action" or "action" means:
77555 (i) proposed rules and emergency rules by a state agency that if adopted and enforced
77556 may limit the use of private property unless:
77557 (A) its provisions are in accordance with applicable state or federal statutes; and
77558 (B) the agency has adopted and implemented the guidelines required by Section

77559 [~~63-90-3~~] 63L-3-201;
77560 (ii) proposed or implemented licensing or permitting conditions, requirements, or
77561 limitations to the use of private property unless:
77562 (A) its provisions are in accordance with applicable state or federal statutes, rules, or
77563 regulations; and
77564 (B) the agency has adopted and implemented the guidelines required by Section
77565 [~~63-90-3~~] 63L-3-201;
77566 (iii) required dedications or exactions from owners of private property; or
77567 (iv) statutes and rules.
77568 (b) "Governmental action" or "action" does not mean:
77569 (i) activity in which the power of eminent domain is exercised formally;
77570 (ii) repealing rules discontinuing governmental programs or amending rules in a
77571 manner that lessens interference with the use of private property;
77572 (iii) law enforcement activity involving seizure or forfeiture of private property for
77573 violations of law or as evidence in criminal proceedings;
77574 (iv) school and institutional trust land management activities and disposal of land and
77575 interests in land conducted pursuant to Title 53C, Schools and Institutional Trust Lands
77576 Management Act;
77577 (v) orders and enforcement actions that are issued by a state agency in accordance with
77578 [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, and applicable
77579 federal or state statutes; or
77580 (vi) orders and enforcement actions that are issued by a court of law in accordance with
77581 applicable federal or state statutes.
77582 (3) "Private property" means any school or institutional trust lands and any real or
77583 personal property in this state that is protected by:
77584 (a) the Fifth or Fourteenth Amendment of the Constitution of the United States; or
77585 (b) Utah Constitution Article I, Section 22.
77586 (4) (a) "State agency" means an officer or administrative unit of the executive branch
77587 of state government that is authorized by law to adopt rules.
77588 (b) "State agency" does not include the legislative or judicial branches of state
77589 government.

77590 (5) "Takings law" means the provisions of the federal and state constitutions, the case
77591 law interpreting those provisions, and any relevant statutory provisions that require a
77592 governmental unit to compensate a private property owner for a constitutional taking.
77593 Section 1745. Section **63L-3-201**, which is renumbered from Section 63-90-3 is
77594 renumbered and amended to read:
77595 **Part 2. Requirements for State Agencies**
77596 **[~~63-90-3~~]. 63L-3-201. State agencies to adopt guidelines.**
77597 (1) Each state agency shall adopt guidelines to assist them in the identification of
77598 actions that have constitutional taking implications.
77599 (2) In creating the guidelines, the state agency shall take into consideration recent court
77600 rulings on the taking of private property.
77601 (3) Each state agency shall complete the guidelines on or before January 1, 1999, and
77602 review and update the guidelines annually to maintain consistency with court rulings.
77603 Section 1746. Section **63L-3-202**, which is renumbered from Section 63-90-4 is
77604 renumbered and amended to read:
77605 **[~~63-90-4~~]. 63L-3-202. Agency actions.**
77606 (1) Using the guidelines prepared under Section [~~63-90-3~~] 63L-3-201, each state
77607 agency shall:
77608 (a) determine whether an action has constitutional taking implications; and
77609 (b) prepare an assessment of constitutional taking implications that includes an analysis
77610 of the following:
77611 (i) the likelihood that the action may result in a constitutional taking, including a
77612 description of how the taking affects the use or value of private property;
77613 (ii) alternatives to the proposed action that may:
77614 (A) fulfill the government's legal obligations of the state agency;
77615 (B) reduce the impact on the private property owner; and
77616 (C) reduce the risk of a constitutional taking; and
77617 (iii) an estimate of financial cost to the state for compensation and the source of
77618 payment within the agency's budget if a constitutional taking is determined.
77619 (2) In addition to the guidelines prepared under Section [~~63-90-3~~] 63L-3-201, each
77620 state agency shall adhere, to the extent permitted by law, to the following criteria if

77621 implementing or enforcing actions that have constitutional taking implications:
77622 (a) If an agency requires a person to obtain a permit for a specific use of private
77623 property, any conditions imposed on issuing the permit shall directly relate to the purpose for
77624 which the permit is issued and shall substantially advance that purpose.
77625 (b) Any restriction imposed on the use of private property shall be proportionate to the
77626 extent the use contributes to the overall problem that the restriction is to redress.
77627 (c) If an action involves a permitting process or any other decision-making process that
77628 will interfere with, or otherwise prohibit, the use of private property pending the completion of
77629 the process, the duration of the process shall be kept to the minimum necessary.
77630 (d) Before taking an action restricting private property use for the protection of public
77631 health or safety, the state agency, in internal deliberative documents, shall:
77632 (i) clearly identify, with as much specificity as possible, the public health or safety risk
77633 created by the private property use;
77634 (ii) establish that the action substantially advances the purpose of protecting public
77635 health and safety against the specifically identified risk;
77636 (iii) establish, to the extent possible, that the restrictions imposed on the private
77637 property are proportionate to the extent the use contributes to the overall risk; and
77638 (iv) estimate, to the extent possible, the potential cost to the government if a court
77639 determines that the action constitutes a constitutional taking.
77640 (3) If there is an immediate threat to health and safety that constitutes an emergency
77641 and requires an immediate response, the analysis required by Paragraph (2)(b) of this section
77642 may be made when the response is completed.
77643 (4) Before the state agency implements an action that has constitutional taking
77644 implications, the state agency shall submit a copy of the assessment of constitutional taking
77645 implications to the governor and the Legislative Management Committee.
77646 Section 1747. Section **63L-4-101** is enacted to read:
77647 **CHAPTER 4. CONSTITUTIONAL TAKINGS ISSUES ACT**
77648 **Part 1. General Provisions**
77649 **63L-4-101. Title.**
77650 This chapter is known as the "Constitutional Takings Issues Act."
77651 Section 1748. Section **63L-4-102**, which is renumbered from Section 63-90a-1 is

77652 renumbered and amended to read:
77653 **[~~63-90a-1~~]. 63L-4-102. Definitions.**
77654 As used in this chapter:
77655 (1) "Constitutional taking issues" means actions involving the physical taking or
77656 exaction of private real property by a political subdivision that might require compensation to a
77657 private real property owner because of:
77658 (a) the Fifth or Fourteenth Amendment of the Constitution of the United States;
77659 (b) Article I, Section 22 of the Utah Constitution; or
77660 (c) any recent court rulings governing the physical taking or exaction of private real
77661 property by a government entity.
77662 (2) "Political subdivision" means a county, municipality, local district, special service
77663 district, school district, or other local government entity.
77664 Section 1749. Section **63L-4-103**, which is renumbered from Section 63-90a-2 is
77665 renumbered and amended to read:
77666 **[~~63-90a-2~~]. 63L-4-103. Applicability of chapter.**
77667 This chapter does not apply when a political subdivision formally exercises its power of
77668 eminent domain.
77669 Section 1750. Section **63L-4-201**, which is renumbered from Section 63-90a-3 is
77670 renumbered and amended to read:
77671 **Part 2. Requirements for Political Subdivisions**
77672 **[~~63-90a-3~~]. 63L-4-201. Political subdivisions to adopt guidelines.**
77673 (1) Each political subdivision shall enact an ordinance establishing guidelines to assist
77674 them in identifying actions involving the physical taking or exaction of private real property
77675 that may have constitutional taking issues.
77676 (2) Each political subdivision shall consider the guidelines required by this section
77677 when taking any action that might result in the physical taking or exaction of private real
77678 property.
77679 (3) (a) The guidelines adopted under the authority of this section are advisory.
77680 (b) A court may not impose liability upon a political subdivision for failure to comply
77681 with the guidelines required by this section.
77682 (c) The guidelines neither expand nor limit the scope of any political subdivision's

77683 liability for a constitutional taking.
77684 Section 1751. Section **63L-4-301**, which is renumbered from Section 63-90a-4 is
77685 renumbered and amended to read:
77686 **Part 3. Appeals**
77687 **[~~63-90a-4~~]. 63L-4-301. Appeals of decisions.**
77688 (1) Each political subdivision shall enact an ordinance that:
77689 (a) establishes a procedure for review of actions that may have constitutional taking
77690 issues; and
77691 (b) meets the requirements of this section.
77692 (2) (a) (i) Any owner of private property whose interest in the property is subject to a
77693 physical taking or exaction by a political subdivision may appeal the political subdivision's
77694 decision within 30 days after the decision is made.
77695 (ii) The legislative body of the political subdivision, or an individual or body
77696 designated by them, shall hear and approve or reject the appeal within 14 days after it is
77697 submitted.
77698 (iii) If the legislative body of the political subdivision fails to hear and decide the
77699 appeal within 14 days, the decision is presumed to be approved.
77700 (b) The private property owner need not file the appeal authorized by this section
77701 before bringing an action in any court to adjudicate claims that are eligible for appeal.
77702 (c) A property owner's failure to appeal the action of a political subdivision does not
77703 constitute, and may not be interpreted as constituting, a failure to exhaust available
77704 administrative remedies or as a bar to bringing legal action.
77705 Section 1752. Section **63L-5-101**, which is renumbered from Section 63-90b-101 is
77706 renumbered and amended to read:
77707 **CHAPTER 5. UTAH RELIGIOUS LAND USE ACT**
77708 **Part 1. General Provisions**
77709 **[~~63-90b-101~~]. 63L-5-101. Title.**
77710 This chapter is known as the "Utah Religious Land Use Act."
77711 Section 1753. Section **63L-5-102**, which is renumbered from Section 63-90b-102 is
77712 renumbered and amended to read:
77713 **[~~63-90b-102~~]. 63L-5-102. Definitions.**

77714 As used in this chapter:
77715 (1) "Free exercise of religion" means an act or refusal to act that is substantially
77716 motivated by sincere religious belief, whether or not the act or refusal is compulsory or central
77717 to a larger system of religious belief, and includes the use, building, or conversion of real
77718 property for the purpose of religious exercise.
77719 (2) "Government entity" means the state, a county, a municipality, a higher education
77720 institution, a local district, a special service district, any other political subdivision of the state,
77721 or any administrative subunit of any of them.
77722 (3) "Land use regulation" means any state or local law or ordinance, whether statutory
77723 or otherwise, that limits or restricts a person's use or development of land or a structure affixed
77724 to land.
77725 (4) "Person" means any individual, partnership, corporation, or other legal entity that
77726 owns an interest in real property.
77727 Section 1754. Section **63L-5-201**, which is renumbered from Section 63-90b-201 is
77728 renumbered and amended to read:
77729 **Part 2. Legal Standard**
77730 **[~~63-90b-201~~]. 63L-5-201. Protection of land use as religious exercise.**
77731 (1) Except as provided in Subsection (2), a government entity may not impose or
77732 implement a land use regulation in a manner that imposes a substantial burden on a person's
77733 free exercise of religion.
77734 (2) A government entity may impose or implement a land use regulation in a manner
77735 that imposes a substantial burden on a person's free exercise of religion if the government can
77736 establish that the imposition of the burden on that person:
77737 (a) is in furtherance of a compelling governmental interest; and
77738 (b) is the least restrictive means of furthering that compelling governmental interest.
77739 (3) A government entity that meets the requirements of Subsection (2) need not
77740 separately prove that the remedy and penalty provisions of the land use regulation are the least
77741 restrictive means to ensure compliance or to punish the failure to comply.
77742 (4) This act shall not impair the ability of local government to impose costs and fees
77743 reasonably necessary to mitigate the off-site impacts of development.
77744 Section 1755. Section **63L-5-301**, which is renumbered from Section 63-90b-301 is

77745 renumbered and amended to read:

77746 **Part 3. Remedies and Procedures**

77747 **[~~63-90b-301~~]. 63L-5-301. Remedies.**

77748 (1) A person whose free exercise of religion has been substantially burdened by a
77749 government entity in violation of Section [~~63-90b-201~~] 63L-5-201 may bring an action in the
77750 district court of the county where the largest portion of the property subject to the land use
77751 regulation is located.

77752 (2) Any person who asserts a claim or defense against a government entity under this
77753 chapter may request:

77754 (a) declaratory relief;

77755 (b) temporary or permanent injunctive relief to prevent the threatened or continued
77756 violation; or

77757 (c) a combination of declaratory and injunctive relief.

77758 (3) A person may not bring an action under this chapter against an individual, other
77759 than an action against an individual acting in the individual's official capacity as an officer of a
77760 government entity.

77761 Section 1756. Section **63L-5-302**, which is renumbered from Section 63-90b-302 is
77762 renumbered and amended to read:

77763 **[~~63-90b-302~~]. 63L-5-302. Notice of claim -- Government's right to**
77764 **accommodate.**

77765 (1) A person may not bring an action under Section [~~63-90b-301~~] 63L-5-301 unless, 60
77766 days before bringing the action, the person sends written notice of the intent to bring an action.

77767 (2) The notice shall be addressed to the government entity imposing the land use
77768 regulation, and shall be prepared and delivered according to the requirements of Subsection
77769 [~~63-30d-401~~] 63G-7-401(3).

77770 (3) Mailing of the notice required by Subsection (1) tolls the limitation period for
77771 bringing an action under this chapter for a period of 75 days, starting on the day the notice was
77772 mailed.

77773 (4) Notwithstanding Subsection (1), a person may bring an action under Section
77774 [~~63-90b-301~~] 63L-5-301 before the expiration of the 60-day notice period if:

77775 (a) the imposition of a substantial burden on the person's free exercise of religion by

77776 the land use regulation is imminent; and
77777 (b) the person was not informed of and did not otherwise have knowledge of the land
77778 use regulation in time to reasonably provide 60 days notice.
77779 (5) (a) A government entity provided with the notice required by Subsection (2) may
77780 remedy the substantial burden on the person's free exercise of religion:
77781 (i) before the expiration of the 60-day notice period; or
77782 (ii) in the case of an action properly brought according to Subsection (4), before the
77783 adjudication of a court hearing on the action.
77784 (b) Nothing in this section prevents a government entity from providing a remedy after
77785 these time periods.
77786 (6) The court may not award compensatory damages, attorney's fees, costs, or other
77787 expenses to a person if the substantial burden has been cured by a remedy implemented by the
77788 government entity according to Subsection (5)(a).
77789 Section 1757. Section **63L-5-401**, which is renumbered from Section 63-90b-401 is
77790 renumbered and amended to read:
77791 **Part 4. Application**
77792 **[~~63-90b-401~~]. 63L-5-401. Burden on exercise of religion as defense.**
77793 A person whose free exercise of religion has been substantially burdened in violation of
77794 this chapter may assert that violation as a defense in a judicial or administrative proceeding
77795 without regard to whether the proceeding is brought in the name of the state or by any other
77796 person.
77797 Section 1758. Section **63L-5-402**, which is renumbered from Section 63-90b-402 is
77798 renumbered and amended to read:
77799 **[~~63-90b-402~~]. 63L-5-402. Establishment clause unaffected.**
77800 (1) This chapter does not authorize government to burden a person's free exercise of
77801 religion.
77802 (2) The protection of religious freedom afforded by this chapter is in addition to the
77803 protections provided under federal law and the constitutions of Utah and the United States.
77804 (3) Nothing in this chapter may be construed to affect, interpret, or in any way address
77805 that portion of the First Amendment to the United States Constitution prohibiting laws
77806 respecting an establishment of religion.

77807 Section 1759. Section **63L-5-403**, which is renumbered from Section 63-90b-403 is
77808 renumbered and amended to read:
77809 **[~~63-90b-403~~]. 63L-5-403. Application to certain cases.**
77810 This chapter does not affect and is not intended to affect the authority of government
77811 entities to adopt or apply land use regulations that do not involve the free exercise of religion.
77812 Section 1760. Section **63M-1-101**, which is renumbered from Section 63-38f-101 is
77813 renumbered and amended to read:
77814 **TITLE 63M. GOVERNOR'S PROGRAMS**
77815 **CHAPTER 1. GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT**
77816 **Part 1. General Provisions**
77817 **[~~63-38f-101~~]. 63M-1-101. Title.**
77818 (1) This title is known as "Governor's Programs."
77819 (2) This chapter is known as the "Governor's Office of Economic Development."
77820 Section 1761. Section **63M-1-102**, which is renumbered from Section 63-38f-102 is
77821 renumbered and amended to read:
77822 **[~~63-38f-102~~]. 63M-1-102. Definitions.**
77823 As used in this chapter:
77824 (1) "Board" means the Board of Business and Economic Development.
77825 (2) "Director" means the director of the office.
77826 (3) "Office" means the Governor's Office of Economic Development.
77827 Section 1762. Section **63M-1-201**, which is renumbered from Section 63-38f-201 is
77828 renumbered and amended to read:
77829 **Part 2. Organization and Duties of the Governor's Office of Economic Development**
77830 **[~~63-38f-201~~]. 63M-1-201. Creation of office.**
77831 (1) There is created the Governor's Office of Economic Development.
77832 (2) The office shall:
77833 (a) be responsible for economic development within the state;
77834 (b) perform economic development planning for the state;
77835 (c) administer and coordinate all state or federal grant programs which are, or become
77836 available, for economic development;
77837 (d) administer any other programs over which the office is given administrative

77838 supervision by the governor;
77839 (e) annually submit a report to the Legislature by October 1; and
77840 (f) perform any other duties as provided by the Legislature.
77841 (3) The office may solicit and accept contributions of moneys, services, and facilities
77842 from any other source, public or private, but may not use the moneys for publicizing the
77843 exclusive interest of the donor.
77844 (4) Moneys received under Subsection (3) shall be deposited in the General Fund as
77845 dedicated credits of the office.
77846 Section 1763. Section **63M-1-202**, which is renumbered from Section 63-38f-202 is
77847 renumbered and amended to read:
77848 **[~~63-38f-202~~]. 63M-1-202. Director of office -- Appointment -- Removal --**
77849 **Compensation.**
77850 (1) The office shall be administered, directed, controlled, organized, and managed by a
77851 director appointed by the governor.
77852 (2) The director serves at the pleasure of the governor.
77853 (3) The salary of the director shall be established by the governor within the salary
77854 range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.
77855 Section 1764. Section **63M-1-203**, which is renumbered from Section 63-38f-203 is
77856 renumbered and amended to read:
77857 **[~~63-38f-203~~]. 63M-1-203. Powers and duties of director.**
77858 (1) The director, with the approval of the governor, may:
77859 (a) by following the procedures and requirements of [~~Title 63, Chapter 38c~~] Title 63J,
77860 Chapter 5, Federal Funds Procedures, seek federal grants, loans, or participation in federal
77861 programs;
77862 (b) enter into lawful contracts or agreements with other states, any chamber of
77863 commerce organization, and any service club; and
77864 (c) annually prepare and submit to the governor a budget of the office's financial
77865 requirements.
77866 (2) If any federal program requires the expenditure of state funds as a condition to
77867 participation by the state in any fund, property, or service, with the governor's approval, the
77868 director shall expend whatever funds are necessary out of the money provided by the

77869 Legislature for the use of the office.
77870 Section 1765. Section **63M-1-204**, which is renumbered from Section 63-38f-204 is
77871 renumbered and amended to read:
77872 **[~~63-38f-204~~]. 63M-1-204. Organization of office -- Jurisdiction of director.**
77873 (1) Unless otherwise expressly provided by statute, the director may organize the office
77874 in any fashion considered appropriate, including the appointment of deputy directors of the
77875 office.
77876 (2) The director may make consolidations of personnel and service functions to
77877 effectuate efficiency and economy within the office.
77878 Section 1766. Section **63M-1-205**, which is renumbered from Section 63-38f-205 is
77879 renumbered and amended to read:
77880 **[~~63-38f-205~~]. 63M-1-205. Interface with Public Service Commission.**
77881 (1) The director or the director's designee shall:
77882 (a) become generally informed of significant rate cases and policy proceedings before
77883 the Public Service Commission; and
77884 (b) monitor and study the potential economic development impact of these proceedings
77885 before the Public Service Commission.
77886 (2) In the discretion of the director or the director's designee, the office may appear in
77887 any proceeding before the Public Service Commission to testify, advise, or present argument
77888 regarding the economic development impact of any matter that is the subject of the proceeding.
77889 Section 1767. Section **63M-1-301**, which is renumbered from Section 63-38f-301 is
77890 renumbered and amended to read:
77891 **Part 3. Board of Business and Economic Development**
77892 **[~~63-38f-301~~]. 63M-1-301. Board of Business and Economic Development.**
77893 There is created within the office the Board of Business and Economic Development
77894 which shall advise the office.
77895 Section 1768. Section **63M-1-302**, which is renumbered from Section 63-38f-302 is
77896 renumbered and amended to read:
77897 **[~~63-38f-302~~]. 63M-1-302. Members -- Meetings -- Expenses.**
77898 (1) (a) The board shall consist of 15 members appointed by the governor to four-year
77899 terms of office with the consent of the Senate.

77900 (b) Notwithstanding the requirements of Subsection (1)(a), the governor shall, at the
77901 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
77902 board members are staggered so that approximately half of the board is appointed every two
77903 years.
77904 (c) The members may not serve more than two full consecutive terms except where the
77905 governor determines that an additional term is in the best interest of the state.
77906 (2) Not more than eight members of the board may be from one political party.
77907 (3) The members shall be representative of all areas of the state.
77908 (4) When a vacancy occurs in the membership for any reason, the replacement shall be
77909 appointed for the unexpired term.
77910 (5) Eight members of the board constitute a quorum for conducting board business and
77911 exercising board power.
77912 (6) The governor shall select one of the board members as its chair.
77913 (7) (a) Members shall receive no compensation or benefits for their services, but may
77914 receive per diem and expenses incurred in the performance of the member's official duties at
77915 the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
77916 (b) Members may decline to receive per diem and expenses for their service.
77917 Section 1769. Section **63M-1-303**, which is renumbered from Section 63-38f-303 is
77918 renumbered and amended to read:
77919 **[~~63-38f-303~~]. 63M-1-303. Board duties and powers.**
77920 (1) The board shall:
77921 (a) promote and encourage the economic, commercial, financial, industrial,
77922 agricultural, and civic welfare of the state;
77923 (b) do all lawful acts for the development, attraction, and retention of businesses,
77924 industries, and commerce within the state;
77925 (c) promote and encourage the expansion and retention of businesses, industries, and
77926 commerce located in the state;
77927 (d) support the efforts of local government and regional nonprofit economic
77928 development organizations to encourage expansion or retention of businesses, industries, and
77929 commerce located in the state;
77930 (e) do other acts not specifically enumerated in this chapter, if the acts are for the

77931 betterment of the economy of the state;
77932 (f) work in conjunction with companies and individuals located or doing business
77933 within the state to secure favorable rates, fares, tolls, charges, and classification for
77934 transportation of persons or property by:
77935 (i) railroad;
77936 (ii) motor carrier; or
77937 (iii) other common carriers;
77938 (g) recommend policies, priorities, and objectives to the office regarding the assistance,
77939 retention, or recruitment of business, industries, and commerce in the state; and
77940 (h) recommend how any money or program administered by the office or its divisions
77941 for the assistance, retention, or recruitment of businesses, industries, and commerce in the state
77942 shall be administered, so that the money or program is equitably available to all areas of the
77943 state unless federal or state law requires or authorizes the geographic location of a recipient of
77944 the money or program to be considered in the distribution of the money or administration of the
77945 program.
77946 (2) The board may:
77947 (a) in furtherance of the authority granted under Subsection (1)(f), appear as a party
77948 litigant on behalf of individuals or companies located or doing business within the state in
77949 proceedings before regulatory commissions of the state, other states, or the federal government
77950 having jurisdiction over such matters; and
77951 (b) make, amend, or repeal rules for the conduct of its business consistent with this part
77952 and in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
77953 Rulemaking Act.
77954 Section 1770. Section **63M-1-304**, which is renumbered from Section 63-38f-304 is
77955 renumbered and amended to read:
77956 **[~~63-38f-304~~]. 63M-1-304. Governor's Office of Economic Development --**
77957 **Powers and duties of office -- Consulting with board on funds or services provided by**
77958 **office.**
77959 (1) For the purposes of this section:
77960 (a) "National recruitment" means the recruitment to the state of business, industry, or
77961 commerce if, at the time of the recruitment, the business, industry, or commerce is principally

77962 located in the United States.
77963 (b) "Private entity" means a private person, corporation, company, or organization.
77964 (2) (a) The office shall obtain the advice of the board prior to an imposition of or
77965 change to a policy, priority, or objective under which the office operates.
77966 (b) Subsection (2)(a) does not apply to the routine administration by the office of funds
77967 or services related to assistance, retention, or recruitment of business, industry, or commerce in
77968 this state.
77969 (3) The office shall:
77970 (a) be the industrial promotion authority of the state;
77971 (b) promote and encourage the economic, commercial, financial, industrial,
77972 agricultural, and civic welfare of the state;
77973 (c) do all lawful acts to create, develop, attract, and retain business, industry, and
77974 commerce within the state; and
77975 (d) do other acts that enhance the economy of the state.
77976 (4) The office may:
77977 (a) enter into contracts or agreements with, or make grants to, public or private entities,
77978 including municipalities, in the furtherance of its duties where the contracts or agreements are
77979 not in violation of the Constitution or statutes of the state; and
77980 (b) receive and expend funds available from any source, public or private, in any
77981 manner and for any lawful purpose in the best interest of the state in the discharge of their
77982 obligations under this part.
77983 (5) The director or the director's designee shall consult with the board at each meeting
77984 of the board regarding the administration by the office of funds or services related to assistance,
77985 retention, or recruitment of business, industry, or commerce in the state.
77986 Section 1771. Section **63M-1-401**, which is renumbered from Section 63-38f-401 is
77987 renumbered and amended to read:
77988 **Part 4. Enterprise Zone Act**
77989 **[~~63-38f-401~~]. 63M-1-401. Title.**
77990 This part is known as the "Enterprise Zone Act."
77991 Section 1772. Section **63M-1-402**, which is renumbered from Section 63-38f-402 is
77992 renumbered and amended to read:

77993 **[~~63-38f-402~~]. 63M-1-402. Definitions.**
77994 As used in this part:
77995 (1) "Business entity" means an entity:
77996 (a) including a claimant, estate, or trust; and
77997 (b) under which business is conducted or transacted.
77998 (2) (a) "Claimant" means a resident or nonresident person that has:
77999 (i) Utah taxable income as defined in Section 59-7-101; or
78000 (ii) state taxable income under Title 59, Chapter 10, Part 1, Determination and
78001 Reporting of Tax Liability or Information.
78002 (b) "Claimant" does not include an estate or trust.
78003 (3) "County applicant" means the governing authority of a county that meets the
78004 requirements for designation as an enterprise zone under Section [~~63-38f-404~~] 63M-1-404.
78005 (4) "Estate" means a nonresident estate or a resident estate that has state taxable
78006 income under Title 59, Chapter 10, Part 2, Trusts and Estates.
78007 (5) "Municipal applicant" means the governing authority of a city or town that meets
78008 the requirements for designation as an enterprise zone under Section [~~63-38f-404~~] 63M-1-404.
78009 (6) "Nonrefundable tax credit" or "tax credit" means a tax credit that a claimant, estate,
78010 or trust may:
78011 (a) claim:
78012 (i) as provided by statute; and
78013 (ii) in an amount that does not exceed the claimant's, estate's, or trust's tax liability for a
78014 taxable year under:
78015 (A) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or
78016 (B) Title 59, Chapter 10, Individual Income Tax Act; and
78017 (b) carry forward or carry back:
78018 (i) if allowed by statute; and
78019 (ii) to the extent that the amount of the tax credit exceeds the claimant's, estate's, or
78020 trust's tax liability for a taxable year under:
78021 (A) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or
78022 (B) Title 59, Chapter 10, Individual Income Tax Act.
78023 (7) "Tax incentives" or "tax benefits" means the nonrefundable tax credits described in

78024 Section [~~63-38f-413~~] 63M-1-413.
78025 (8) "Trust" means a nonresident trust or a resident trust that has state taxable income
78026 under Title 59, Chapter 10, Part 2, Trusts and Estates.
78027 Section 1773. Section **63M-1-403**, which is renumbered from Section 63-38f-403 is
78028 renumbered and amended to read:
78029 **[~~63-38f-403~~]. 63M-1-403. Powers of the office.**
78030 The office shall:
78031 (1) monitor the implementation and operation of this part and conduct a continuing
78032 evaluation of the progress made in the enterprise zones;
78033 (2) evaluate an application from a county applicant or a municipal applicant to be
78034 designated an enterprise zone and determine if the applicant qualifies for that designation;
78035 (3) provide technical assistance to county applicants and municipal applicants in
78036 developing applications for designation as enterprise zones;
78037 (4) assist county applicants and municipal applicants designated as enterprise zones in
78038 obtaining assistance from the federal government and agencies of the state;
78039 (5) assist a qualified business in obtaining the benefits of an incentive or inducement
78040 program authorized by this part; and
78041 (6) prepare an annual evaluation based, in part, on data provided by the State Tax
78042 Commission:
78043 (a) evaluating the effectiveness of the program and any suggestions for legislation; and
78044 (b) that is available upon request to the governor and to the Revenue and Taxation
78045 Interim Committee of the Legislature by November 1 of each year.
78046 Section 1774. Section **63M-1-404**, which is renumbered from Section 63-38f-404 is
78047 renumbered and amended to read:
78048 **[~~63-38f-404~~]. 63M-1-404. Criteria for designation of enterprise zones --**
78049 **Application.**
78050 (1) A county applicant seeking designation as an enterprise zone shall file an
78051 application with the office that, in addition to complying with other requirements of this part:
78052 (a) verifies that the entire county is not located in a metropolitan statistical area that is
78053 entirely located within Utah, except that this requirement does not apply to a third, fourth, fifth,
78054 or sixth class county as classified under Section 17-50-501;

78055 (b) verifies that the county has a population of 50,000 or less; and
78056 (c) provides clear evidence of the need for development in the county.
78057 (2) A municipal applicant seeking designation as an enterprise zone shall file an
78058 application with the office that, in addition to complying with other requirements of this part:
78059 (a) verifies that the municipality is a city of the fifth class or a town;
78060 (b) verifies that the municipality is within a county that has a population of 50,000 or
78061 less; and
78062 (c) provides clear evidence of the need for development in the municipality.
78063 (3) An application filed under Subsection (1) or (2) shall be in a form and in
78064 accordance with procedures approved by the office, and shall include the following
78065 information:
78066 (a) a plan developed by the county applicant or municipal applicant that identifies local
78067 contributions meeting the requirements of Section [~~63-38f-405~~] 63M-1-405;
78068 (b) the county applicant or municipal applicant has a development plan that outlines:
78069 (i) the types of investment and development within the zone that the county applicant
78070 or municipal applicant expects to take place if the incentives specified in this part are provided;
78071 (ii) the specific investment or development reasonably expected to take place;
78072 (iii) any commitments obtained from businesses;
78073 (iv) the projected number of jobs that will be created and the anticipated wage level of
78074 those jobs;
78075 (v) any proposed emphasis on the type of jobs created, including any affirmative action
78076 plans; and
78077 (vi) a copy of the county applicant's or municipal applicant's economic development
78078 plan to demonstrate coordination between the zone and overall county or municipal goals;
78079 (c) the county applicant's or municipal applicant's proposed means of assessing the
78080 effectiveness of the development plan or other programs to be implemented within the zone
78081 once they have been implemented;
78082 (d) any additional information required by the office; and
78083 (e) any additional information the county applicant or municipal applicant considers
78084 relevant to its designation as an enterprise zone.
78085 Section 1775. Section **63M-1-405**, which is renumbered from Section 63-38f-405 is

78086 renumbered and amended to read:

78087 **[~~63-38f-405~~]. 63M-1-405. Qualifying local contributions.**

78088 (1) An area may be designated as an enterprise zone only if the county applicant or
78089 municipal applicant agrees to make a qualifying local contribution.

78090 (2) The qualifying local contribution may vary depending on available resources, and
78091 may include such elements as:

78092 (a) simplified procedures for obtaining permits;

78093 (b) dedication of available government grants;

78094 (c) dedication of training funds;

78095 (d) waiver of business license fees;

78096 (e) infrastructure improvements;

78097 (f) private contributions;

78098 (g) utility rate concessions;

78099 (h) small business incubator programs; or

78100 (i) management assistance programs.

78101 Section 1776. Section **63M-1-406**, which is renumbered from Section 63-38f-406 is
78102 renumbered and amended to read:

78103 **[~~63-38f-406~~]. 63M-1-406. Eligibility review.**

78104 (1) (a) The office shall review and evaluate the applications submitted under Section
78105 [~~63-38f-404~~] 63M-1-404 and shall determine whether each county applicant or municipal
78106 applicant is eligible for designation as an enterprise zone.

78107 (b) In determining whether a county applicant or municipal applicant is eligible, if
78108 unemployment, income, population, or other necessary data are not available for the county
78109 applicant or municipal applicant from the federal departments of labor or commerce or a state
78110 agency, the office may rely upon other data submitted by the applicant, if the office determines
78111 that it is statistically reliable or accurate.

78112 (2) (a) The office shall designate enterprise zones.

78113 (b) The office shall consider and evaluate an application using the following criteria:

78114 (i) the pervasiveness of poverty, unemployment, and general distress in the proposed
78115 zone;

78116 (ii) the extent of chronic abandonment, deterioration, or reduction in value of

78117 commercial, industrial, or residential structures in the proposed zone, and the extent of property
78118 tax arrearages in the proposed zone;
78119 (iii) the potential for new investment and economic development in the proposed zone;
78120 (iv) the county applicant's or municipal applicant's proposed use of other state and
78121 federal development funds or programs to increase the probability of new investment and
78122 development occurring;
78123 (v) the extent to which the projected development in the zone will provide employment
78124 to residents of the county and particularly individuals who are unemployed or who are
78125 economically disadvantaged;
78126 (vi) the degree to which the county applicant's or municipal applicant's application
78127 promotes innovative solutions to economic development problems and demonstrates local
78128 initiative; and
78129 (vii) other relevant factors that the office specifies in its recommendation.
78130 Section 1777. Section **63M-1-407**, which is renumbered from Section 63-38f-407 is
78131 renumbered and amended to read:
78132 **[~~63-38f-407~~]. 63M-1-407. Quarterly consideration.**
78133 The office shall consider designating enterprise zones quarterly.
78134 Section 1778. Section **63M-1-408**, which is renumbered from Section 63-38f-408 is
78135 renumbered and amended to read:
78136 **[~~63-38f-408~~]. 63M-1-408. Duration of designation.**
78137 Each enterprise zone has a duration of five years, at the end of which the county may
78138 reapply for the designation.
78139 Section 1779. Section **63M-1-409**, which is renumbered from Section 63-38f-409 is
78140 renumbered and amended to read:
78141 **[~~63-38f-409~~]. 63M-1-409. Contingent designations.**
78142 (1) The office may accept applications for, and may at any time grant, a contingent
78143 designation of any county as an enterprise zone for purposes of seeking a designation of the
78144 county as a federally designated zone.
78145 (2) This designation does not entitle a business operating in that county to the tax
78146 incentives under this part.
78147 Section 1780. Section **63M-1-410**, which is renumbered from Section 63-38f-410 is

78148 renumbered and amended to read:
78149 **[~~63-38f-410~~]. 63M-1-410. Revocation of designations.**
78150 (1) The office may revoke the designation of an enterprise zone, if no businesses utilize
78151 the tax incentives during any calendar year.
78152 (2) Prior to that action, the office shall conduct a public hearing to determine reasons
78153 for inactivity and explore possible alternative actions.
78154 Section 1781. Section **63M-1-411**, which is renumbered from Section 63-38f-411 is
78155 renumbered and amended to read:
78156 **[~~63-38f-411~~]. 63M-1-411. Disqualifying transfers.**
78157 Except in counties of the first or second class, tax incentives provided by this part are
78158 not available to companies that close or permanently curtail operations in another part of the
78159 state in connection with a transfer of any part of its business operations to an enterprise zone, if
78160 the closure or permanent curtailment is reasonably expected to diminish employment in that
78161 part of the state.
78162 Section 1782. Section **63M-1-412**, which is renumbered from Section 63-38f-412 is
78163 renumbered and amended to read:
78164 **[~~63-38f-412~~]. 63M-1-412. Business entities qualifying for tax incentives.**
78165 The tax incentives described in this part are available only to a business entity for which
78166 at least 51% of the employees employed at facilities of the business entity located in the
78167 enterprise zone are individuals who, at the time of employment, reside in the county in which
78168 the enterprise zone is located.
78169 Section 1783. Section **63M-1-413**, which is renumbered from Section 63-38f-413 is
78170 renumbered and amended to read:
78171 **[~~63-38f-413~~]. 63M-1-413. State tax credits.**
78172 (1) Subject to the limitations of Subsections (2) through (4), the following
78173 nonrefundable tax credits against a tax under Title 59, Chapter 7, Corporate Franchise and
78174 Income Taxes, or Title 59, Chapter 10, Individual Income Tax Act, are applicable in an
78175 enterprise zone:
78176 (a) a tax credit of $750 may be claimed by a business entity for each new full-time
78177 position filled for not less than six months during a given tax year;
78178 (b) an additional $500 tax credit may be claimed if the new position pays at least 125%

78179 of:
78180 (i) the county average monthly nonagricultural payroll wage for the respective industry
78181 as determined by the Department of Workforce Services; or
78182 (ii) if the county average monthly nonagricultural payroll wage is not available for the
78183 respective industry, the total average monthly nonagricultural payroll wage in the respective
78184 county where the enterprise zone is located;
78185 (c) an additional tax credit of $750 may be claimed if the new position is in a business
78186 entity that adds value to agricultural commodities through manufacturing or processing;
78187 (d) an additional tax credit of $200 may be claimed for two consecutive years for each
78188 new employee who is insured under an employer-sponsored health insurance program if the
78189 employer pays at least 50% of the premium cost for two consecutive years;
78190 (e) a tax credit of 50% of the value of a cash contribution to a private nonprofit
78191 corporation, except that the credit claimed may not exceed $100,000:
78192 (i) that is exempt from federal income taxation under Section 501(c)(3), Internal
78193 Revenue Code;
78194 (ii) whose primary purpose is community and economic development; and
78195 (iii) that has been accredited by the board of directors of the Utah Rural Development
78196 Council;
78197 (f) a tax credit of 25% of the first $200,000 spent on rehabilitating a building in the
78198 enterprise zone that has been vacant for two years or more; and
78199 (g) an annual investment tax credit of 10% of the first $250,000 in investment, and 5%
78200 of the next $1,000,000 qualifying investment in plant, equipment, or other depreciable
78201 property.
78202 (2) (a) Subject to the limitations of Subsection (2)(b), a business entity claiming a tax
78203 credit under Subsections (1)(a) through (d) may claim the tax credit for 30 full-time employee
78204 positions or less in each of its taxable years.
78205 (b) A business entity that received a tax credit for its full-time employee positions
78206 under Subsections (1)(a) through (d) may claim an additional tax credit for a full-time
78207 employee position under Subsections (1)(a) through (d) if:
78208 (i) the business entity creates a new full-time employee position;
78209 (ii) the total number of full-time employee positions at the business entity is greater

78210 than the number of full-time employee positions previously claimed by the business entity
78211 under Subsections (1)(a) through (d); and
78212 (iii) the total number of tax credits the business entity has claimed for its current
78213 taxable year, including the new full-time employee position for which the claimant, estate, or
78214 trust that is a business entity is claiming a tax credit, is less than or equal to 30.
78215 (c) A business entity existing in an enterprise zone on the date of its designation shall
78216 calculate the number of full-time positions based on the average number of employees reported
78217 to the Department of Workforce Services.
78218 (d) Construction jobs are not eligible for the tax credits under Subsections (1)(a)
78219 through (d).
78220 (3) If the amount of a tax credit under this section exceeds a business entity's tax
78221 liability under this chapter for a taxable year, the amount of the tax credit exceeding the
78222 liability may be carried forward for a period that does not exceed the next three taxable years.
78223 (4) (a) If a business entity is located in a county that met the requirements of
78224 Subsections [~~63-38f-404~~] 63M-1-404(1)(b) and (c) but did not qualify as an enterprise zone
78225 prior to January 1, 1998, because the county was located in a metropolitan statistical area in
78226 more than one state, the business entity:
78227 (i) shall qualify for tax credits for a taxable year beginning on or after January 1, 1997,
78228 but beginning before December 31, 1997;
78229 (ii) may claim a tax credit as described in Subsection (4)(a) in a taxable year beginning
78230 on or after January 1, 1997, but beginning before December 31, 1997; and
78231 (iii) may qualify for tax credits for any taxable year beginning on or after January 1,
78232 1998, if the county is designated as an enterprise zone in accordance with this part.
78233 (b) If a business entity claims a tax credit under Subsection (4)(a)(ii), the business
78234 entity:
78235 (i) may claim the tax credit by filing for the taxable year beginning on or after January
78236 1, 1997, but beginning before December 31, 1997:
78237 (A) a return under Title 59, Chapter 7, Corporate Franchise and Income Taxes;
78238 (B) an amended return under Title 59, Chapter 7, Corporate Franchise and Income
78239 Taxes;
78240 (C) a return under Title 59, Chapter 10, Individual Income Tax Act; or

78241 (D) an amended return under Title 59, Chapter 10, Individual Income Tax Act; and
78242 (ii) may carry forward the tax credit to a taxable year beginning on or after January 1,
78243 1998, in accordance with Subsection (3).
78244 (5) The tax credits under Subsections (1)(a) through (g) may not be claimed by a
78245 business entity engaged in retail trade or by a public utilities business.
78246 (6) A business entity may not claim or carry forward a tax credit available under this
78247 part for a taxable year during which the business entity has claimed the targeted business
78248 income tax credit available under Section [~~63-38f-503~~] 63M-1-504.
78249 Section 1784. Section **63M-1-414**, which is renumbered from Section 63-38f-414 is
78250 renumbered and amended to read:
78251 **[~~63-38f-414~~]. 63M-1-414. Annual report.**
78252 (1) Each county applicant or municipal applicant designated as an enterprise zone shall
78253 annually report to the office regarding the economic activity that has occurred in the zone
78254 following the designation.
78255 (2) This information shall include:
78256 (a) the number of jobs created in the zone;
78257 (b) the number of economically disadvantaged individuals receiving public job training
78258 assistance in the zone;
78259 (c) the average wage level of the jobs created;
78260 (d) descriptions of any affirmative action programs undertaken by the county applicant
78261 or municipal applicant in connection with the enterprise zone;
78262 (e) the amount of the county applicant's or municipal applicant's local contribution; and
78263 (f) the number of businesses qualifying for, or directly benefiting from, the local
78264 contribution.
78265 Section 1785. Section **63M-1-415**, which is renumbered from Section 63-38f-415 is
78266 renumbered and amended to read:
78267 **[~~63-38f-415~~]. 63M-1-415. Indian tribes -- Application.**
78268 (1) For purposes of this section:
78269 (a) "Indian reservation" is as defined in Section 9-9-210.
78270 (b) "Indian tribe" is as defined in Subsection 9-9-402(4).
78271 (c) "Tribal applicant" means the governing authority of a tribe that meets the

78272 requirements for designation as an enterprise zone under Subsection (3).
78273 (2) Indian tribes may apply for designation of an area within an Indian reservation as an
78274 enterprise zone.
78275 (3) The tribal applicant shall follow the application procedure for a municipal applicant
78276 in this part except for the population requirement in Subsections [~~63-38f-404~~] 63M-1-404(2)(a)
78277 and (b).
78278 Section 1786. Section **63M-1-416**, which is renumbered from Section 63-38f-416 is
78279 renumbered and amended to read:
78280 **[~~63-38f-416~~]. 63M-1-416. Technology-based service contracts within**
78281 **enterprise zones.**
78282 (1) For purposes of this section:
78283 (a) "Smart site enterprise" means a technology-based entity located within an enterprise
78284 zone that is eligible to receive financial support under the office's smart site program.
78285 (b) "Smart site program" means a program of the office dedicated to the development
78286 of technology-based industry in rural Utah in which services that might otherwise be performed
78287 by state agencies are outsourced to a smart site enterprise.
78288 (c) "State agency" means the:
78289 (i) Department of Commerce;
78290 (ii) Department of Workforce Services;
78291 (iii) Department of Transportation;
78292 (iv) Department of Health;
78293 (v) Department of Administrative Services;
78294 (vi) Department of Public Safety;
78295 (vii) Utah State Tax Commission; and
78296 (viii) Governor's Office of Economic Development.
78297 (d) "Technology-based contract" means a contract between a state agency and a smart
78298 site enterprise for the smart site enterprise to provide the following services:
78299 (i) software development and computer programming;
78300 (ii) website design;
78301 (iii) systems integration;
78302 (iv) AutoCad/GIS mapping;

78303 (v) help desk support, customer relationship management, and telephone or Internet
78304 surveys;
78305 (vi) computer graphics, animation, or illustration;
78306 (vii) medical billing, coding, transcription, and related medical informatics services;
78307 (viii) data entry, data conversion, and imaging;
78308 (ix) information technology training and e-learning;
78309 (x) network development, management, service, and support;
78310 (xi) telecommunications technologies;
78311 (xii) database development and applications;
78312 (xiii) multimedia and digital technologies, including DVD;
78313 (xiv) technical writing;
78314 (xv) insurance and benefits administration;
78315 (xvi) data warehousing and storage or web hosting;
78316 (xvii) billing services; and
78317 (xviii) information technology consulting.
78318 (2) The office has the following responsibilities for the smart site program authorized
78319 under this section:
78320 (a) to provide market incentives identified in Subsection (4) to eligible state agencies
78321 and provide technical assistance as appropriate;
78322 (b) to administer funding and initiate interagency transfers consistent with the
78323 provisions of this section;
78324 (c) to provide state agencies with a listing of smart site enterprises;
78325 (d) to designate a smart site program director and notify state agencies of the
78326 designation; and
78327 (e) in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
78328 Administrative Rulemaking Act, make rules necessary to administer this section.
78329 (3) A state agency has the following responsibilities if participating in the smart site
78330 program offered under this section:
78331 (a) to enter into a memorandum of understanding with the office indicating the steps
78332 the agency shall take to encourage smart site enterprises to submit bids for technology-based
78333 contracts; and

78334 (b) to submit to the office by no later than July 30, an accounting of all
78335 technology-based contracts awarded to smart site enterprises by the agency in the prior fiscal
78336 year.
78337 (4) (a) A state agency is eligible for an interagency transfer from the office for up to
78338 10% of all technology-based contracts awarded to a smart site enterprise under the office's
78339 smart site program.
78340 (b) The office shall determine the amount of the interagency transfer as follows:
78341 (i) if the total number of requests for interagency transfers under the program does not
78342 exceed the legislative appropriation for the fiscal year, each eligible agency shall receive a full
78343 10% transfer; or
78344 (ii) if the total number of requests for interagency transfers under the program exceeds
78345 the appropriation for the fiscal year, the office shall prorate the amount of each transfer based
78346 on the respective percentage of all technology-based contracts submitted to the office by all
78347 eligible state agencies.
78348 (c) (i) After determining the amount of each agency's interagency transfer as required
78349 under Subsection (4)(b), the office shall transfer the amount to each agency's budget.
78350 (ii) The office shall make the transfer no later than August 15 to supplement the
78351 agency's budget for the fiscal year beginning just prior to the interagency transfer.
78352 (iii) An agency may use the interagency transfer it receives under this Subsection (4)(c)
78353 for any purpose related to the agency's mission or its duties and responsibilities, including the
78354 payment of incentives and award bonuses for participating in the smart site program.
78355 (d) Funding for the interagency transfer under Subsection (4)(c) shall come from the
78356 prior fiscal year appropriation to the office.
78357 (e) The appropriation to fund this section is nonlapsing to provide for the distribution
78358 process outlined in this Subsection (4).
78359 Section 1787. Section **63M-1-501**, which is renumbered from Section 63-38f-501 is
78360 renumbered and amended to read:
78361 **Part 5. Targeted Business Income Tax Credits Within an Enterprise Zone**
78362 **[~~63-38f-501~~]. 63M-1-501. Definitions.**
78363 As used in this part:
78364 (1) "Allocated cap amount" means the total amount of the targeted business income tax

78365 credit that a business applicant is allowed to claim for a taxable year that represents a pro rata
78366 share of the total amount of $300,000 for each fiscal year allowed under Subsection
78367 [~~63-38f-503~~] 63M-1-504(2).
78368 (2) "Business applicant" means a business that:
78369 (a) is a:
78370 (i) claimant;
78371 (ii) estate; or
78372 (iii) trust; and
78373 (b) meets the criteria established in Section [~~63-38f-502~~] 63M-1-503.
78374 (3) (a) Except as provided in Subsection (3)(b), "claimant" means a resident or
78375 nonresident person.
78376 (b) "Claimant" does not include an estate or trust.
78377 (4) "Community investment project" means a project that includes one or more of the
78378 following criteria in addition to the normal operations of the business applicant:
78379 (a) substantial new employment;
78380 (b) new capital development; or
78381 (c) a combination of both Subsections (4)(a) and (b).
78382 (5) "Community investment project period" means the total number of years that the
78383 office determines a business applicant is eligible for a targeted business income tax credit for
78384 each community investment project.
78385 (6) "Enterprise zone" means an area within a county or municipality that has been
78386 designated as an enterprise zone by the office under Part 4, Enterprise Zone Act.
78387 (7) "Estate" means a nonresident estate or a resident estate.
78388 (8) "Local zone administrator" means a person:
78389 (a) designated by the governing authority of the county or municipal applicant as the
78390 local zone administrator in an enterprise zone application; and
78391 (b) approved by the office as the local zone administrator.
78392 (9) "Refundable tax credit" or "tax credit" means a tax credit that a claimant, estate, or
78393 trust may claim:
78394 (a) as provided by statute; and
78395 (b) regardless of whether, for the taxable year for which the claimant, estate, or trust

78396 claims the tax credit, the claimant, estate, or trust has a tax liability under:
78397 (i) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or
78398 (ii) Title 59, Chapter 10, Individual Income Tax Act.
78399 (10) "Targeted business income tax credit" means a refundable tax credit available
78400 under Section [~~63-38f-503~~] 63M-1-504.
78401 (11) "Targeted business income tax credit eligibility form" means a document provided
78402 annually to the business applicant by the office that complies with the requirements of
78403 Subsection [~~63-38f-503~~] 63M-1-504(8).
78404 (12) "Trust" means a nonresident trust or a resident trust.
78405 Section 1788. Section **63M-1-502**, which is renumbered from Section 63-38f-501.5 is
78406 renumbered and amended to read:
78407 **[~~63-38f-501.5~~]. 63M-1-502. Rulemaking authority.**
78408 In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
78409 Rulemaking Act, and for purposes of this section, the office shall make rules:
78410 (1) to determine what constitutes:
78411 (a) substantial new employment;
78412 (b) new capital development; and
78413 (c) a project; and
78414 (2) to establish a formula for determining the allocated cap amount for each business
78415 applicant.
78416 Section 1789. Section **63M-1-503**, which is renumbered from Section 63-38f-502 is
78417 renumbered and amended to read:
78418 **[~~63-38f-502~~]. 63M-1-503. Application for targeted business income tax**
78419 **credits.**
78420 (1) (a) For taxable years beginning on or after January 1, 2002, a business applicant
78421 may elect to claim a targeted business income tax credit available under Section [~~63-38f-503~~]
78422 63M-1-504 if the business applicant:
78423 (i) is located in:
78424 (A) an enterprise zone; and
78425 (B) a county with:
78426 (I) a population of less than 25,000; and

78427 (II) an unemployment rate that for six months or more of each calendar year is at least
78428 one percentage point higher than the state average;
78429 (ii) meets the requirements of Section [~~63-38f-412~~] 63M-1-412;
78430 (iii) provides:
78431 (A) a community investment project within the enterprise zone; and
78432 (B) a portion of the community investment project during each taxable year for which
78433 the business applicant claims the targeted business tax incentive; and
78434 (iv) in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
78435 Administrative Rulemaking Act, is not engaged in the following, as defined by the State Tax
78436 Commission by rule:
78437 (A) construction;
78438 (B) retail trade; or
78439 (C) public utility activities.
78440 (b) For a taxable year for which a business applicant claims a targeted business income
78441 tax credit available under this part, the business applicant may not claim or carry forward a tax
78442 credit available under Section [~~63-38f-413~~] 63M-1-413, 59-7-610, or 59-10-1007.
78443 (2) (a) A business applicant seeking to claim a targeted business income tax credit
78444 under this part shall file an application as provided in Subsection (2)(b) with the local zone
78445 administrator by no later than June 1 of the year in which the business applicant is seeking to
78446 claim a targeted business income tax credit.
78447 (b) The application described in Subsection (2)(a) shall include:
78448 (i) any documentation required by the local zone administrator to demonstrate that the
78449 business applicant meets the requirements of Subsection (1);
78450 (ii) a plan developed by the business applicant that outlines:
78451 (A) if the community investment project includes substantial new employment, the
78452 projected number and anticipated wage level of the jobs that the business applicant plans to
78453 create as the basis for qualifying for a targeted business income tax credit;
78454 (B) if the community investment project includes new capital development, a
78455 description of the capital development the business applicant plans to make as the basis for
78456 qualifying for a targeted business income tax credit; and
78457 (C) a description of how the business applicant's plan coordinates with:

78458 (I) the goals of the enterprise zone in which the business applicant is providing a
78459 community investment project; and
78460 (II) the overall economic development goals of the county or municipality in which the
78461 business applicant is providing a community investment project; and
78462 (iii) any additional information required by the local zone administrator.
78463 (3) (a) The local zone administrator shall:
78464 (i) evaluate an application filed under Subsection (2); and
78465 (ii) determine whether the business applicant is eligible for a targeted business income
78466 tax credit.
78467 (b) If the local zone administrator determines that the business applicant is eligible for
78468 a targeted business income tax credit, the local zone administrator shall:
78469 (i) certify that the business applicant is eligible for the targeted business income tax
78470 credit;
78471 (ii) structure the targeted business income tax credit for the business applicant in
78472 accordance with Section [~~63-38f-503~~] 63M-1-504; and
78473 (iii) monitor a business applicant to ensure compliance with this section.
78474 (4) A local zone administrator shall report to the office by no later than June 30 of each
78475 year:
78476 (a) (i) any application approved by the local zone administrator during the last fiscal
78477 year; and
78478 (ii) the information established in Subsections [~~63-38f-503~~] 63M-1-504(4)(a) through
78479 (d) for each new business applicant; and
78480 (b) (i) the status of any existing business applicants that the local zone administrator
78481 monitors; and
78482 (ii) any information required by the office to determine the status of an existing
78483 business applicant.
78484 (5) (a) By July 15 of each year, the department shall notify the local zone administrator
78485 of the allocated cap amount that each business applicant that the local zone administrator
78486 monitors is eligible to claim.
78487 (b) By September 15 of each year, the local zone administrator shall notify, in writing,
78488 each business applicant that the local zone administrator monitors of the allocated cap amount

78489 determined by the office under Subsection (5)(a) that the business applicant is eligible to claim
78490 for a taxable year.
78491 Section 1790. Section **63M-1-504**, which is renumbered from Section 63-38f-503 is
78492 renumbered and amended to read:
78493 **[~~63-38f-503~~]. 63M-1-504. Targeted business income tax credit structure --**
78494 **Duties of the local zone administrator -- Duties of the State Tax Commission.**
78495 (1) For taxable years beginning on or after January 1, 2002, a business applicant that is
78496 certified under Subsection [~~63-38f-502~~] 63M-1-503(3) and issued a targeted business tax credit
78497 eligibility form by the office under Subsection (8) may claim a refundable tax credit:
78498 (a) against the business applicant's tax liability under:
78499 (i) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or
78500 (ii) Title 59, Chapter 10, Individual Income Tax Act; and
78501 (b) subject to requirements and limitations provided by this part.
78502 (2) The total amount of the targeted business income tax credits allowed under this part
78503 for all business applicants may not exceed $300,000 in any fiscal year.
78504 (3) (a) A targeted business income tax credit allowed under this part for each
78505 community investment project provided by a business applicant may not:
78506 (i) be claimed by a business applicant for more than seven consecutive taxable years
78507 from the date the business applicant first qualifies for a targeted business income tax credit on
78508 the basis of a community investment project;
78509 (ii) be carried forward or carried back;
78510 (iii) exceed $100,000 in total amount for the community investment project period
78511 during which the business applicant is eligible to claim a targeted business income tax credit;
78512 or
78513 (iv) exceed in any year that the targeted business income tax credit is claimed the lesser
78514 of:
78515 (A) 50% of the maximum amount allowed by the local zone administrator; or
78516 (B) the allocated cap amount determined by the office under Subsection [~~63-38f-502~~]
78517 63M-1-503(5).
78518 (b) A business applicant may apply to the local zone administrator to claim a targeted
78519 business income tax credit allowed under this part for each community investment project

78520 provided by the business applicant as the basis for its eligibility for a targeted business income
78521 tax credit.
78522 (4) Subject to other provisions of this section, the local zone administrator shall
78523 establish for each business applicant that qualifies for a targeted business income tax credit:
78524 (a) criteria for maintaining eligibility for the targeted business income tax credit that
78525 are reasonably related to the community investment project that is the basis for the business
78526 applicant's targeted business income tax credit;
78527 (b) the maximum amount of the targeted business income tax credit the business
78528 applicant is allowed for the community investment project period;
78529 (c) the time period over which the total amount of the targeted business income tax
78530 credit may be claimed;
78531 (d) the maximum amount of the targeted business income tax credit that the business
78532 applicant will be allowed to claim each year; and
78533 (e) requirements for a business applicant to report to the local zone administrator
78534 specifying:
78535 (i) the frequency of the business applicant's reports to the local zone administrator,
78536 which shall be made at least quarterly; and
78537 (ii) the information needed by the local zone administrator to monitor the business
78538 applicant's compliance with this Subsection (4) or Section [~~63-38f-502~~] 63M-1-503 that shall
78539 be included in the report.
78540 (5) In accordance with Subsection (4)(e), a business applicant allowed a targeted
78541 business income tax credit under this part shall report to the local zone administrator.
78542 (6) The amount of a targeted business income tax credit that a business applicant is
78543 allowed to claim for a taxable year shall be reduced by 25% for each quarter in which the office
78544 or the local zone administrator determines that the business applicant has failed to comply with
78545 a requirement of Subsection (3) or Section [~~63-38f-502~~] 63M-1-503.
78546 (7) The office or local zone administrator may audit a business applicant to ensure:
78547 (a) eligibility for a targeted business income tax credit; or
78548 (b) compliance with Subsection (3) or Section [~~63-38f-502~~] 63M-1-503.
78549 (8) The office shall issue a targeted business income tax credit eligibility form in a
78550 form jointly developed by the State Tax Commission and the office no later than 30 days after

78551 the last day of the business applicant's taxable year showing:
78552 (a) the maximum amount of the targeted business income tax credit that the business
78553 applicant is eligible for that taxable year;
78554 (b) any reductions in the maximum amount of the targeted business income tax credit
78555 because of failure to comply with a requirement of Subsection (3) or Section [~~63-38f-502~~]
78556 63M-1-503;
78557 (c) the allocated cap amount that the business applicant may claim for that taxable
78558 year; and
78559 (d) the actual amount of the targeted business income tax credit that the business
78560 applicant may claim for that taxable year.
78561 (9) (a) A business applicant shall retain the targeted business income tax credit
78562 eligibility form provided by the office under this Subsection (9).
78563 (b) The State Tax Commission may audit a business applicant to ensure:
78564 (i) eligibility for a targeted business income tax credit; or
78565 (ii) compliance with Subsection (3) or Section [~~63-38f-502~~] 63M-1-503.
78566 Section 1791. Section **63M-1-601**, which is renumbered from Section 63-38f-601 is
78567 renumbered and amended to read:
78568 **Part 6. State Advisory Council on Science and Technology**
78569 **[~~63-38f-601~~]. 63M-1-601. Purpose.**
78570 The purpose of this part is to establish an advisory council on science and technology to
78571 assist in the development of programs, communication, and use of science and technology in
78572 governmental organizations in the state.
78573 Section 1792. Section **63M-1-602**, which is renumbered from Section 63-38f-602 is
78574 renumbered and amended to read:
78575 **[~~63-38f-602~~]. 63M-1-602. Definition of terms.**
78576 As used in this part:
78577 (1) "Adviser" means the state science adviser appointed under this part.
78578 (2) "Council" means the State Advisory Council on Science and Technology created
78579 under this part.
78580 (3) "Director" means the governor's director for economic development.
78581 Section 1793. Section **63M-1-603**, which is renumbered from Section 63-38f-603 is

78582 renumbered and amended to read:
78583 **[~~63-38f-603~~]. 63M-1-603. Creation.**
78584 There is created the State Advisory Council on Science and Technology within the
78585 Governor's Office of Economic Development, which shall perform the functions and duties
78586 provided in this part.
78587 Section 1794. Section **63M-1-604**, which is renumbered from Section 63-38f-604 is
78588 renumbered and amended to read:
78589 **[~~63-38f-604~~]. 63M-1-604. Members -- Appointment -- Terms --**
78590 **Qualifications -- Vacancies -- Chair and vice chair -- Executive secretary -- Executive**
78591 **committee -- Quorum -- Expenses.**
78592 (1) The council comprises the following nonvoting members or their designees:
78593 (a) the adviser;
78594 (b) the executive director of the Department of Natural Resources;
78595 (c) the executive director of the Department of Community and Culture;
78596 (d) the executive director of the Department of Health;
78597 (e) the executive director of the Department of Environmental Quality;
78598 (f) the commissioner of agriculture and food;
78599 (g) the commissioner of higher education;
78600 (h) the state planning coordinator; and
78601 (i) the executive director of the Department of Transportation.
78602 (2) The governor may appoint other voting members, not to exceed 12.
78603 (3) (a) Except as required by Subsection (3)(b), as terms of current council members
78604 expire, the governor shall appoint each new member or reappointed member to a four-year
78605 term.
78606 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the
78607 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
78608 council members are staggered so that approximately half of the council is appointed every two
78609 years.
78610 (4) The governor shall consider all institutions of higher education in the state in the
78611 appointment of council members.
78612 (5) The voting members of the council shall be experienced or knowledgeable in the

78613 application of science and technology to business, industry, or public problems and have
78614 demonstrated their interest in and ability to contribute to the accomplishment of the purposes of
78615 this part.
78616 (6) When a vacancy occurs in the membership for any reason, the replacement shall be
78617 appointed for the unexpired term.
78618 (7) (a) Each year the council shall select from its membership a chair and a vice chair.
78619 (b) The chair and vice chair shall hold office for one year or until a successor is
78620 appointed and qualified.
78621 (8) The adviser serves as executive secretary of the council.
78622 (9) An executive committee shall be established consisting of the chair, vice chair, and
78623 the adviser.
78624 (10) (a) In order to conduct business matters of the council at regularly convened
78625 meetings, a quorum consisting of a simple majority of the total voting membership of the
78626 council is required.
78627 (b) All matters of business affecting public policy require not less than a simple
78628 majority of affirmative votes of the total membership.
78629 (11) (a) (i) Members who are not government employees shall receive no
78630 compensation or benefits for their services, but may receive per diem and expenses incurred in
78631 the performance of the member's official duties at the rates established by the Division of
78632 Finance under Sections 63A-3-106 and 63A-3-107.
78633 (ii) Members may decline to receive per diem and expenses for their service.
78634 (b) (i) State government officer and employee members who do not receive salary, per
78635 diem, or expenses from their agency for their service may receive per diem and expenses
78636 incurred in the performance of their official duties from the council at the rates established by
78637 the Division of Finance under Sections 63A-3-106 and 63A-3-107.
78638 (ii) State government officer and employee members may decline to receive per diem
78639 and expenses for their service.
78640 (c) (i) Higher education members who do not receive salary, per diem, or expenses
78641 from the entity that they represent for their service may receive per diem and expenses incurred
78642 in the performance of their official duties from the committee at the rates established by the
78643 Division of Finance under Sections 63A-3-106 and 63A-3-107.

78644 (ii) Higher education members may decline to receive per diem and expenses for their
78645 service.
78646 Section 1795. Section **63M-1-605**, which is renumbered from Section 63-38f-605 is
78647 renumbered and amended to read:
78648 **[~~63-38f-605~~]. 63M-1-605. Duties and powers.**
78649 (1) The council shall:
78650 (a) encourage the use of science and technology in the administration of state and local
78651 government;
78652 (b) develop programs whereby state agencies and the several public and private
78653 institutions of higher education and technical colleges within the state may assist business and
78654 industry in the utilization of science and technology;
78655 (c) further communication between agencies of federal, state, and local government
78656 who wish to utilize science and technology;
78657 (d) develop programs of cooperation on matters of science and technology between:
78658 (i) state and local government agencies;
78659 (ii) the several public and private institutions of higher education and technical
78660 colleges within the state; and
78661 (iii) business and industry within the state; or
78662 (iv) between any combination of these;
78663 (e) provide a means whereby government, business, industry, and higher education
78664 may be represented in the formulation and implementation of state policies and programs on
78665 matters of science and technology;
78666 (f) review, catalog, and compile the research and development uses by the state
78667 universities of the revenue derived from mineral lease funds on state and federal lands;
78668 (g) provide to the Legislature an annual report on the expenditure and utilization of
78669 these mineral lease funds;
78670 (h) make recommendations to the Legislature on the further uses of these mineral lease
78671 funds in order to stimulate research and development directed toward the more effective
78672 utilization of the state's natural resources; and
78673 (i) prepare and lodge an annual report with the governor and with the Legislature.
78674 (2) The council may:

78675 (a) in accordance with [~~Title 63, Chapter 40, Federal Assistance Management~~
78676 ~~Program~~] Title 63J, Chapter 5, Federal Funds Procedures, apply for, receive, and disburse
78677 funds, contributions, or grants from whatever source for the purposes set forth in this part;
78678 (b) employ, compensate, and prescribe the duties and powers of those individuals,
78679 subject to the provisions of this part relating to the adviser, necessary to execute the duties and
78680 powers of the council; and
78681 (c) enter into contracts for the purposes of this part.
78682 Section 1796. Section **63M-1-606**, which is renumbered from Section 63-38f-606 is
78683 renumbered and amended to read:
78684 **[~~63-38f-606~~]. 63M-1-606. Adviser -- Duties and powers.**
78685 (1) The adviser shall be appointed by the governor.
78686 (2) The adviser shall be experienced or knowledgeable in the application of science
78687 and technology to business, industry, or public problems and shall have demonstrated interest
78688 in or ability to contribute to the accomplishment of the purposes of this part.
78689 (3) The adviser shall be compensated pursuant to the wage and salary classification
78690 plan for appointed officers of the state currently in effect.
78691 (4) (a) The adviser shall have those duties and powers the council assigns.
78692 (b) The adviser, with the advice of the council, may enter into contracts and
78693 agreements and may incur expenses necessary to fulfill the purposes of this part.
78694 (5) The adviser shall be administratively responsible to the director of the office.
78695 Section 1797. Section **63M-1-607**, which is renumbered from Section 63-38f-607 is
78696 renumbered and amended to read:
78697 **[~~63-38f-607~~]. 63M-1-607. Request for information.**
78698 All departments, divisions, boards, commissions, agencies, institutions, and all other
78699 instrumentalities of the state shall, upon request of the council, provide the council with any
78700 information that these instrumentalities have concerning research in science and technology.
78701 Section 1798. Section **63M-1-608**, which is renumbered from Section 63-38f-608 is
78702 renumbered and amended to read:
78703 **[~~63-38f-608~~]. 63M-1-608. Science education program.**
78704 (1) (a) There is established an informal science and technology education program
78705 within the Governor's Office of Economic Development.

78706 (b) The state science advisor shall act as the executive director of the program.
78707 (c) The State Advisory Council on Science and Technology shall advise the program,
78708 including:
78709 (i) approving all monies expended by the science and technology education program;
78710 (ii) approving all operations of the program; and
78711 (iii) making policies and procedures to govern the program.
78712 (2) The program may:
78713 (a) provide informal science and technology-based education to elementary and
78714 secondary students;
78715 (b) expose public education students to college level science and technology
78716 disciplines;
78717 (c) administer a science and technology camp program; and
78718 (d) provide other informal promotion of science and technology education in this state,
78719 including the direct sponsorship of science fairs and science olympiads.
78720 (3) The science and technology camp program described under Subsection (2)(c) shall
78721 be:
78722 (a) provided exclusively for elementary and secondary students and their teachers;
78723 (b) established as a grant program for camp providers; and
78724 (c) administered based upon annual requests for proposals, a documented review
78725 process, and grant awards.
78726 Section 1799. Section **63M-1-701**, which is renumbered from Section 63-38f-702 is
78727 renumbered and amended to read:
78728 **Part 7. Centers for Excellence**
78729 **[~~63-38f-702~~]. 63M-1-701. Title.**
78730 This part is known as the "Centers of Excellence Act."
78731 Section 1800. Section **63M-1-702**, which is renumbered from Section 63-38f-701 is
78732 renumbered and amended to read:
78733 **[~~63-38f-701~~]. 63M-1-702. Purpose.**
78734 (1) (a) The Legislature recognizes that the growth of new industry and expansion of
78735 existing industry requires a strong technology base, new ideas, concepts, innovations, and
78736 prototypes.

78737 (b) These generally come from strong research colleges and universities.
78738 (c) Technical research in Utah's colleges and universities should be enhanced and
78739 expanded, particularly in those areas targeted by the state for economic development.
78740 (d) Most states are enhancing their research base by direct funding, usually on a
78741 matching basis.
78742 (e) The purpose of this part is to catalyze and enhance the growth of these technologies
78743 by encouraging interdisciplinary research activities in targeted areas and by facilitating the
78744 transition of these technologies out of the university environment into industry where the
78745 technologies can be used to enhance job creation.
78746 (f) The Legislature recognizes that one source of funding is in matching state funds
78747 with federal funds and industrial support to provide the needed new technologies.
78748 (2) The Legislature recommends that the governor consider the allocation of economic
78749 development funds for Centers of Excellence to be matched by industry and federal grants on at
78750 least a two-for-one basis for colleges and universities in the state that offer any doctoral
78751 degrees.
78752 (3) (a) The Legislature recommends that the funds be allocated on a competitive basis
78753 to the various colleges and universities in the state and to companies working in partnership
78754 with colleges and universities to commercialize their technologies.
78755 (b) The funds made available should be used to support interdisciplinary research in
78756 specialized Centers of Excellence in technologies that are considered to have potential for
78757 economic development in this state and to help transition these technologies out of the colleges
78758 and universities into industry.
78759 Section 1801. Section **63M-1-703**, which is renumbered from Section 63-38f-703 is
78760 renumbered and amended to read:
78761 **[~~63-38f-703~~]. 63M-1-703. Definitions.**
78762 As used in this part:
78763 (1) "Business team consultant" means an experienced technology executive,
78764 entrepreneur, or business person who:
78765 (a) is recruited by the office through a request for proposal process to work directly
78766 with a college or university in the Centers for Excellence program; and
78767 (b) works with the institution to facilitate the transition of its technology into industry

78768 by assisting the institution in developing strategies, including spin out strategies when
78769 appropriate, and go-to-market plans, and identifying and working with potential customers and
78770 partners.
78771 (2) "Centers of excellence" means university-based, federal and industry-supported,
78772 cooperative research and development programs.
78773 (3) "Direct license" means the licensing between a company and a Utah college or
78774 university of technology developed at the college or university for the intent of
78775 commercializing the technology or facilitating its transition into industry.
78776 (4) "Licensee" means:
78777 (a) a company that executes or is in the process of executing a direct license; or
78778 (b) a sublicensee of the technology from a direct license.
78779 Section 1802. Section **63M-1-704**, which is renumbered from Section 63-38f-704 is
78780 renumbered and amended to read:
78781 **[~~63-38f-704~~]. 63M-1-704. Administration -- Grants.**
78782 (1) The Governor's Office of Economic Development shall administer this part.
78783 (2) (a) The office may award Centers of Excellence grants to the various colleges,
78784 universities, and licensees in the state for the purposes of this part.
78785 (b) The governor's Office of Economic Development shall develop a process to
78786 determine whether a college or university that receives a grant under this part must return the
78787 grant proceeds or a portion of the grant proceeds if the technology that is developed with the
78788 grant proceeds is licensed to a licensee that:
78789 (i) does not maintain a manufacturing or service location in the state from which the
78790 licensee or a sublicensee exploits the technology; or
78791 (ii) initially maintains a manufacturing or service location in the state from which the
78792 licensee or a sublicensee exploits the technology, but within five years after issuance of the
78793 license the licensee or sublicensee transfers the manufacturing or service location for the
78794 technology to a location out of the state.
78795 (c) A repayment by a college or university of grant proceeds or a portion of the grant
78796 proceeds shall come only from the proceeds of the license established between the licensee and
78797 the college or university.
78798 (d) (i) A licensee that receives a grant under this part shall return the grant proceeds or

78799 a portion of the grant proceeds to the office if the licensee:
78800 (A) does not maintain a manufacturing or service location in the state from which the
78801 licensee exploits the technology; or
78802 (B) initially maintains a manufacturing or service location in the state from which the
78803 licensee exploits the technology, but within five years after issuance of the grant the licensee
78804 transfers the manufacturing or service location for the technology to an out of state location.
78805 (ii) A repayment by a licensee that receives a grant shall come only from the proceeds
78806 of the license to that licensee.
78807 (iii) A repayment by a licensee shall be prorated based only on the number of full years
78808 the licensee operated in the state from the date of the awarded grant.
78809 (3) (a) Funding allocations shall be made by the office with the advice of the State
78810 Advisory Council for Science and Technology and the board.
78811 (b) Each proposal shall receive the best available outside review.
78812 (4) (a) In considering each proposal, the office shall weigh technical merit, the level of
78813 matching funds from private and federal sources, and the potential for job creation and
78814 economic development.
78815 (b) Proposals or consortia that combine and coordinate related research at two or more
78816 colleges and universities shall be encouraged.
78817 (5) The State Advisory Council on Science and Technology shall review the activities
78818 and progress of grant recipients on a regular basis and assist the office in preparing an annual
78819 report on the accomplishments and direction of the Centers of Excellence Program.
78820 Section 1803. Section **63M-1-705**, which is renumbered from Section 63-38f-705 is
78821 renumbered and amended to read:
78822 **[~~63-38f-705~~]. 63M-1-705. Business team consultants.**
78823 (1) The office may enter into work agreements with business team consultants through
78824 a request for proposal process to participate in the Centers for Excellence program.
78825 (2) Under a work agreement, a business team consultant shall assist a college or
78826 university in facilitating the transition of its technology into industry.
78827 Section 1804. Section **63M-1-801**, which is renumbered from Section 63-38f-801 is
78828 renumbered and amended to read:
78829 **Part 8. Shared Foreign Sales Corporations**

78830 **[~~63-38f-801~~]. 63M-1-801. Creation of shared foreign sales corporations.**
78831 The office may create one or more shared foreign sales corporations, qualifying as such
78832 under Section 927(g), Internal Revenue Code of 1986, and may name directors or managers of
78833 these corporations at its discretion.
78834 Section 1805. Section **63M-1-802**, which is renumbered from Section 63-38f-802 is
78835 renumbered and amended to read:
78836 **[~~63-38f-802~~]. 63M-1-802. Management fees.**
78837 (1) All expenses incurred in establishing and maintaining shared foreign sales
78838 corporations shall be initially paid for by the office but shall be reimbursed to the office by the
78839 participants in each shared foreign sales corporation created under Section [~~63-38f-801~~]
78840 63M-1-801 on a pro rata basis determined by the office.
78841 (2) The office may charge the participants management fees that are reasonable to
78842 maintain and manage each of the shared foreign sales corporations.
78843 (3) All monies obtained by the office in excess of office expenditures in connection
78844 with the management of shared foreign sales corporations may be used at the discretion of the
78845 office for the office's other activities in promoting exporting.
78846 (4) The fees collected and the expenditures made shall be reported to the Legislature
78847 each year.
78848 Section 1806. Section **63M-1-901**, which is renumbered from Section 63-38f-901 is
78849 renumbered and amended to read:
78850 **Part 9. Industrial Assistance Fund**
78851 **[~~63-38f-901~~]. 63M-1-901. Purpose statement.**
78852 The Legislature finds and declares that the fostering and development of industry in
78853 Utah is a state public purpose necessary to assure the welfare of its citizens, the growth of its
78854 economy, and adequate employment for its citizens.
78855 Section 1807. Section **63M-1-902**, which is renumbered from Section 63-38f-902 is
78856 renumbered and amended to read:
78857 **[~~63-38f-902~~]. 63M-1-902. Definitions.**
78858 As used in this part:
78859 (1) "Administrator" means the director or the director's designee.
78860 (2) "Board" means the Board of Business and Economic Development.

78861 (3) "Company creating an economic impediment" means a company that discourages
78862 economic development within a reasonable radius of its location because of:
78863 (a) odors;
78864 (b) noise;
78865 (c) pollution;
78866 (d) health hazards; or
78867 (e) other activities similar to those described in Subsections (3)(a) through (d).
78868 (4) "Economic opportunities" means unique business situations or community
78869 circumstances which lend themselves to the furtherance of the economic interests of the state
78870 by providing a catalyst or stimulus to the growth or retention, or both, of commerce and
78871 industry in the state.
78872 (5) "Economically disadvantaged rural area" means a geographic area designated by the
78873 board under Section [~~63-38f-909~~] 63M-1-910.
78874 (6) "Fund" means the restricted account known as the Industrial Assistance Fund
78875 created in Section [~~63-38f-903~~] 63M-1-903.
78876 (7) "Replacement company" means a company locating its business or part of its
78877 business in a location vacated by a company creating an economic impediment.
78878 (8) "Targeted industry" means an industry or group of industries targeted by the board
78879 under Section [~~63-38f-909~~] 63M-1-910, for economic development in the state.
78880 Section 1808. Section **63M-1-903**, which is renumbered from Section 63-38f-903 is
78881 renumbered and amended to read:
78882 **[~~63-38f-903~~]. 63M-1-903. Industrial Assistance Fund created.**
78883 (1) There is created within the General Fund a restricted account known as the
78884 Industrial Assistance Fund of which:
78885 (a) up to 50% shall be used in economically disadvantaged rural areas; and
78886 (b) up to 20% may be used to take timely advantage of economic opportunities as they
78887 arise.
78888 (2) The fund shall be administered by the administrator under the policy direction of
78889 the board.
78890 (3) The administrator may hire appropriate support staff.
78891 (4) The cost of administering the fund shall be paid from monies in the fund.

78892 (5) Interest accrued from investment of monies in the fund shall remain in the fund.
78893 Section 1809. Section **63M-1-904**, which is renumbered from Section 63-38f-903.5 is
78894 renumbered and amended to read:
78895 **[~~63-38f-903.5~~]. 63M-1-904. Rural Fast Track Program -- Creation --**
78896 **Funding -- Qualifications for program participation -- Awards -- Reports.**
78897 (1) (a) There is created the Rural Fast Track Program, hereafter referred to in this
78898 section as "the program."
78899 (b) The program is a funded component of the economically disadvantaged rural areas
78900 designation in Subsection [~~63-38f-903~~] 63M-1-903(1)(a).
78901 (2) The purpose of the program is to provide an efficient way for small companies in
78902 rural Utah to receive incentives for creating high paying jobs in the rural areas of the state and
78903 to further promote business and economic development in rural Utah.
78904 (3) (a) Twenty percent of the money in the Industrial Assistance Fund at the beginning
78905 of each fiscal year shall be used to fund the program.
78906 (b) The 20% referred to in Subsection (3)(a) is not in addition to but is a part of the up
78907 to 50% designation for economically disadvantaged rural areas referred to in Subsection
78908 [~~63-38f-903~~] 63M-1-903(1)(a).
78909 (c) If any of the 20% allocation referred to in Subsection (3)(a) has not been used in the
78910 program by the end of the third quarter of each fiscal year, that money may be used for any
78911 other loan, grant, or assistance program offered through the Industrial Assistance Fund during
78912 the fiscal year.
78913 (4) (a) To qualify for participation in the program a company shall:
78914 (i) complete and file with the office an application for participation in the program,
78915 signed by an officer of the company;
78916 (ii) be located and conduct its business operations in a county in the state that has:
78917 (A) a population of less than 30,000; and
78918 (B) an average household income of less than $60,000 as reflected in the most recently
78919 available data collected and reported by the United States Census Bureau;
78920 (iii) have been in business in the state for at least two years; and
78921 (iv) have at least two employees.
78922 (b) (i) Office staff shall verify an applicant's qualifications under Subsection (4)(a).

78923 (ii) The application must be approved by the administrator in order for a company to
78924 receive an incentive or other assistance under this section.
78925 (c) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
78926 Administrative Rulemaking Act, the administrator may make rules governing:
78927 (i) the content of the application form referred to in Subsection (4)(a)(i);
78928 (ii) who qualifies as an employee under Subsection (4)(a)(iv); and
78929 (iii) the verification procedure referred to in Subsection (4)(b).
78930 (5) (a) The administrator shall make incentive cash awards to small companies under
78931 this section based on the following criteria:
78932 (i) $1,000 for each new incremental job that pays over 110% of the county's average
78933 annual wage;
78934 (ii) $1,250 for each incremental job that pays over 115% of the county's average annual
78935 wage; and
78936 (iii) $1,500 for each incremental job that pays over 125% of the county's average
78937 annual wage.
78938 (b) The administrator shall make a cash award under Subsection (5)(a) when a new
78939 incremental job has been in place for at least 12 months.
78940 (c) The creation of a new incremental job by a company is based on the number of
78941 employees at the company during the previous 24 months.
78942 (d) (i) A small company may also apply for grants, loans, or other financial assistance
78943 under the program to help develop its business in rural Utah and may receive up to $50,000
78944 under the program if approved by the administrator.
78945 (ii) The board must approve a distribution that exceeds the $50,000 cap under
78946 Subsection (5)(d)(i).
78947 (6) The administrator shall make a quarterly report to the board of the awards made by
78948 the administrator under this section and an annual report to the Legislative Workforce Services
78949 and Community and Economic Development Interim Committee as to the awards and their
78950 impact on economic development in the state's rural areas.
78951 Section 1810. Section **63M-1-905**, which is renumbered from Section 63-38f-904 is
78952 renumbered and amended to read:
78953 **[~~63-38f-904~~]. 63M-1-905. Loans, grants, and assistance -- Repayment --**

78954 **Earned credits.**
78955 (1) (a) A company that qualifies under Section [~~63-38f-905~~] 63M-1-906 may receive
78956 loans, grants, or other financial assistance from the fund for expenses related to establishment,
78957 relocation, or development of industry in Utah.
78958 (b) A company creating an economic impediment that qualifies under Section
78959 [~~63-38f-907~~] 63M-1-908 may in accordance with this part receive loans, grants, or other
78960 financial assistance from the fund for the expenses of the company creating an economic
78961 impediment related to:
78962 (i) relocation to a rural area in Utah of the company creating an economic impediment;
78963 and
78964 (ii) the siting of a replacement company.
78965 (c) An entity offering an economic opportunity that qualifies under Section
78966 [~~63-38f-908~~] 63M-1-909 may:
78967 (i) receive loans, grants, or other financial assistance from the fund for expenses related
78968 to the establishment, relocation, retention, or development of industry in the state; and
78969 (ii) include infrastructure or other economic development precursor activities that act
78970 as a catalyst and stimulus for economic activity likely to lead to the maintenance or
78971 enlargement of the state's tax base.
78972 (2) (a) Subject to Subsection (2)(b), the administrator has authority to determine the
78973 structure, amount, and nature of any loan, grant, or other financial assistance from the fund.
78974 (b) Loans made under Subsection (2)(a) shall be structured so the intended repayment
78975 or return to the state, including cash or credit, equals at least the amount of the assistance
78976 together with an annual interest charge as negotiated by the administrator.
78977 (c) Payments resulting from grants awarded from the fund shall be made only after the
78978 administrator has determined that the company has satisfied the conditions upon which the
78979 payment or earned credit was based.
78980 (3) (a) (i) Except as provided in Subsection (3)(b), the administrator may provide for a
78981 system of earned credits that may be used to support grant payments or in lieu of cash
78982 repayment of a fund loan obligation.
78983 (ii) The value of the credits described in Subsection (3)(a)(i) shall be based on factors
78984 determined by the administrator, including:

78985 (A) the number of Utah jobs created;
78986 (B) the increased economic activity in Utah; or
78987 (C) other events and activities that occur as a result of the fund assistance.
78988 (b) (i) The administrator shall provide for a system of credits to be used to support
78989 grant payments or in lieu of cash repayment of a fund loan when loans are made to a company
78990 creating an economic impediment.
78991 (ii) The value of the credits described in Subsection (3)(b)(i) shall be based on factors
78992 determined by the administrator, including:
78993 (A) the number of Utah jobs created;
78994 (B) the increased economic activity in Utah; or
78995 (C) other events and activities that occur as a result of the fund assistance.
78996 (4) (a) A cash loan repayment or other cash recovery from a company receiving
78997 assistance under this section, including interest, shall be deposited into the fund.
78998 (b) The administrator and the Division of Finance shall determine the manner of
78999 recognizing and accounting for the earned credits used in lieu of loan repayments or to support
79000 grant payments as provided in Subsection (3).
79001 (5) (a) At the end of each fiscal year, the unrestricted, undesignated General Fund
79002 balance after the transfers of surplus of General Fund revenues described in this Subsection
79003 (5)(a) shall be earmarked to the Industrial Assistance Fund in an amount equal to any credit
79004 that has accrued under this part. The earmark required by this Subsection (5)(a) shall be made
79005 after the transfer of surplus General Fund revenues is made:
79006 (i) to the General Fund Budget Reserve Account as provided in Section [~~63-38-2.5~~]
79007 63J-1-202; and
79008 (ii) beginning with the fiscal year ending June 30, 2007, as provided in Section
79009 [~~63-38-2.7~~] 63J-1-204.
79010 (b) These credit amounts may not be used for purposes of the fund as provided in this
79011 part until appropriated by the Legislature.
79012 Section 1811. Section **63M-1-906**, which is renumbered from Section 63-38f-905 is
79013 renumbered and amended to read:
79014 **[~~63-38f-905~~]. 63M-1-906. Qualification for assistance.**
79015 (1) Except as provided in Section [~~63-38f-907~~] 63M-1-908 or Section [~~63-38f-908~~]

79016 63M-1-909, the administrator shall determine which industries, companies, and individuals
79017 qualify to receive monies from the fund. Except as provided by Subsection (2), to qualify for
79018 financial assistance from the fund, an applicant shall:
79019 (a) demonstrate to the satisfaction of the administrator that the applicant will expend
79020 funds in Utah with employees, vendors, subcontractors, or other businesses in an amount
79021 proportional with monies provided from the fund at a minimum ratio of 2 to 1 per year or other
79022 more stringent requirements as established from time to time by the board for a minimum
79023 period of five years beginning with the date the loan or grant was approved;
79024 (b) demonstrate to the satisfaction of the administrator the applicant's ability to sustain
79025 economic activity in the state sufficient to repay, by means of cash or appropriate credits, the
79026 loan provided by the fund; and
79027 (c) satisfy other criteria the administrator considers appropriate.
79028 (2) (a) The administrator may exempt an applicant from the requirements of Subsection
79029 (1)(a) or (b) if:
79030 (i) the financial assistance is provided to an applicant for the purpose of locating all or
79031 any portion of its operations to an economically disadvantaged rural area;
79032 (ii) the applicant is part of a targeted industry;
79033 (iii) the applicant is a quasi-public corporation organized under Title 16, Chapter 6a,
79034 Utah Revised Nonprofit Corporation Act, or Title 63E, Chapter 2, Independent Corporations
79035 Act, and its operations, as demonstrated to the satisfaction of the administrator, will provide
79036 significant economic stimulus to the growth of commerce and industry in the state; or
79037 (iv) the applicant is an entity offering an economic opportunity under Section
79038 [~~63-38f-908~~] 63M-1-909.
79039 (b) The administrator may not exempt the applicant from the requirement under
79040 Subsection [~~63-38f-904~~] 63M-1-905(2)(b) that the loan be structured so that the repayment or
79041 return to the state equals at least the amount of the assistance together with an annual interest
79042 charge.
79043 (3) The administrator shall:
79044 (a) for applicants not described in Subsection (2)(a):
79045 (i) make findings as to whether or not each applicant has satisfied each of the
79046 conditions set forth in Subsection (1); and

79047 (ii) monitor the continued compliance by each applicant with each of the conditions set
79048 forth in Subsection (1) for five years;
79049 (b) for applicants described in Subsection (2)(a), make findings as to whether the
79050 economic activities of each applicant has resulted in the creation of new jobs on a per capita
79051 basis in the economically disadvantaged rural area or targeted industry in which the applicant is
79052 located;
79053 (c) monitor the compliance by each applicant with the provisions of any contract or
79054 agreement entered into between the applicant and the state as provided in Section [~~63-38f-906~~]
79055 63M-1-907; and
79056 (d) make funding decisions based upon appropriate findings and compliance.
79057 Section 1812. Section **63M-1-907**, which is renumbered from Section 63-38f-906 is
79058 renumbered and amended to read:
79059 **[~~63-38f-906~~]. 63M-1-907. Agreements.**
79060 The administrator shall enter into agreements with each successful applicant that have
79061 specific terms and conditions for each loan or assistance, including:
79062 (1) repayment schedules;
79063 (2) interest rates;
79064 (3) specific economic activity required to qualify for the loan or assistance or for
79065 repayment credits;
79066 (4) collateral or security, if any; and
79067 (5) other terms and conditions considered appropriate by the administrator.
79068 Section 1813. Section **63M-1-908**, which is renumbered from Section 63-38f-907 is
79069 renumbered and amended to read:
79070 **[~~63-38f-907~~]. 63M-1-908. Financial assistance to companies that create**
79071 **economic impediments.**
79072 (1) (a) The administrator may provide monies from the fund to a company creating an
79073 economic impediment if that company:
79074 (i) applies to the administrator;
79075 (ii) relocates to a rural area in Utah; and
79076 (iii) meets the qualifications of Subsection (1)(b).
79077 (b) Except as provided by Subsection (2), to qualify for financial assistance from the

79078 fund, a company creating an economic impediment shall:
79079 (i) demonstrate to the satisfaction of the administrator that the company creating an
79080 economic impediment, its replacement company, or in the aggregate the company creating the
79081 economic impediment and its replacement company:
79082 (A) will expend funds in Utah with employees, vendors, subcontractors, or other
79083 businesses in an amount proportional with monies provided from the fund at a minimum ratio
79084 of 2 to 1 per year or other more stringent requirements as established from time to time by the
79085 board for a minimum period of five years beginning with the date the loan or grant was
79086 approved; and
79087 (B) can sustain economic activity in the state sufficient to repay, by means of cash or
79088 appropriate credits, the loan provided by the fund; and
79089 (ii) satisfy other criteria the administrator considers appropriate.
79090 (2) (a) The administrator may exempt a company creating an economic impediment
79091 from the requirements of Subsection (1)(b)(i)(A) if:
79092 (i) the financial assistance is provided to a company creating an economic impediment
79093 for the purpose of locating all or any portion of its operations to an economically disadvantaged
79094 rural area; or
79095 (ii) its replacement company is part of a targeted industry.
79096 (b) The administrator may not exempt a company creating an economic impediment
79097 from the requirement under Subsection [~~63-38f-904~~] 63M-1-905(2)(b) that the loan be
79098 structured so that the repayment or return to the state equals at least the amount of the
79099 assistance together with an annual interest charge.
79100 (3) The administrator shall:
79101 (a) make findings as to whether or not a company creating an economic impediment,
79102 its replacement company, or both, have satisfied each of the conditions set forth in Subsection
79103 (1);
79104 (b) monitor the compliance by a company creating an economic impediment, its
79105 replacement company, or both, with:
79106 (i) each of the conditions set forth in Subsection (1); and
79107 (ii) any contract or agreement under Section [~~63-38f-906~~] 63M-1-907 entered into
79108 between:

79109 (A) the company creating an economic impediment; and
79110 (B) the state; and
79111 (c) make funding decisions based upon appropriate findings and compliance.
79112 Section 1814. Section **63M-1-909**, which is renumbered from Section 63-38f-908 is
79113 renumbered and amended to read:
79114 **[~~63-38f-908~~]. 63M-1-909. Financial assistance to entities offering economic**
79115 **opportunities.**
79116 (1) Subject to the duties and powers of the board under Section [~~63-38f-303~~]
79117 63M-1-303, the administrator may provide monies from the fund to an entity offering an
79118 economic opportunity if that entity:
79119 (a) applies to the administrator; and
79120 (b) meets the qualifications of Subsection (2).
79121 (2) The applicant shall:
79122 (a) demonstrate to the satisfaction of the administrator the nature of the economic
79123 opportunity and the related benefit to the economic well-being of the state by providing
79124 evidence documenting the logical and compelling linkage, either direct or indirect, between the
79125 expenditure of monies necessitated by the economic opportunity and the likelihood that the
79126 state's tax base will be maintained or enlarged;
79127 (b) demonstrate how the funding request will act in concert with other state, federal, or
79128 local agencies to achieve the economic benefit;
79129 (c) demonstrate how the funding request will act in concert with free market principles;
79130 (d) satisfy other criteria the administrator considers appropriate; and
79131 (e) be either:
79132 (i) an entity whose purpose is to exclusively or substantially promote, develop, or
79133 maintain the economic welfare and prosperity of the state as a whole, regions of the state, or
79134 specific components of the state; or
79135 (ii) a company or individual that does not otherwise qualify under Section [~~63-38f-905~~]
79136 63M-1-906.
79137 (3) Subject to the duties and powers of the board under Section [~~63-38f-303~~]
79138 63M-1-303, the administrator shall:
79139 (a) make findings as to whether an applicant has satisfied each of the conditions set

79140 forth in Subsection (2);
79141 (b) establish benchmarks and timeframes in which progress toward the completion of
79142 the agreed upon activity is to occur;
79143 (c) monitor compliance by an applicant with any contract or agreement entered into by
79144 the applicant and the state as provided by Section [~~63-38f-906~~] 63M-1-907; and
79145 (d) make funding decisions based upon appropriate findings and compliance.
79146 Section 1815. Section **63M-1-910**, which is renumbered from Section 63-38f-909 is
79147 renumbered and amended to read:
79148 **[~~63-38f-909~~]. 63M-1-910. Annual policy considerations.**
79149 (1) The board shall determine annually which industries or groups of industries shall be
79150 targeted industries as defined in Section [~~63-38f-902~~] 63M-1-902.
79151 (2) In designating an economically disadvantaged rural area, the board shall consider
79152 the average agricultural and nonagricultural wage, personal income, unemployment, and
79153 employment in the area.
79154 (3) In evaluating the economic impact of applications for assistance, the board shall use
79155 an econometric cost-benefit model or models adopted by the Governor's Office of Planning and
79156 Budget.
79157 (4) The board may establish:
79158 (a) minimum interest rates to be applied to loans granted that reflect a fair social rate of
79159 return to the state comparable to prevailing market-based rates such as the prime rate, U.S.
79160 Government T-bill rate, or bond coupon rate as paid by the state, adjusted by social indicators
79161 such as the rate of unemployment; and
79162 (b) minimum applicant expense ratios, as long as they are at least equal to those
79163 required under Subsection [~~63-38f-905~~] 63M-1-906(1)(a) or [~~63-38f-907~~]
79164 63M-1-908(1)(b)(i)(A).
79165 Section 1816. Section **63M-1-1001**, which is renumbered from Section 63-38f-1001 is
79166 renumbered and amended to read:
79167 **Part 10. Biotechnology Regulation**
79168 **[~~63-38f-1001~~]. 63M-1-1001. Definitions.**
79169 As used in this part, "biotechnology" is:
79170 (1) the modification of living organisms by recombinant DNA techniques; and

79171 (2) a means to accomplish, through genetic engineering, the same kinds of
79172 modifications accomplished through traditional genetic techniques such as crossbreeding.
79173 Section 1817. Section **63M-1-1002**, which is renumbered from Section 63-38f-1002 is
79174 renumbered and amended to read:
79175 **[~~63-38f-1002~~]. 63M-1-1002. Confidential information.**
79176 (1) A state agency having access under federal law to biotechnology trade secrets and
79177 related confidential information shall manage the trade secrets and related confidential records
79178 as protected records under [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records
79179 Access and Management Act.
79180 (2) The records described in this section may be disclosed under the balancing
79181 provisions of [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records Access and
79182 Management Act, when a determination is made that disclosure is essential for the protection
79183 of the public's health or environment.
79184 Section 1818. Section **63M-1-1003**, which is renumbered from Section 63-38f-1003 is
79185 renumbered and amended to read:
79186 **[~~63-38f-1003~~]. 63M-1-1003. Preemption of local regulation.**
79187 (1) A county, city, town, or other political subdivision may not regulate the
79188 technological processes relating to the development and use of biotechnologically created
79189 materials and organisms.
79190 (2) This preemption does not affect the powers of a county, city, town, or other
79191 political subdivision, including the power to regulate land use, business, industry, construction,
79192 and public utilities, to protect the public health or environment, or to provide fire protection
79193 and other public safety services.
79194 Section 1819. Section **63M-1-1101**, which is renumbered from Section 63-38f-1101 is
79195 renumbered and amended to read:
79196 **Part 11. Recycling Market Development Zone Act**
79197 **[~~63-38f-1101~~]. 63M-1-1101. Title.**
79198 This part is known as the "Recycling Market Development Zone Act."
79199 Section 1820. Section **63M-1-1102**, which is renumbered from Section 63-38f-1102 is
79200 renumbered and amended to read:
79201 **[~~63-38f-1102~~]. 63M-1-1102. Definitions.**

79202 As used in this part:
79203 (1) "Composting" means the controlled decay of landscape waste or sewage sludge and
79204 organic industrial waste, or a mixture of these, by the action of bacteria, fungi, molds, and other
79205 organisms.
79206 (2) "Postconsumer waste material" means any product generated by a business or
79207 consumer that has served its intended end use, and that has been separated from solid waste for
79208 the purposes of collection, recycling, and disposition and that does not include secondary waste
79209 material.
79210 (3) (a) "Recovered materials" means waste materials and by-products that have been
79211 recovered or diverted from solid waste.
79212 (b) "Recovered materials" does not include those materials and by-products generated
79213 from, and commonly reused within, an original manufacturing process.
79214 (4) (a) "Recycling" means the diversion of materials from the solid waste stream and
79215 the beneficial use of the materials and includes a series of activities by which materials that
79216 would become or otherwise remain waste are diverted from the waste stream for collection,
79217 separation, and processing, and are used as raw materials or feedstocks in lieu of or in addition
79218 to virgin materials in the manufacture of goods sold or distributed in commerce or the reuse of
79219 the materials as substitutes for goods made from virgin materials.
79220 (b) "Recycling" does not include burning municipal solid waste for energy recovery.
79221 (5) "Recycling market development zone" or "zone" means an area designated by the
79222 office as meeting the requirements of this part.
79223 (6) (a) "Secondary waste material" means industrial by-products that go to disposal
79224 facilities and waste generated after completion of a manufacturing process.
79225 (b) "Secondary waste material" does not include internally generated scrap commonly
79226 returned to industrial or manufacturing processes, such as home scrap and mill broke.
79227 (7) "State tax incentives," "tax incentives," or "tax benefits" means the nonrefundable
79228 tax credits available under Sections 59-7-608 and 59-10-1007.
79229 Section 1821. Section **63M-1-1103**, which is renumbered from Section 63-38f-1103 is
79230 renumbered and amended to read:
79231 **[~~63-38f-1103~~]. 63M-1-1103. Duties of the office.**
79232 The office shall:

79233 (1) facilitate recycling development zones through state support of county incentives
79234 which encourage development of manufacturing enterprises that use recycling materials
79235 currently collected;
79236 (2) evaluate an application from a county or municipality executive authority to be
79237 designated as a recycling market development zone and determine if the county or municipality
79238 qualifies for that designation;
79239 (3) provide technical assistance to municipalities and counties in developing
79240 applications for designation as a recycling market development zone;
79241 (4) assist counties and municipalities designated as recycling market development
79242 zones in obtaining assistance from the federal government and agencies of the state;
79243 (5) assist any qualified business in obtaining the benefits of any incentive or
79244 inducement program authorized by this part;
79245 (6) monitor the implementation and operation of this part and conduct a continuing
79246 evaluation of the progress made in the recycling market development zone; and
79247 (7) submit an annual written report evaluating the effectiveness of the program and
79248 providing recommendations for legislation to the Workforce Services and Economic
79249 Development Interim Committee and Natural Resources, Agriculture, and Environment Interim
79250 Committee not later than November 1 of each year.
79251 Section 1822. Section **63M-1-1104**, which is renumbered from Section 63-38f-1104 is
79252 renumbered and amended to read:
79253 **[~~63-38f-1104~~]. 63M-1-1104. Criteria for recycling market development zone**
79254 **-- Application process and fees.**
79255 (1) An area may be designated as a recycling market development zone only if:
79256 (a) the county or municipality agrees to make a qualifying local contribution under
79257 Section [~~63-38f-1105~~] 63M-1-1105; and
79258 (b) the county or municipality provides for postconsumer waste collection for recycling
79259 within the county or municipality.
79260 (2) The executive authority of any municipality or county desiring to be designated as a
79261 recycling market development zone shall:
79262 (a) obtain the written approval of the municipality or county's legislative body; and
79263 (b) file an application with the office demonstrating the county or municipality meets

79264 the requirements of this part.
79265 (3) The application shall be in a form prescribed by the office, and shall include:
79266 (a) a plan developed by the county or municipality that identifies local contributions
79267 meeting the requirements of Section [~~63-38f-1105~~] 63M-1-1105;
79268 (b) a county or municipality development plan that outlines:
79269 (i) the specific investment or development reasonably expected to take place;
79270 (ii) any commitments obtained from businesses to participate, and in what capacities
79271 regarding recycling markets;
79272 (iii) the county's or municipality's economic development plan and demonstration of
79273 coordination between the zone and the county or municipality in overall development goals;
79274 (iv) zoning requirements demonstrating that sufficient portions of the proposed zone
79275 area are zoned as appropriate for the development of commercial, industrial, or manufacturing
79276 businesses;
79277 (v) the county's or municipality's long-term waste management plan and evidence that
79278 the zone will be adequately served by the plan; and
79279 (vi) the county or municipality postconsumer waste collection infrastructure;
79280 (c) the county's or municipality's proposed means of assessing the effectiveness of the
79281 development plan or other programs implemented within the zone;
79282 (d) state whether within the zone either of the following will be established:
79283 (i) commercial manufacturing or industrial processes that will produce end products
79284 that consist of not less than 50% recovered materials, of which not less than 25% is
79285 postconsumer waste material; or
79286 (ii) commercial composting;
79287 (e) any additional information required by the office; and
79288 (f) any additional information the county or municipality considers relevant to its
79289 designation as a recycling market development zone.
79290 (4) A county or municipality applying for designation as a recycling market
79291 development zone shall pay to the office an application fee determined under Section
79292 [~~63-38-3.2~~] 63J-1-303.
79293 Section 1823. Section **63M-1-1105**, which is renumbered from Section 63-38f-1105 is
79294 renumbered and amended to read:

79295 **[~~63-38f-1105~~]. 63M-1-1105. Qualifying local contributions.**
79296 Qualifying local contributions to the recycling market development zone may vary
79297 depending on available resources, and may include:
79298 (1) simplified procedures for obtaining permits;
79299 (2) dedication of available government grants;
79300 (3) waiver of business license or permit fees;
79301 (4) infrastructure improvements;
79302 (5) private contributions;
79303 (6) utility rate concessions;
79304 (7) suspension or relaxation of locally originated zoning laws or general plans; and
79305 (8) other proposed local contributions as the office finds promote the purposes of this
79306 part.
79307 Section 1824. Section **63M-1-1106**, which is renumbered from Section 63-38f-1106 is
79308 renumbered and amended to read:
79309 **[~~63-38f-1106~~]. 63M-1-1106. Eligibility review.**
79310 (1) The office shall:
79311 (a) review and evaluate an application submitted under Section [~~63-38f-1104~~]
79312 63M-1-1104; and
79313 (b) determine whether the municipality or county is eligible for designation as a
79314 recycling market development zone.
79315 (2) In designating recycling market development zones, the office shall consider:
79316 (a) whether the current waste management practices and conditions of the county or
79317 municipality are favorable to the development of postconsumer waste material markets;
79318 (b) whether the creation of the zone is necessary to assist in attracting private sector
79319 recycling investments to the area; and
79320 (c) the amount of available landfill capacity to serve the zone.
79321 Section 1825. Section **63M-1-1107**, which is renumbered from Section 63-38f-1107 is
79322 renumbered and amended to read:
79323 **[~~63-38f-1107~~]. 63M-1-1107. Quarterly consideration.**
79324 The office shall take action quarterly on any application requesting designation as a
79325 recycling market development zone.

79326 Section 1826. Section **63M-1-1108**, which is renumbered from Section 63-38f-1108 is
79327 renumbered and amended to read:
79328 **[~~63-38f-1108~~]. 63M-1-1108. Duration of designation.**
79329 A recycling market development zone designation ends five years from the date the
79330 office designates the area as a recycling market development zone, at the end of which the
79331 county or municipality may reapply for the designation.
79332 Section 1827. Section **63M-1-1109**, which is renumbered from Section 63-38f-1109 is
79333 renumbered and amended to read:
79334 **[~~63-38f-1109~~]. 63M-1-1109. Revocation of designations.**
79335 (1) The office may revoke the designation of a recycling market development zone if
79336 no businesses utilize the tax incentives during any calendar year.
79337 (2) Before revocation of the zone, the office shall conduct a public hearing within a
79338 reasonable distance of the zone to determine reasons for inactivity and explore possible
79339 alternative actions.
79340 Section 1828. Section **63M-1-1110**, which is renumbered from Section 63-38f-1110 is
79341 renumbered and amended to read:
79342 **[~~63-38f-1110~~]. 63M-1-1110. Recycling market development zones credit.**
79343 For a taxpayer within a recycling market development zone, there are allowed the
79344 nonrefundable credits against tax as provided by Sections 59-7-610 and 59-10-1007.
79345 Section 1829. Section **63M-1-1111**, which is renumbered from Section 63-38f-1111 is
79346 renumbered and amended to read:
79347 **[~~63-38f-1111~~]. 63M-1-1111. Annual report.**
79348 (1) A county or municipality designated as a recycling market development zone shall
79349 report by no later than July 31 of each year to the office regarding the economic activity that
79350 has occurred in the zone following the designation.
79351 (2) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
79352 Administrative Rulemaking Act, the office may make rules providing for the form and content
79353 of the annual reports.
79354 Section 1830. Section **63M-1-1112**, which is renumbered from Section 63-38f-1112 is
79355 renumbered and amended to read:
79356 **[~~63-38f-1112~~]. 63M-1-1112. Centers of excellence.**

79357 In accordance with Part 6, the office may award grants to the Centers of Excellence, as
79358 defined by Section [~~63-38f-703~~] 63M-1-703, to fund development of new technology for
79359 recycling if the program funded is a cooperative effort between the Centers of Excellence and
79360 one or more recycling market development zones created under this part.
79361 Section 1831. Section **63M-1-1201**, which is renumbered from Section 63-38f-1201 is
79362 renumbered and amended to read:
79363 **Part 12. Utah Venture Capital Enhancement Act**
79364 **[~~63-38f-1201~~]. 63M-1-1201. Title.**
79365 This part is known as the "Utah Venture Capital Enhancement Act."
79366 Section 1832. Section **63M-1-1202**, which is renumbered from Section 63-38f-1202 is
79367 renumbered and amended to read:
79368 **[~~63-38f-1202~~]. 63M-1-1202. Findings -- Purpose.**
79369 (1) The Legislature finds that:
79370 (a) fundamental changes have occurred in national and international financial markets
79371 and in the state's financial markets;
79372 (b) a critical shortage of seed and venture capital resources exists in the state, and that
79373 shortage is impairing the growth of commerce in the state;
79374 (c) a need exists to increase the availability of venture equity capital for emerging,
79375 expanding, and restructuring enterprises in Utah, including enterprises in the life sciences,
79376 advanced manufacturing, and information technology;
79377 (d) increased venture equity capital investments in emerging, expanding, and
79378 restructuring enterprises in Utah will:
79379 (i) create new jobs in the state; and
79380 (ii) help to diversify the state's economic base; and
79381 (e) a well-trained work force is critical for the maintenance and development of Utah's
79382 economy.
79383 (2) This part is enacted to:
79384 (a) mobilize private investment in a broad variety of venture capital partnerships in
79385 diversified industries and locales;
79386 (b) retain the private-sector culture of focusing on rate of return in the investing
79387 process;

79388 (c) secure the services of the best managers in the venture capital industry, regardless
79389 of location;
79390 (d) facilitate the organization of the Utah fund of funds to seek private investments and
79391 to serve as a catalyst in those investments by offering state incentives for private persons to
79392 make investments in the Utah fund of funds;
79393 (e) enhance the venture capital culture and infrastructure in the state so as to increase
79394 venture capital investment within the state and to promote venture capital investing within the
79395 state;
79396 (f) accomplish the purposes referred to in Subsections (2)(a) through (e) in a manner
79397 that would maximize the direct economic impact for the state; and
79398 (g) authorize the issuance and use of contingent tax credits to accomplish the purposes
79399 referred to in Subsections (2)(a) through (e) while protecting the interests of the state by
79400 limiting the manner in which contingent tax credits are issued, registered, transferred, claimed
79401 as an offset to the payment of state income tax, and redeemed.
79402 Section 1833. Section **63M-1-1203**, which is renumbered from Section 63-38f-1203 is
79403 renumbered and amended to read:
79404 **[~~63-38f-1203~~]. 63M-1-1203. Definitions.**
79405 As used in this part:
79406 (1) "Board" means the Utah Capital Investment Board.
79407 (2) "Certificate" means a contract between the board and a designated investor under
79408 which a contingent tax credit is available and issued to the designated investor.
79409 (3) (a) Except as provided in Subsection (3)(b), "claimant" means a resident or
79410 nonresident person.
79411 (b) "Claimant" does not include an estate or trust.
79412 (4) "Commitment" means a written commitment by a designated purchaser to purchase
79413 from the board certificates presented to the board for redemption by a designated investor.
79414 Each commitment shall state the dollar amount of contingent tax credits that the designated
79415 purchaser has committed to purchase from the board.
79416 (5) "Contingent tax credit" means a contingent tax credit issued under this part that is
79417 available against tax liabilities imposed by Title 59, Chapter 7, Corporate Franchise and
79418 Income Taxes, or Title 59, Chapter 10, Individual Income Tax Act, if there are insufficient

79419 funds in the redemption reserve and the board has not exercised other options for redemption
79420 under Subsection [~~63-38f-1220~~] 63M-1-1220(3)(b).
79421 (6) "Corporation" means the Utah Capital Investment Corporation created under
79422 Section [~~63-38f-1207~~] 63M-1-1207.
79423 (7) "Designated investor" means:
79424 (a) a person who purchases an equity interest in the Utah fund of funds; or
79425 (b) a transferee of a certificate or contingent tax credit.
79426 (8) "Designated purchaser" means:
79427 (a) a person who enters into a written undertaking with the board to purchase a
79428 commitment; or
79429 (b) a transferee who assumes the obligations to make the purchase described in the
79430 commitment.
79431 (9) "Estate" means a nonresident estate or a resident estate.
79432 (10) "Person" means an individual, partnership, limited liability company, corporation,
79433 association, organization, business trust, estate, trust, or any other legal or commercial entity.
79434 (11) "Redemption reserve" means the reserve established by the corporation to
79435 facilitate the cash redemption of certificates.
79436 (12) "Taxpayer" means a taxpayer:
79437 (a) of an investor; and
79438 (b) if that taxpayer is a:
79439 (i) claimant;
79440 (ii) estate; or
79441 (iii) trust.
79442 (13) "Trust" means a nonresident trust or a resident trust.
79443 (14) "Utah fund of funds" means a limited partnership or limited liability company
79444 established under Section [~~63-38f-1213~~] 63M-1-1213 in which a designated investor purchases
79445 an equity interest.
79446 Section 1834. Section **63M-1-1204**, which is renumbered from Section 63-38f-1204 is
79447 renumbered and amended to read:
79448 **[~~63-38f-1204~~]. 63M-1-1204. Utah Capital Investment Board.**
79449 (1) There is created within the office the Utah Capital Investment Board to exercise the

79450 powers conferred by this part.
79451 (2) The purpose of the board is to mobilize venture equity capital for investment in a
79452 manner that will result in a significant potential to create jobs and to diversify and stabilize the
79453 economy of the state.
79454 (3) In the exercise of its powers and duties, the board is considered to be performing an
79455 essential public purpose.
79456 Section 1835. Section **63M-1-1205**, which is renumbered from Section 63-38f-1205 is
79457 renumbered and amended to read:
79458 **[~~63-38f-1205~~]. 63M-1-1205. Board members -- Meetings -- Expenses.**
79459 (1) (a) The board shall consist of five members.
79460 (b) Of the five members:
79461 (i) one shall be the state treasurer;
79462 (ii) one shall be the director or the director's designee; and
79463 (iii) three shall be appointed by the governor and confirmed by the Senate.
79464 (c) The three members appointed by the governor shall serve four-year staggered terms
79465 with the initial terms of the first three members to be four years for one member, three years for
79466 one member, and two years for one member.
79467 (2) When a vacancy occurs in the membership of the board for any reason, the vacancy
79468 shall be:
79469 (a) filled in the same manner as the appointment of the original member; and
79470 (b) for the unexpired term of the board member being replaced.
79471 (3) Appointed members of the board may not serve more than two full consecutive
79472 terms except where the governor determines that an additional term is in the best interest of the
79473 state.
79474 (4) Three members of the board constitute a quorum for conducting business and
79475 exercising board power, provided that a minimum of three affirmative votes is required for
79476 board action and at least one of the affirmative votes is cast by either the director or the
79477 director's designee or the state treasurer.
79478 (5) (a) Members of the board may not receive compensation or benefits for their
79479 services, but may receive per diem and expenses incurred in the performance of the members'
79480 official duties at rates established by the Division of Finance under Sections 63A-3-106 and

79481 63A-3-107.
79482 (b) Members of the board may decline to receive per diem and expenses for their
79483 services.
79484 (6) Members of the board shall be selected on the basis of demonstrated expertise and
79485 competence in:
79486 (a) the supervision of investment managers;
79487 (b) the fiduciary management of investment funds; or
79488 (c) the management and administration of tax credit allocation programs.
79489 (7) The board and its members are considered to be a governmental entity with all of
79490 the rights, privileges, and immunities of a governmental entity of the state, including all of the
79491 rights and benefits conferred under [~~Title 63, Chapter 30d~~] Title 63G, Chapter 7, Governmental
79492 Immunity Act of Utah.
79493 (8) Meetings of the board, except to the extent necessary to protect confidential
79494 information with respect to investments in the Utah fund of funds, are subject to Title 52,
79495 Chapter 4, Open and Public Meetings Act.
79496 Section 1836. Section **63M-1-1206**, which is renumbered from Section 63-38f-1206 is
79497 renumbered and amended to read:
79498 **[~~63-38f-1206~~]. 63M-1-1206. Board duties and powers.**
79499 (1) The board shall:
79500 (a) establish criteria and procedures for the allocation and issuance of contingent tax
79501 credits to designated investors by means of certificates issued by the board, provided that a
79502 contingent tax credit may not be issued unless the Utah fund of funds:
79503 (i) first agrees to treat the amount of the tax credit redeemed by the state as a loan from
79504 the state to the Utah fund of funds; and
79505 (ii) agrees to repay the loan upon terms and conditions established by the board;
79506 (b) establish criteria and procedures for assessing the likelihood of future certificate
79507 redemptions by designated investors, including:
79508 (i) criteria and procedures for evaluating the value of investments made by the Utah
79509 fund of funds; and
79510 (ii) the returns from the Utah fund of funds;
79511 (c) establish criteria and procedures for registering and redeeming contingent tax

79512 credits by designated investors holding certificates issued by the board;
79513 (d) establish a target rate of return or range of returns on venture capital investments of
79514 the Utah fund of funds;
79515 (e) establish criteria and procedures governing commitments obtained by the board
79516 from designated purchasers including:
79517 (i) entering into commitments with designated purchasers; and
79518 (ii) drawing on commitments to redeem certificates from designated investors;
79519 (f) have power to:
79520 (i) expend funds;
79521 (ii) invest funds;
79522 (iii) enter into contracts;
79523 (iv) insure against loss; and
79524 (v) perform any other act necessary to carry out its purpose; and
79525 (g) make, amend, and repeal rules for the conduct of its affairs, consistent with this part
79526 and in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
79527 Rulemaking Act.
79528 (2) (a) All rules made by the board under Subsection (1)(g) are subject to review by the
79529 Legislative Management Committee:
79530 (i) whenever made, modified, or repealed; and
79531 (ii) in each even-numbered year.
79532 (b) Subsection (2)(a) does not preclude the legislative Administrative Rules Review
79533 Committee from reviewing and taking appropriate action on any rule made, amended, or
79534 repealed by the board.
79535 (3) (a) The criteria and procedures established by the board for the allocation and
79536 issuance of contingent tax credits shall:
79537 (i) include the contingencies that must be met for a certificate and its related tax credits
79538 to be:
79539 (A) issued by the board;
79540 (B) transferred by a designated investor; and
79541 (C) redeemed by a designated investor in order to receive a contingent tax credit; and
79542 (ii) tie the contingencies for redemption of certificates to the targeted rates of return

79543 and scheduled redemptions of equity interests purchased by designated investors in the Utah
79544 fund of funds.
79545 (b) The board may not issue contingent tax credits under this part prior to July 1, 2004.
79546 (4) (a) The board may charge a placement fee to the Utah fund of funds for the
79547 issuance of a certificate and related contingent tax credit to a designated investor.
79548 (b) The fee shall:
79549 (i) be charged only to pay for reasonable and necessary costs of the board; and
79550 (ii) not exceed .5% of the equity investment of the designated investor.
79551 (5) The board's criteria and procedures for redeeming certificates:
79552 (a) shall give priority to the redemption amount from the available funds in the
79553 redemption reserve; and
79554 (b) to the extent there are insufficient funds in the redemption reserve to redeem
79555 certificates, shall grant the board the option to redeem certificates:
79556 (i) by certifying a contingent tax credit to the designated investor; or
79557 (ii) by making demand on designated purchasers consistent with the requirements of
79558 Section [~~63-38f-1221~~] 63M-1-1221.
79559 (6) (a) The board shall, in consultation with the corporation, publish an annual report
79560 of the activities conducted by the Utah fund of funds, and present the report to the governor and
79561 the Executive Appropriations Committee of the Legislature.
79562 (b) The annual report shall:
79563 (i) include a copy of the audit of the Utah fund of funds and a valuation of the assets of
79564 the Utah fund of funds;
79565 (ii) review the progress of the investment fund allocation manager in implementing its
79566 investment plan; and
79567 (iii) describe any redemption or transfer of a certificate issued under this part.
79568 (c) The annual report may not identify any specific designated investor who has
79569 redeemed or transferred a certificate.
79570 (d) (i) Beginning July 1, 2006, and thereafter every two years, the board shall publish a
79571 progress report which shall evaluate the progress of the state in accomplishing the purposes
79572 stated in Section [~~63-38f-1202~~] 63M-1-1202.
79573 (ii) The board shall give a copy of the report to the Legislature.

79574 Section 1837. Section **63M-1-1207**, which is renumbered from Section 63-38f-1207 is
79575 renumbered and amended to read:
79576 **[~~63-38f-1207~~]. 63M-1-1207. Utah Capital Investment Corporation --**
79577 **Powers and purposes.**
79578 (1) (a) There is created an independent quasi-public nonprofit corporation known as the
79579 Utah Capital Investment Corporation.
79580 (b) The corporation:
79581 (i) may exercise all powers conferred on independent corporations under Section
79582 63E-2-106;
79583 (ii) is subject to the prohibited participation provisions of Section 63E-2-107; and
79584 (iii) is subject to the other provisions of Title 63E, Chapter 2, Independent
79585 Corporations Act, except as otherwise provided in this part.
79586 (c) The corporation shall file with the Division of Corporations and Commercial Code:
79587 (i) articles of incorporation; and
79588 (ii) any amendment to its articles of incorporation.
79589 (d) In addition to the articles of incorporation, the corporation may adopt bylaws and
79590 operational policies that are consistent with this chapter.
79591 (e) Except as otherwise provided in this part, this part does not exempt the corporation
79592 from the requirements under state law which apply to other corporations organized under Title
79593 63E, Chapter 2, Independent Corporations Act.
79594 (2) The purposes of the corporation are to:
79595 (a) organize the Utah fund of funds;
79596 (b) select a venture capital investment fund allocation manager to make venture capital
79597 fund investments by the Utah fund of funds;
79598 (c) negotiate the terms of a contract with the venture capital investment fund allocation
79599 manager;
79600 (d) execute the contract with the selected venture capital investment fund manager on
79601 behalf of the Utah fund of funds;
79602 (e) receive funds paid by designated investors for the issuance of certificates by the
79603 board for investment in the Utah fund of funds;
79604 (f) receive investment returns from the Utah fund of funds; and

79605 (g) establish the redemption reserve to be used by the corporation to redeem
79606 certificates.
79607 (3) The corporation may not:
79608 (a) exercise governmental functions;
79609 (b) have members;
79610 (c) pledge the credit or taxing power of the state or any political subdivision of the
79611 state; or
79612 (d) make its debts payable out of any moneys except those of the corporation.
79613 (4) The obligations of the corporation are not obligations of the state or any political
79614 subdivision of the state within the meaning of any constitutional or statutory debt limitations,
79615 but are obligations of the corporation payable solely and only from the corporation's funds.
79616 (5) The corporation may:
79617 (a) engage consultants and legal counsel;
79618 (b) expend funds;
79619 (c) invest funds;
79620 (d) enter into contracts;
79621 (e) insure against loss;
79622 (f) hire employees; and
79623 (g) perform any other act necessary to carry out its purposes.
79624 Section 1838. Section **63M-1-1208**, which is renumbered from Section 63-38f-1208 is
79625 renumbered and amended to read:
79626 **[~~63-38f-1208~~]. 63M-1-1208. Incorporator -- Appointment committee.**
79627 (1) To facilitate the organization of the corporation, the director or the director's
79628 designee shall serve as the incorporator as provided in Section 16-6a-201.
79629 (2) To assist in the organization of the corporation, the Utah Board of Business and
79630 Economic Development shall appoint three individuals to serve on an appointment committee.
79631 (3) The appointment committee shall:
79632 (a) elect the initial board of directors of the corporation;
79633 (b) exercise due care to assure that persons elected to the initial board of directors have
79634 the requisite financial experience necessary in order to carry out the duties of the corporation as
79635 established in this part, including in areas related to:

79636 (i) venture capital investment;
79637 (ii) investment management; and
79638 (iii) supervision of investment managers and investment funds; and
79639 (c) terminate its existence upon the election of the initial board of directors of the
79640 corporation.
79641 (4) The office shall assist the incorporator and the appointment committee in any
79642 manner determined necessary and appropriate by the incorporator and appointment committee
79643 in order to administer this section.
79644 Section 1839. Section **63M-1-1209**, which is renumbered from Section 63-38f-1209 is
79645 renumbered and amended to read:
79646 **[~~63-38f-1209~~]. 63M-1-1209. Board of directors.**
79647 (1) The initial board of directors of the corporation shall consist of five members.
79648 (2) The persons elected to the initial board of directors by the appointment committee
79649 shall include persons who have an expertise, as considered appropriate by the appointment
79650 committee, in the areas of:
79651 (a) the selection and supervision of investment managers;
79652 (b) fiduciary management of investment funds; and
79653 (c) other areas of expertise as considered appropriate by the appointment committee.
79654 (3) After the election of the initial board of directors, vacancies in the board of
79655 directors of the corporation shall be filled by election by the remaining directors of the
79656 corporation.
79657 (4) (a) Board members shall serve four-year terms, except that of the five initial
79658 members:
79659 (i) two shall serve four-year terms;
79660 (ii) two shall serve three-year terms; and
79661 (iii) one shall serve a two-year term.
79662 (b) Board members shall serve until their successors are elected and qualified and may
79663 serve successive terms.
79664 (c) A majority of the board members may remove a board member for cause.
79665 (d) (i) The board shall select a chair by majority vote.
79666 (ii) The chair's term is for one year.

79667 (5) Three members of the board are a quorum for the transaction of business.
79668 (6) Members of the board of directors:
79669 (a) are subject to any restrictions on conflicts of interest specified in the organizational
79670 documents of the corporation; and
79671 (b) may have no interest in any:
79672 (i) venture capital investment fund allocation manager selected by the corporation
79673 under this part; or
79674 (ii) investments made by the Utah fund of funds.
79675 (7) Directors of the corporation:
79676 (a) shall be compensated for direct expenses and mileage; and
79677 (b) may not receive a director's fee or salary for service as directors.
79678 Section 1840. Section **63M-1-1210**, which is renumbered from Section 63-38f-1210 is
79679 renumbered and amended to read:
79680 **[~~63-38f-1210~~]. 63M-1-1210. Investment manager.**
79681 (1) After incorporation, the corporation shall conduct a national solicitation for
79682 investment plan proposals from qualified venture capital investment fund allocation managers
79683 for the raising and investing of capital by the Utah fund of funds in accordance with the
79684 requirements of this part.
79685 (2) Any proposed investment plan shall address the applicant's:
79686 (a) level of:
79687 (i) experience; and
79688 (ii) quality of management;
79689 (b) investment philosophy and process;
79690 (c) probability of success in fund-raising;
79691 (d) prior investment fund results; and
79692 (e) plan for achieving the purposes of this part.
79693 (3) The selected venture capital investment fund allocation manager shall have
79694 substantial, successful experience in the design, implementation, and management of seed and
79695 venture capital investment programs and in capital formation.
79696 (4) The corporation shall only select a venture capital investment fund allocation
79697 manager:

79698 (a) with demonstrated expertise in the management and fund allocation of investments
79699 in venture capital funds; and
79700 (b) considered best qualified to:
79701 (i) invest the capital of the Utah fund of funds; and
79702 (ii) generate the amount of capital required by this part.
79703 Section 1841. Section **63M-1-1211**, which is renumbered from Section 63-38f-1211 is
79704 renumbered and amended to read:
79705 **[~~63-38f-1211~~]. 63M-1-1211. Management fee -- Additional financial**
79706 **assistance.**
79707 (1) The corporation may charge a management fee on assets under management in the
79708 Utah fund of funds.
79709 (2) The fee shall:
79710 (a) be in addition to any fee charged to the Utah fund of funds by the venture capital
79711 investment fund allocation manager selected by the corporation; and
79712 (b) be charged only to pay for reasonable and necessary costs of the corporation.
79713 (3) The corporation may apply for and, when qualified, receive financial assistance
79714 from the Industrial Assistance Fund under [~~Title 63, Chapter 38f~~] Title 63M, Chapter 1, Part 9,
79715 Industrial Assistance Fund, and under rules made by the Board of Business and Economic
79716 Development in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
79717 Administrative Rulemaking Act, to help establish the program authorized under this part.
79718 Section 1842. Section **63M-1-1212**, which is renumbered from Section 63-38f-1212 is
79719 renumbered and amended to read:
79720 **[~~63-38f-1212~~]. 63M-1-1212. Dissolution.**
79721 (1) Upon the dissolution of the Utah fund of funds, the corporation shall be liquidated
79722 and dissolved.
79723 (2) Upon dissolution or privatization of the corporation, any assets owned by the
79724 corporation shall be distributed to one or more Utah nonprofit tax exempt organizations to be
79725 designated by the Legislature for the purposes listed in Section [~~63-38f-1202~~] 63M-1-1202 as
79726 provided in Title 63E, Chapter 1, Independent Entities Act.
79727 Section 1843. Section **63M-1-1213**, which is renumbered from Section 63-38f-1213 is
79728 renumbered and amended to read:

79729 **[~~63-38f-1213~~]. 63M-1-1213. Organization of Utah fund of funds.**
79730 (1) The corporation shall organize the Utah fund of funds.
79731 (2) The Utah fund of funds shall make investments in private seed and venture capital
79732 partnerships or entities in a manner and for the following purposes:
79733 (a) to encourage the availability of a wide variety of venture capital in the state;
79734 (b) to strengthen the economy of the state;
79735 (c) to help business in the state gain access to sources of capital;
79736 (d) to help build a significant, permanent source of capital available to serve the needs
79737 of businesses in the state; and
79738 (e) to accomplish all these benefits in a way that minimizes the use of contingent tax
79739 credits.
79740 (3) The Utah fund of funds shall be organized:
79741 (a) as a limited partnership or limited liability company under Utah law having the
79742 corporation as the general partner or manager; and
79743 (b) to provide for equity interests for designated investors which provide for a
79744 designated scheduled rate of return and a scheduled redemption in accordance with rules made
79745 by the board pursuant to [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
79746 Rulemaking Act.
79747 (4) Public money may not be invested in the Utah fund of funds.
79748 Section 1844. Section **63M-1-1214**, which is renumbered from Section 63-38f-1214 is
79749 renumbered and amended to read:
79750 **[~~63-38f-1214~~]. 63M-1-1214. Compensation from the Utah fund of funds to**
79751 **the corporation -- Redemption reserve.**
79752 (1) The corporation shall be compensated for its involvement in the Utah fund of funds
79753 through the payment of the management fee described in Section [~~63-38f-1211~~] 63M-1-1211.
79754 (2) (a) Any returns in excess of those payable to designated investors shall be deposited
79755 in the redemption reserve and held by the corporation as a first priority reserve for the
79756 redemption of certificates.
79757 (b) Any returns received by the corporation from investment of amounts held in the
79758 redemption reserve shall be added to the redemption reserve until it has reached a total of
79759 $100,000,000.

79760 (c) If at the end of any calendar year the redemption reserve exceeds the $100,000,000
79761 limitation referred to in Subsection (2)(b), the excess shall be reinvested in the Utah fund of
79762 funds.
79763 (3) Funds held by the corporation in the redemption reserve shall be invested in
79764 accordance with Title 51, Chapter 7, State Money Management Act.
79765 Section 1845. Section **63M-1-1215**, which is renumbered from Section 63-38f-1215 is
79766 renumbered and amended to read:
79767 **[~~63-38f-1215~~]. 63M-1-1215. Investments by Utah fund of funds.**
79768 (1) The Utah fund of funds shall invest funds:
79769 (a) principally in high-quality venture capital funds managed by investment managers
79770 who have:
79771 (i) made a commitment to equity investments in businesses located within the state;
79772 and
79773 (ii) have committed to maintain a physical presence within the state;
79774 (b) in private venture capital funds and not in direct investments in individual
79775 businesses; and
79776 (c) in venture capital funds with experienced managers or management teams with
79777 demonstrated expertise and a successful history in the investment of venture capital funds.
79778 (2) (a) The Utah fund of funds shall give priority to investments in private seed and
79779 venture capital partnerships and entities that have demonstrated a commitment to the state as
79780 evidenced by:
79781 (i) the investments they have made in Utah-based entities;
79782 (ii) the correspondent relationships they have established with Utah-based venture
79783 capital funds; or
79784 (iii) the commitment they have made to expand the reach of expertise within the state
79785 by adding additional investment areas of expertise.
79786 (b) The manager of the Utah fund of funds may waive the priorities under Subsection
79787 (2)(a) only if necessary to achieve the targeted investment returns required to attract designated
79788 investors.
79789 (3) The Utah fund of funds may invest funds in a newly created venture capital fund
79790 only if the managers or management team of the fund have the experience, expertise, and a

79791 successful history in the investment of venture capital funds as described in Subsection (1)(c).
79792 (4) (a) An investment or investments by the Utah fund of funds in any venture capital
79793 fund may comprise no more than 20% of the total committed capital in the venture capital
79794 fund.
79795 (b) (i) No more than 50% of the funds invested by the Utah fund of funds may be made
79796 with venture capital entities with offices in the state established prior to July 1, 2002.
79797 (ii) The restriction under Subsection (4)(b)(i) shall remain in place until three
79798 additional venture capital entities open new offices in the state.
79799 Section 1846. Section **63M-1-1216**, which is renumbered from Section 63-38f-1216 is
79800 renumbered and amended to read:
79801 **[~~63-38f-1216~~]. 63M-1-1216. Powers of Utah fund of funds.**
79802 (1) The Utah fund of funds may:
79803 (a) engage consultants and legal counsel;
79804 (b) expend funds;
79805 (c) invest funds;
79806 (d) enter into contracts;
79807 (e) insure against loss;
79808 (f) hire employees;
79809 (g) issue equity interests to designated investors that have purchased certificates from
79810 the board; and
79811 (h) perform any other act necessary to carry out its purposes.
79812 (2) (a) The Utah fund of funds shall engage a venture capital investment fund
79813 allocation manager.
79814 (b) The compensation paid to the fund manager shall be in addition to the management
79815 fee paid to the corporation under Section [~~63-38f-1211~~] 63M-1-1211.
79816 (3) The Utah fund of funds may:
79817 (a) issue debt and borrow the funds needed to accomplish its goals;
79818 (b) not secure its debt with contingent tax credits issued by the board;
79819 (c) open and manage bank and short-term investment accounts as considered necessary
79820 by the venture capital investment fund allocation manager; and
79821 (d) expend moneys to secure investment ratings for investments by designated

79822 investors in the Utah fund of funds.
79823 Section 1847. Section **63M-1-1217**, which is renumbered from Section 63-38f-1217 is
79824 renumbered and amended to read:
79825 **[~~63-38f-1217~~]. 63M-1-1217. Annual audits.**
79826 (1) Each calendar year, an audit of the activities of the Utah fund of funds shall be
79827 made as described in this section.
79828 (2) (a) The audit shall be conducted by:
79829 (i) the state auditor; or
79830 (ii) an independent auditor engaged by the state auditor.
79831 (b) An independent auditor used under Subsection (2)(a)(ii) must have no business,
79832 contractual, or other connection to:
79833 (i) the corporation; or
79834 (ii) the Utah fund of funds.
79835 (3) The corporation shall pay the costs associated with the annual audit.
79836 (4) The annual audit report shall:
79837 (a) be delivered to:
79838 (i) the corporation; and
79839 (ii) the board; and
79840 (b) include a valuation of the assets owned by the Utah fund of funds as of the end of
79841 the reporting year.
79842 Section 1848. Section **63M-1-1218**, which is renumbered from Section 63-38f-1218 is
79843 renumbered and amended to read:
79844 **[~~63-38f-1218~~]. 63M-1-1218. Certificates and contingent tax credits.**
79845 (1) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
79846 Administrative Rulemaking Act, the board, in consultation with the State Tax Commission,
79847 shall make rules governing the form, issuance, transfer, and redemption of certificates.
79848 (2) The board's issuance of certificates and related contingent tax credits to designated
79849 investors shall be subject to the following:
79850 (a) the aggregate outstanding certificates may not exceed a total of $100,000,000 of
79851 contingent tax credits;
79852 (b) the certificates shall be issued contemporaneously with an investment in the Utah

79853 fund of funds by a designated investor;
79854 (c) contingent tax credits shall be issued in a manner that not more than $20,000,000 of
79855 contingent tax credits may be initially redeemable in any fiscal year; and
79856 (d) the credits are certifiable if there are insufficient funds in the redemption reserve to
79857 make a cash redemption and the board does not exercise its other options under Subsection
79858 [~~63-38f-1220~~] 63M-1-1220(3)(b).
79859 (3) In determining the $100,000,000 maximum limit in Subsection (2)(a) and the
79860 $20,000,000 limitation in Subsection (2)(c):
79861 (a) the board shall use the cumulative amount of scheduled aggregate returns on
79862 certificates issued by the board to designated investors;
79863 (b) certificates and related contingent tax credits which have expired may not be
79864 included; and
79865 (c) certificates and related contingent tax credits which have been redeemed shall be
79866 included only to the extent of tax credits actually allowed.
79867 (4) Contingent tax credits are subject to the following:
79868 (a) a contingent tax credit may not be redeemed except by a designated investor in
79869 accordance with the terms of a certificate from the board;
79870 (b) a contingent tax credit may not be redeemed prior to the time the Utah fund of
79871 funds receives full payment from the designated investor for the certificate;
79872 (c) a contingent tax credit shall be claimed for a tax year that begins during the
79873 calendar year maturity date stated on the certificate;
79874 (d) an investor who redeems a certificate and the related contingent tax credit shall
79875 allocate the amount of the contingent tax credit to the taxpayers of the investor based on the
79876 taxpayer's pro rata share of the investor's earnings; and
79877 (e) a contingent tax credit shall be claimed as a refundable credit.
79878 (5) In calculating the amount of a contingent tax credit:
79879 (a) a contingent tax credit shall be certified by the board only if the actual return to the
79880 designated investor is less than the return that was targeted at the issuance of the certificate;
79881 (b) the amount of the contingent tax credit may not exceed the difference between:
79882 (i) the sum of:
79883 (A) the initial equity investment of the designated investor in the Utah fund of funds;

79884 and
79885 (B) the scheduled aggregate return to the designated investor at rates of return
79886 authorized by the board at the issuance of the certificate; and
79887 (ii) the aggregate actual return received by the designated investor and any predecessor
79888 in interest of the initial equity investment and interest on the initial equity investment; and
79889 (c) the rates, whether fixed rates or variable rates, shall be determined by a formula
79890 stipulated in the certificate.
79891 (6) The board shall clearly indicate on the certificate:
79892 (a) the targeted return on the invested capital;
79893 (b) the amount of the initial equity investment;
79894 (c) the calculation formula for determining the scheduled aggregate return on the initial
79895 equity investment; and
79896 (d) the calculation formula for determining the amount of the contingent tax credit that
79897 may be claimed.
79898 (7) Once moneys are invested by a designated investor, the certificate:
79899 (a) shall be binding on the board; and
79900 (b) may not be modified, terminated, or rescinded.
79901 (8) Funds invested by a designated investor for a certificate shall be paid to the
79902 corporation for placement in the Utah fund of funds.
79903 (9) The State Tax Commission may, in accordance with [~~Title 63, Chapter 46a~~] Title
79904 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consultation with the board,
79905 make rules to help implement this section.
79906 Section 1849. Section **63M-1-1219**, which is renumbered from Section 63-38f-1219 is
79907 renumbered and amended to read:
79908 **[~~63-38f-1219~~]. 63M-1-1219. Transfer and registration of certificates.**
79909 (1) A certificate and the related contingent tax credit may be transferred by the
79910 designated investor.
79911 (2) The board, in conjunction with the State Tax Commission, shall develop:
79912 (a) a system for registration of any certificate and related contingent tax credit issued or
79913 transferred under this part; and
79914 (b) a system that permits verification that:

79915 (i) any contingent tax credit claimed is valid; and
79916 (ii) any transfers of the certificate and related contingent tax credit are made in
79917 accordance with the requirements of this part.
79918 (3) A certificate or contingent tax credit issued or transferred under this part may not be
79919 considered a security under Title 61, Chapter 1, Utah Uniform Securities Act.
79920 Section 1850. Section **63M-1-1220**, which is renumbered from Section 63-38f-1220 is
79921 renumbered and amended to read:
79922 **[~~63-38f-1220~~]. 63M-1-1220. Redemption of certificates.**
79923 (1) If a designated investor elects to redeem a certificate, the certificate shall be
79924 presented to the board for redemption no later than June 30 of the calendar year maturity date
79925 stated on the certificate.
79926 (2) Upon presentment to the board, it shall determine and certify the amount of the
79927 contingent tax credit that may be claimed by the designated investor based on:
79928 (a) the limitations in Section [~~63-38f-1218~~] 63M-1-1218; and
79929 (b) rules made by the board in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
79930 Chapter 3, Utah Administrative Rulemaking Act.
79931 (3) (a) If there are sufficient funds in the redemption reserve, the board shall direct the
79932 corporation to make a cash redemption of the certificate.
79933 (b) If there are insufficient funds in the redemption reserve, the board may elect to
79934 redeem the certificate:
79935 (i) by certifying a contingent tax credit to the designated investor; or
79936 (ii) by making demand on designated purchasers to purchase certificates in accordance
79937 with Section [~~63-38f-1221~~] 63M-1-1221.
79938 (4) The board shall certify to the State Tax Commission the contingent tax credit which
79939 can be claimed by the designated investor with respect to the redemption of the certificate.
79940 (5) The board shall cancel all redeemed certificates.
79941 Section 1851. Section **63M-1-1221**, which is renumbered from Section 63-38f-1221 is
79942 renumbered and amended to read:
79943 **[~~63-38f-1221~~]. 63M-1-1221. Use of commitments to redeem certificates.**
79944 (1) The board may elect to draw on a commitment to redeem a certificate from a
79945 designated investor.

79946 (2) If the board makes an election under Subsection (1), it shall:
79947 (a) inform the designated purchaser of the amount of the contingent tax credit that must
79948 be purchased from the board;
79949 (b) specify the date on which the purchase must be consummated; and
79950 (c) use the funds delivered to the board by the designated purchaser to redeem the
79951 certificate from the designated investor.
79952 (3) The board has discretion in determining which commitment or commitments and
79953 what portion of those commitments to use to redeem certificates.
79954 (4) The contingent tax credits acquired by a designated purchaser under this section are
79955 subject to Section [~~63-38f-1218~~] 63M-1-1218.
79956 Section 1852. Section **63M-1-1222**, which is renumbered from Section 63-38f-1222 is
79957 renumbered and amended to read:
79958 **[~~63-38f-1222~~]. 63M-1-1222. Powers and effectiveness.**
79959 (1) This part may not be construed as a restriction or limitation upon any power which
79960 the board might otherwise have under any other law of this state and the provisions of this part
79961 are cumulative to those powers.
79962 (2) This part shall be construed to provide a complete, additional, and alternative
79963 method for performing the duties authorized and shall be regarded as supplemental and
79964 additional powers to those conferred by any other laws.
79965 (3) The provisions of any contract entered into by the board or the Utah fund of funds
79966 may not be compromised, diminished, invalidated, or affected by the:
79967 (a) level, timing, or degree of success of the Utah fund of funds or the investment funds
79968 in which the Utah fund of funds invests; or
79969 (b) extent to which the investment funds are:
79970 (i) invested in Utah venture capital projects; or
79971 (ii) successful in accomplishing any economic development objectives.
79972 Section 1853. Section **63M-1-1223**, which is renumbered from Section 63-38f-1223 is
79973 renumbered and amended to read:
79974 **[~~63-38f-1223~~]. 63M-1-1223. Permissible investments.**
79975 Investments by designated investors in the Utah fund of funds are permissible
79976 investments under applicable laws of the state for:

79977 (1) state-chartered banks;
79978 (2) state-chartered savings and loan associations;
79979 (3) state-chartered credit unions;
79980 (4) state-chartered industrial banks; and
79981 (5) domestic insurance companies.
79982 Section 1854. Section **63M-1-1224**, which is renumbered from Section 63-38f-1224 is
79983 renumbered and amended to read:
79984 **[~~63-38f-1224~~]. 63M-1-1224. Exemption from certain statutes.**
79985 (1) Except as otherwise provided in this part, the corporation is exempt from statutes
79986 governing state agencies, as provided in Section 63E-2-109.
79987 (2) The corporation shall be subject to:
79988 (a) Title 52, Chapter 4, Open and Public Meetings Act; and
79989 (b) except as provided in Subsection (3), [~~Title 63, Chapter 2~~] Title 63G, Chapter 2,
79990 Government Records Access and Management Act.
79991 (3) The corporation and the board are exempt from the requirement to report fund
79992 performance of venture firms and private equity firms set forth in [~~Title 63, Chapter 2~~] Title
79993 63G, Chapter 2, Government Records Access and Management Act.
79994 Section 1855. Section **63M-1-1301**, which is renumbered from Section 63-38f-1301 is
79995 renumbered and amended to read:
79996 **Part 13. Aerospace and Aviation Zone**
79997 **[~~63-38f-1301~~]. 63M-1-1301. Purpose.**
79998 (1) The Legislature finds that:
79999 (a) the fostering and development of industry in Utah is a state public purpose
80000 necessary to assure the welfare of its citizens, the growth of its economy, and adequate
80001 employment for its citizens; and
80002 (b) Utah loses prospective high paying jobs, economic impacts, and corresponding
80003 incremental new state revenues to competing states due to a wide variety of competing
80004 economic development incentives offered by those states.
80005 (2) This part is enacted to address the loss of new economic growth in Utah and the
80006 corresponding loss of incremental new state revenues by providing tax increment financial
80007 incentives to attract new commercial projects in development zones located on or contiguous to

80008 airports in the state.
80009 Section 1856. Section **63M-1-1302**, which is renumbered from Section 63-38f-1302 is
80010 renumbered and amended to read:
80011 **[~~63-38f-1302~~]. 63M-1-1302. Definitions.**
80012 As used in this part:
80013 (1) "Development zone" means the Aerospace and Aviation Development Zone created
80014 under Section [~~63-38f-1303~~] 63M-1-1303.
80015 (2) "Indirect state revenues" means the imputed use of a generally accepted indirect
80016 economic multiplier as defined by a fiscal impact model approved by the Governor's Office of
80017 Planning and Budget to quantify by estimate the indirect state tax revenues that are in addition
80018 to direct state tax revenues.
80019 (3) "New state revenues" means incremental new state tax revenues that are generated
80020 as a result of new economic commercial projects in a development zone, to include the state's
80021 portion of sales taxes, and company and employee income taxes derived from the projects,
80022 together with indirect state revenues generated by the projects, but not to include any portion of
80023 sales taxes earmarked for local governments or other taxing jurisdictions eligible for sales tax
80024 revenues.
80025 (4) "Office" means the Governor's Office of Economic Development acting through its
80026 director.
80027 (5) "Partial rebates" means returning a portion of the new state revenues generated by
80028 new commercial projects to companies or individuals that have created new economic growth
80029 within a development zone.
80030 Section 1857. Section **63M-1-1303**, which is renumbered from Section 63-38f-1303 is
80031 renumbered and amended to read:
80032 **[~~63-38f-1303~~]. 63M-1-1303. Creation of development zones.**
80033 The office, with advice from the board, may create an Aerospace and Aviation
80034 Development Zone at or around any airport in the state that has land available for commercial
80035 development on, or contiguous to, the airport.
80036 Section 1858. Section **63M-1-1304**, which is renumbered from Section 63-38f-1304 is
80037 renumbered and amended to read:
80038 **[~~63-38f-1304~~]. 63M-1-1304. Development incentives.**

80039 (1) The office, with advice from the board, may enter into agreements providing for
80040 partial rebates of new state revenues generated by new commercial projects to companies or
80041 individuals that create new economic growth within the development zone.
80042 (2) In no event may the partial rebates be in excess of 50% of the new state revenues in
80043 any given year.
80044 (3) (a) The partial rebates may not exceed 30% of the new state revenues generated
80045 over the life of a new commercial project.
80046 (b) For purposes of this part, the life of a new commercial project is limited to 20
80047 years.
80048 (4) Partial rebates are subject to any other limitations adopted by board rule made in
80049 accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
80050 Rulemaking Act.
80051 Section 1859. Section **63M-1-1305**, which is renumbered from Section 63-38f-1305 is
80052 renumbered and amended to read:
80053 **[~~63-38f-1305~~]. 63M-1-1305. Qualifications for credits and rebates.**
80054 The office shall set standards to qualify for partial rebates under this part, subject to the
80055 following:
80056 (1) no partial rebates may be paid prior to verification, by the office, of the new state
80057 revenues upon which the tax rebate is based;
80058 (2) partial rebates can only be paid on projects that are within the development zone;
80059 (3) partial rebates can only be paid on projects that bring new, incremental jobs to the
80060 state;
80061 (4) qualifying projects must involve direct investment within the geographic
80062 boundaries of the development zone;
80063 (5) only aerospace and aviation industry projects, as defined by board rule made in
80064 accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
80065 Rulemaking Act, are eligible for partial rebates; and
80066 (6) in order to claim payments representing partial rebates of new state revenues, a
80067 person must:
80068 (a) enter into an office-approved agreement with the office and affirm by contractual
80069 agreement to keep supporting records for at least four years after final payment of partial

80070 rebates under this part;
80071 (b) submit to audits for verification of the amounts claimed; and
80072 (c) comply with other conditions as are required by the office.
80073 Section 1860. Section **63M-1-1306**, which is renumbered from Section 63-38f-1306 is
80074 renumbered and amended to read:
80075 **[~~63-38f-1306~~]. 63M-1-1306. Payment procedure.**
80076 Any payment of partial rebates of new state revenues shall be made in accordance with
80077 procedures adopted by the office with the advice of the board, to include the following:
80078 (1) within 90 days of the end of each calendar year, any company or individual that has
80079 entered into an agreement with the office under this part shall provide the office with
80080 documentation of the new state revenues it claims to have generated during that calendar year,
80081 the documentation to include the types of taxes and corresponding amounts of taxes paid
80082 directly to the Utah State Tax Commission, and sales taxes paid to Utah vendors and suppliers
80083 that are indirectly paid to the Utah State Tax Commission;
80084 (2) the office shall audit or review the documentation, make a determination of the
80085 amount of partial rebates earned under the agreement, and forward an office-approved request
80086 for payment of that amount to the Division of Finance, together with information regarding the
80087 name and address of the payee and any other information reasonably requested by the office;
80088 and
80089 (3) the Division of Finance shall pay a partial rebate from the Economic Incentive
80090 Restricted Account created in Section [~~63-38f-1309~~] 63M-1-1309 upon receipt of
80091 documentation and the office-approved request from the office under Subsection (2).
80092 Section 1861. Section **63M-1-1307**, which is renumbered from Section 63-38f-1307 is
80093 renumbered and amended to read:
80094 **[~~63-38f-1307~~]. 63M-1-1307. Office's authority.**
80095 (1) The office, with the advice of the board and within the limitations of this part, may
80096 determine:
80097 (a) the structure and amount of any partial rebates offered under this part;
80098 (b) the economic impacts and job creation necessary to qualify for the incentive; and
80099 (c) the other terms and conditions of any agreement entered into under this part.
80100 (2) In reviewing claims for partial rebates of new state revenues, the office may accept:

80101 (a) as the amount of employee income taxes paid, the amount of employee income
80102 taxes withheld and transmitted to the Utah State Tax Commission as evidenced by payroll
80103 records rather than adjusting for the difference between taxes withheld and taxes actually paid
80104 through filing by employees' annual income tax statements; and
80105 (b) as the amount of company income taxes paid, the amount of corporate franchise
80106 and income taxes estimated and transmitted to the Utah State Tax Commission as evidenced by
80107 quarterly payment records rather than adjusting for the difference between estimated taxes paid
80108 quarterly and taxes actually paid through the filing of the corporation's annual income tax
80109 statement.
80110 (3) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
80111 Administrative Rulemaking Act, the board may make, amend, and repeal rules regarding the
80112 development zone and partial rebates offered within it, provided the rules are consistent with
80113 state and federal law.
80114 Section 1862. Section **63M-1-1308**, which is renumbered from Section 63-38f-1308 is
80115 renumbered and amended to read:
80116 **[~~63-38f-1308~~]. 63M-1-1308. Coordination with Industrial Assistance Fund.**
80117 Projects that qualify for partial rebates of new state revenues under this part and enter
80118 into agreements with the office under this part are ineligible to qualify for additional financial
80119 assistance from the Industrial Assistance Fund under Section [~~63-38f-904~~] 63M-1-905.
80120 Section 1863. Section **63M-1-1309**, which is renumbered from Section 63-38f-1309 is
80121 renumbered and amended to read:
80122 **[~~63-38f-1309~~]. 63M-1-1309. Establishment of the Economic Incentive**
80123 **Restricted Account.**
80124 (1) There is created a restricted account in the General Fund known as the Economic
80125 Incentive Restricted Account.
80126 (2) The account shall be used to make payments as required under Sections
80127 [~~63-38f-1306~~] 63M-1-1306 and [~~63-38f-1705~~] 63M-1-1705.
80128 (3) (a) The Division of Finance shall transfer from the General Fund the amount
80129 estimated by the office from new state revenues needed to make the partial rebates as allowed
80130 in Sections [~~63-38f-1306~~] 63M-1-1306 and [~~63-38f-1705~~] 63M-1-1705.
80131 (b) The amount transferred into the account shall be reduced by any unencumbered

80132 balances in the account.
80133 (4) Not withstanding Subsections 51-5-3(23)(b) and [~~63-38-9~~] 63J-1-404(4)(c), after
80134 receiving a request for payment, in accordance with Subsection [~~63-38f-1306~~] 63M-1-1306(2)
80135 or [~~63-38f-1705~~] 63M-1-1705(2), the Division of Finance shall pay the partial rebates as
80136 allowed in Section [~~63-38f-1306~~] 63M-1-1306 or [~~63-38f-1705~~] 63M-1-1705, from the
80137 account.
80138 (5) (a) Prior to the beginning of each fiscal year, the office shall notify the Governor's
80139 Office of Planning and Budget, the Office of Legislative Fiscal Analyst, and the Division of
80140 Finance of:
80141 (i) the estimated amount of new state revenues created from economic growth in the
80142 development zones, the estimate detailed by the amounts from:
80143 (A) sales tax;
80144 (B) income tax; and
80145 (C) corporate franchise and income tax; and
80146 (ii) the estimated amount partial rebates projected to be paid in the upcoming fiscal
80147 year, the estimates detailed by the amounts from:
80148 (A) sales tax;
80149 (B) income tax; and
80150 (C) corporate franchise and income tax.
80151 (b) The office shall update the estimates required by Subsections (5)(a)(i) and (ii)
80152 within 30 days of the signing of each new agreement entered into under this part or [~~Title 63,~~
80153 ~~Chapter 38f~~] Title 63M, Chapter 1, Part 17, Economic Development Incentives Act.
80154 Section 1864. Section **63M-1-1401**, which is renumbered from Section 63-38f-1406 is
80155 renumbered and amended to read:
80156 **Part 14. Board of Tourism Development**
80157 **[~~63-38f-1406~~]. 63M-1-1401. Board of Tourism Development.**
80158 (1) There is created within the office the Board of Tourism Development.
80159 (2) The board shall advise the office on the office's planning, policies, and strategies
80160 and on trends and opportunities for tourism development that may exist in the various areas of
80161 the state.
80162 (3) The board shall perform other duties as required by Section [~~63-38f-1408~~]

80163 63M-1-1403.
80164 Section 1865. Section **63M-1-1402**, which is renumbered from Section 63-38f-1407 is
80165 renumbered and amended to read:
80166 **[~~63-38f-1407~~]. 63M-1-1402. Members -- Meetings -- Expenses.**
80167 (1) (a) The board shall consist of 13 members appointed by the governor to four-year
80168 terms of office with the consent of the Senate.
80169 (b) Notwithstanding the requirements of Subsection (1)(a), the governor shall, at the
80170 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
80171 board members are staggered so that approximately half of the board is appointed every two
80172 years.
80173 (2) The members may not serve more than two full consecutive terms unless the
80174 governor determines that an additional term is in the best interest of the state.
80175 (3) Not more than seven members of the board may be of the same political party.
80176 (4) (a) The members shall be representative of:
80177 (i) all areas of the state with six being appointed from separate geographical areas as
80178 provided in Subsection (4)(b); and
80179 (ii) a diverse mix of business ownership or executive management of tourism related
80180 industries.
80181 (b) The geographical representatives shall be appointed as follows:
80182 (i) one member from Salt Lake, Tooele, or Morgan County;
80183 (ii) one member from Davis, Weber, Box Elder, Cache, or Rich County;
80184 (iii) one member from Utah, Summit, Juab, or Wasatch County;
80185 (iv) one member from Carbon, Emery, Grand, Duchesne, Daggett, or Uintah County;
80186 (v) one member from San Juan, Piute, Wayne, Garfield, or Kane County; and
80187 (vi) one member from Washington, Iron, Beaver, Sanpete, Sevier, or Millard County.
80188 (c) The tourism industry representatives of ownership or executive management shall
80189 be appointed as follows:
80190 (i) one member from ownership or executive management of the lodging industry, as
80191 recommended by the lodging industry for the governor's consideration;
80192 (ii) one member from ownership or executive management of the restaurant industry,
80193 as recommended by the restaurant industry for the governor's consideration;

80194 (iii) one member from ownership or executive management of the ski industry, as
80195 recommended by the ski industry for the governor's consideration; and
80196 (iv) one member from ownership or executive management of the motor vehicle rental
80197 industry, as recommended by the motor vehicle rental industry for the governor's consideration.
80198 (d) One member shall be appointed at large from ownership or executive management
80199 of business, finance, economic policy, or the academic media marketing community.
80200 (e) One member shall be appointed from the Utah Tourism Industry Coalition as
80201 recommended by the coalition for the governor's consideration.
80202 (f) One member shall be appointed to represent the state's counties as recommended by
80203 the Utah Association of Counties for the governor's consideration.
80204 (g) (i) The governor may choose to disregard a recommendation made for a board
80205 member under Subsections (4)(c), (e), and (f).
80206 (ii) The governor shall request additional recommendations if recommendations are
80207 disregarded under Subsection (4)(g)(i).
80208 (5) When a vacancy occurs in the membership for any reason, the replacement shall be
80209 appointed for the unexpired term from the same geographic area or industry representation as
80210 the member whose office was vacated.
80211 (6) Seven members of the board constitute a quorum for conducting board business and
80212 exercising board powers.
80213 (7) The governor shall select one of the board members as chair and one of the board
80214 members as vice chair, each for a four-year term as recommended by the board for the
80215 governor's consideration.
80216 (8) (a) Members shall receive no compensation or benefits for their services, but may
80217 receive per diem and expenses incurred in the performance of the member’s official duties at
80218 the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
80219 (b) Members may decline to receive per diem and expenses for their service.
80220 (9) The board shall meet monthly or as often as the board determines to be necessary at
80221 various locations throughout the state.
80222 (10) Members who may have a potential conflict of interest in consideration of fund
80223 allocation decisions shall identify the potential conflict prior to voting on the issue.
80224 (11) (a) The board shall determine attendance requirements for maintaining a

80225 designated board seat.
80226 (b) If a board member fails to attend according to the requirements established
80227 pursuant to Subsection (11)(a), the board member shall be replaced upon written certification
80228 from the board chair or vice chair to the governor.
80229 (c) A replacement appointed by the governor under Subsection (11)(b) shall serve for
80230 the remainder of the board member's unexpired term.
80231 (12) The board's office shall be in Salt Lake City.
80232 Section 1866. Section **63M-1-1403**, which is renumbered from Section 63-38f-1408 is
80233 renumbered and amended to read:
80234 **[~~63-38f-1408~~]. 63M-1-1403. Board duties.**
80235 (1) The board shall:
80236 (a) have authority to approve a tourism program of out-of-state advertising, marketing,
80237 and branding, taking into account the long-term strategic plan, economic trends, and
80238 opportunities for tourism development on a statewide basis, as a condition of the distribution of
80239 funds to the office from the Tourism Marketing Performance Account under Section
80240 [~~63-38f-1411~~] 63M-1-1406;
80241 (b) review the office programs for coordination and integration of advertising and
80242 branding themes to be used whenever possible in all office programs, including recreational,
80243 scenic, historic, and tourist attractions of the state at large;
80244 (c) encourage and assist in coordination of the activities of persons, firms, associations,
80245 corporations, civic groups, and governmental agencies engaged in publicizing, developing, and
80246 promoting the scenic attractions and tourist advantages of the state; and
80247 (d) (i) advise the office in establishing a Cooperative Program from the monies in the
80248 Tourism Marketing Performance Account under Section [~~63-38f-1411~~] 63M-1-1406 for use by
80249 cities, counties, nonprofit destination marketing organizations, and similar public entities for
80250 the purpose of supplementing monies committed by these entities for advertising and
80251 promotion to and for out-of-state residents to attract them to visit sites advertised by and attend
80252 events sponsored by these entities;
80253 (ii) the Cooperative Program shall be allocated 20% of the revenues appropriated to the
80254 office from the Tourism Marketing Performance Account;
80255 (iii) the office, with approval from the board, shall establish eligibility, advertising, and

80256 timing requirements and criteria and provide for an approval process for applications;
80257 (iv) an application from an eligible applicant to receive monies from the Cooperative
80258 Program must be submitted on or before the appropriate date established by the office; and
80259 (v) Cooperative Program monies not used in each fiscal year shall be returned to the
80260 Tourism Marketing Performance Account.
80261 (2) The board may:
80262 (a) solicit and accept contributions of moneys, services, and facilities from any other
80263 sources, public or private and shall use these funds for promoting the general interest of the
80264 state in tourism; and
80265 (b) establish subcommittees for the purpose of assisting the board in an advisory role
80266 only.
80267 (3) The board may not, except as otherwise provided in Subsection (1)(a), make policy
80268 related to the management or operation of the office.
80269 Section 1867. Section **63M-1-1404**, which is renumbered from Section 63-38f-1409 is
80270 renumbered and amended to read:
80271 **[~~63-38f-1409~~]. 63M-1-1404. Powers and duties of office related to tourism**
80272 **development plan -- Annual report and survey.**
80273 (1) The office shall:
80274 (a) be the tourism development authority of the state;
80275 (b) develop a tourism advertising, marketing, and branding program for the state;
80276 (c) receive approval from the Board of Tourism Development under Subsection
80277 [~~63-38f-1408~~] 63M-1-1403(1)(a) before implementing the out-of-state advertising, marketing,
80278 and branding campaign;
80279 (d) develop a plan to increase the economic contribution by tourists visiting the state;
80280 (e) plan and conduct a program of information, advertising, and publicity relating to the
80281 recreational, scenic, historic, and tourist advantages and attractions of the state at large; and
80282 (f) encourage and assist in the coordination of the activities of persons, firms,
80283 associations, corporations, travel regions, counties, and governmental agencies engaged in
80284 publicizing, developing, and promoting the scenic attractions and tourist advantages of the
80285 state.
80286 (2) Any plan provided for under Subsection (1) shall address, but not be limited to,

80287 enhancing the state's image, promoting Utah as a year-round destination, encouraging
80288 expenditures by visitors to the state, and expanding the markets where the state is promoted.
80289 (3) The office shall conduct a regular and ongoing research program to identify
80290 statewide economic trends and conditions in the tourism sector of the economy and to provide
80291 an annual evaluation of the economic efficiency of the advertising and branding campaigns
80292 conducted under this part to the Legislature's Workforce Services and Community and
80293 Economic Development Interim Committee and the Economic Development and Human
80294 Resources Appropriations Subcommittee.
80295 Section 1868. Section **63M-1-1405**, which is renumbered from Section 63-38f-1410 is
80296 renumbered and amended to read:
80297 **[~~63-38f-1410~~]. 63M-1-1405. Agreements with other governmental entities.**
80298 The office may enter into agreements with state or federal agencies to accept services,
80299 quarters, or facilities as a contribution in carrying out the duties and functions of the office.
80300 Section 1869. Section **63M-1-1406**, which is renumbered from Section 63-38f-1411 is
80301 renumbered and amended to read:
80302 **[~~63-38f-1411~~]. 63M-1-1406. Tourism Marketing Performance Account.**
80303 (1) There is created within the General Fund a restricted account known as the Tourism
80304 Marketing Performance Account.
80305 (2) The account shall be administered by the office for the purposes listed in
80306 Subsection (5).
80307 (3) (a) The account shall earn interest.
80308 (b) All interest earned on account monies shall be deposited into the account.
80309 (c) Monies in the account are nonlapsing.
80310 (4) The account shall be funded by appropriations made to the account by the
80311 Legislature in accordance with this section.
80312 (5) The director may use account monies appropriated to the office to pay for the
80313 statewide advertising, marketing, and branding campaign for promotion of the state as
80314 conducted by the office.
80315 (6) (a) For the fiscal year beginning July 1, 2007, the director shall allocate 10% of the
80316 account monies appropriated to the office to be distributed to a sports organization for
80317 advertising, marketing, branding, and promoting Utah in attracting sporting events into the

80318 state as determined by the office.
80319 (b) For a fiscal year beginning on or after July 1, 2008, the amount distributed under
80320 Subsection (6)(a) shall be indexed from the July 1, 2007 fiscal year to reflect a percent increase
80321 or decrease of monies set aside into the account as compared to the previous fiscal year.
80322 (c) The monies distributed under Subsections (6)(a) and (b) are nonlapsing.
80323 (d) The office shall provide for an annual accounting to the office by a sports
80324 organization of the use of monies it receives under Subsection (6)(a) or (b).
80325 (e) For purposes of this Subsection (6), "sports organization" means an organization
80326 that is:
80327 (i) exempt from federal income taxation in accordance with Section 501(c)(3), Internal
80328 Revenue Code; and
80329 (ii) created to foster national and international amateur sports competitions to be held
80330 in the state and sports tourism throughout the state, to include advertising, marketing, branding,
80331 and promoting Utah for the purpose of attracting sporting events into the state.
80332 (7) (a) Monies set aside into the account shall be as follows:
80333 (i) for the fiscal year beginning July 1, 2005 only, an amount appropriated in Section 7
80334 of this bill;
80335 (ii) for the fiscal year beginning July 1, 2006:
80336 (A) the beginning nonlapsing appropriation balances, if any, in the Tourism Marketing
80337 Performance Account;
80338 (B) any legislative appropriation from the sales and use tax revenue increases identified
80339 in Subsection (8); and
80340 (C) any appropriation made by the Legislature from the General Fund to the account in
80341 an appropriations bill; and
80342 (iii) for the fiscal year beginning July 1, 2007, and for each fiscal year thereafter, a
80343 $1,000,000 reduction in the prior year's appropriation sources other than the sales and use tax
80344 revenue increases identified in Subsection (8), plus a legislative appropriation from the
80345 cumulative sales and use tax revenue increases identified in Subsection (8).
80346 (b) Monies in the account are nonlapsing.
80347 (8) (a) In fiscal years 2006 through 2015, a portion of the state sales and use tax
80348 revenues determined under this Subsection (8) shall be certified as a set-aside for the account

80349 by the State Tax Commission and reported to the Office of Legislative Fiscal Analyst.
80350 (b) The State Tax Commission shall determine the set-aside under this Subsection (8)
80351 in each fiscal year by applying the following formula: if the increase in the state sales and use
80352 tax revenues derived from the retail sales of tourist-oriented goods and services in the fiscal
80353 year two years prior to the fiscal year in which the set-aside is to be made for the account is at
80354 least 3% over the state sales and use tax revenues derived from the retail sales of
80355 tourist-oriented goods and services generated in the fiscal year three years prior to the fiscal
80356 year in which the set-aside is to be made, an amount equal to 1/2 of the state sales and use tax
80357 revenues generated above the 3% increase shall be calculated by the commission and set aside
80358 by the state treasurer for appropriation to the account.
80359 (c) Total monies to be appropriated to the account in any fiscal year under Subsections
80360 (8)(a) and (b) may not exceed the amount in the account under this section in the fiscal year
80361 immediately preceding the current fiscal year by more than $3,000,000.
80362 (d) As used in this Subsection (8), "sales of tourism-oriented goods and services" are
80363 those sales by businesses registered with the State Tax Commission under the following codes
80364 of the 1997 North American Industry Classification System of the federal Executive Office of
80365 the President, Office of Management and Budget:
80366 (i) NAICS Code 453 Miscellaneous Store Retailers;
80367 (ii) NAICS Code 481 Passenger Air Transportation;
80368 (iii) NAICS Code 487 Scenic and Sightseeing Transportation;
80369 (iv) NAICS Code 711 Performing Arts, Spectator Sports and Related Industries;
80370 (v) NAICS Code 712 Museums, Historical Sites and Similar Institutions;
80371 (vi) NAICS Code 713 Amusement, Gambling and Recreation Industries;
80372 (vii) NAICS Code 721 Accommodations;
80373 (viii) NAICS Code 722 Food Services and Drinking Places;
80374 (ix) NAICS Code 4483 Jewelry, Luggage, and Leather Goods Stores;
80375 (x) NAICS Code 4853 Taxi and Limousine Service;
80376 (xi) NAICS Code 4855 Charter Bus;
80377 (xii) NAICS Code 5615 Travel Arrangement and Reservation Services;
80378 (xiii) NAICS Code 44611 Pharmacies and Drug Stores;
80379 (xiv) NAICS Code 45111 Sporting Goods Stores;

80380 (xv) NAICS Code 45112 Hobby Toy and Game Stores;
80381 (xvi) NAICS Code 45121 Book Stores and News Dealers;
80382 (xvii) NAICS Code 445120 Convenience Stores without Gas Pumps;
80383 (xviii) NAICS Code 447110 Gasoline Stations with Convenience Stores;
80384 (xix) NAICS Code 447190 Other Gasoline Stations;
80385 (xx) NAICS Code 532111 Passenger Car Rental; and
80386 (xxi) NAICS Code 532292 Recreational Goods Rental.
80387 Section 1870. Section **63M-1-1501**, which is renumbered from Section 63-38f-1501 is
80388 renumbered and amended to read:
80389 **Part 15. Utah Pioneer Communities Program Act**
80390 **[~~63-38f-1501~~]. 63M-1-1501. Title.**
80391 This part [~~shall be~~] is known as the "Utah Pioneer Communities Program Act."
80392 Section 1871. Section **63M-1-1502**, which is renumbered from Section 63-38f-1502 is
80393 renumbered and amended to read:
80394 **[~~63-38f-1502~~]. 63M-1-1502. Definitions.**
80395 As used in this part:
80396 (1) "Advisory board" means the Utah Pioneer Communities Program Advisory Board
80397 created in Section [~~63-38f-1503~~] 63M-1-1503 within the office.
80398 (2) "Community" means a city, county, town, or any combination of these.
80399 (3) "Revitalization" means the process of engaging in activities to increase economic
80400 activity while preserving and building upon a location's historically significant characteristics.
80401 Section 1872. Section **63M-1-1503**, which is renumbered from Section 63-38f-1503 is
80402 renumbered and amended to read:
80403 **[~~63-38f-1503~~]. 63M-1-1503. Advisory board.**
80404 (1) (a) There is created within the office the Utah Pioneer Communities Advisory
80405 Board.
80406 (b) The Permanent Community Impact Fund Board created in Section 9-4-304 shall act
80407 as the advisory board.
80408 (2) The advisory board shall have the powers and duties described in Section
80409 [~~63-38f-1504~~] 63M-1-1504 and shall operate the Utah Pioneer Communities Program in
80410 accordance with Section [~~63-38f-1505~~] 63M-1-1505.

80411 (3) The director shall designate an employee of the office to serve as a nonvoting
80412 secretary for the advisory board.
80413 (4) (a) (i) Members who are not government employees shall receive no compensation
80414 or benefits for their services, but may receive per diem and expenses incurred in the
80415 performance of the member's official duties at the rates established by the Division of Finance
80416 under Sections 63A-3-106 and 63A-3-107.
80417 (ii) Members may decline to receive per diem and expenses for their service.
80418 (b) (i) State government officer and employee members who do not receive salary, per
80419 diem, or expenses from their agency for their service may receive per diem and expenses
80420 incurred in the performance of their official duties from the board at the rates established by the
80421 Division of Finance under Sections 63A-3-106 and 63A-3-107.
80422 (ii) State government officer and employee members may decline to receive per diem
80423 and expenses for their service.
80424 (c) (i) Higher education members who do not receive salary, per diem, or expenses
80425 from the entity that they represent for their service may receive per diem and expenses incurred
80426 in the performance of their official duties from the committee at the rates established by the
80427 Division of Finance under Sections 63A-3-106 and 63A-3-107.
80428 (ii) Higher education members may decline to receive per diem and expenses for their
80429 service.
80430 (d) (i) Local government members who do not receive salary, per diem, or expenses
80431 from the entity that they represent for their service may receive per diem and expenses incurred
80432 in the performance of their official duties at the rates established by the Division of Finance
80433 under Sections 63A-3-106 and 63A-3-107.
80434 (ii) Local government members may decline to receive per diem and expenses for their
80435 service.
80436 Section 1873. Section **63M-1-1504**, which is renumbered from Section 63-38f-1504 is
80437 renumbered and amended to read:
80438 **[~~63-38f-1504~~]. 63M-1-1504. Advisory board duties.**
80439 (1) The advisory board shall:
80440 (a) establish and administer a Utah Pioneer Communities Program to assist
80441 communities in planning, managing, and implementing programs for the revitalization of

80442 business districts and the preservation of their distinct history, heritage, and culture as a basis
80443 for promoting stable, sustained economic growth through business expansion and tourism;
80444 (b) select, upon application by the community, communities to participate in the Utah
80445 Pioneer Communities Program;
80446 (c) enter into contracts to obtain services related to community preservation and
80447 tourism development;
80448 (d) with help from interested communities, individuals, and organizations, develop a
80449 plan describing the objectives of the Utah Pioneer Communities Program and the methods by
80450 which the advisory board shall:
80451 (i) coordinate the activities of that program with the private and public sector; and
80452 (ii) solicit and use private sector funding to revitalize business districts and provide
80453 services related to community preservation, tourism, and business development; and
80454 (e) coordinate and consult with other state and local or public and private entities that
80455 provide services to communities undertaking projects to provide services related to community
80456 preservation, tourism, and business development.
80457 (2) The advisory board shall provide training, technical assistance, and information on
80458 services related to community preservation, tourism, and business development.
80459 Section 1874. Section **63M-1-1505**, which is renumbered from Section 63-38f-1505 is
80460 renumbered and amended to read:
80461 **[~~63-38f-1505~~]. 63M-1-1505. Criteria for participation -- Report.**
80462 (1) The advisory board shall develop objective criteria including the following:
80463 (a) a three year commitment by the applicant to provide a project manager with a travel
80464 and operating budget;
80465 (b) evidence that both the business community and the local government support the
80466 Utah Pioneer Communities Program approach philosophically and financially;
80467 (c) capacity for economic change as a result of being a participant in the program;
80468 (d) geographic location, population, and economic base diversity;
80469 (e) evidence of past preservation efforts; and
80470 (f) a population of less than 50,000.
80471 (2) The advisory board shall provide to the governor and to the presiding officer of
80472 each house of the Legislature an annual report on the effects of the Utah Pioneer Communities

80473 Program.
80474 Section 1875. Section **63M-1-1601**, which is renumbered from Section 63-38f-1601 is
80475 renumbered and amended to read:
80476 **Part 16. Rural Development Act**
80477 **[~~63-38f-1601~~]. 63M-1-1601. Title -- Definitions.**
80478 (1) This part is known as the "Rural Development Act."
80479 (2) As used in this part:
80480 (a) "Office" means the Governor's Office of Economic Development.
80481 (b) "Program" means the Rural Development Program.
80482 Section 1876. Section **63M-1-1602**, which is renumbered from Section 63-38f-1602 is
80483 renumbered and amended to read:
80484 **[~~63-38f-1602~~]. 63M-1-1602. Rural Development Program -- Supervision by**
80485 **office.**
80486 (1) There is created within the office the Rural Development Program.
80487 (2) The program is under the administration and general supervision of the office.
80488 Section 1877. Section **63M-1-1603**, which is renumbered from Section 63-38f-1603 is
80489 renumbered and amended to read:
80490 **[~~63-38f-1603~~]. 63M-1-1603. Purpose of the program.**
80491 The program is established to:
80492 (1) foster and support economic development programs and activities for the benefit of
80493 rural counties and communities;
80494 (2) foster and support community, county, and resource management planning
80495 programs and activities for the benefit of rural counties and communities;
80496 (3) foster and support leadership training programs and activities for the benefit of:
80497 (a) rural leaders in both the public and private sectors;
80498 (b) economic development and planning personnel; and
80499 (c) rural government officials;
80500 (4) foster and support efforts to coordinate and focus the technical and other resources
80501 of appropriate institutions of higher education, local governments, private sector interests,
80502 associations, nonprofit organizations, federal agencies, and others, in ways that address the
80503 economic development, planning, and leadership challenges and priorities of rural Utah as

80504 identified in the strategic plan required under Subsection 63C-10-103(2);
80505 (5) work to enhance the capacity of the office to address rural economic development,
80506 planning, and leadership training challenges and opportunities by establishing partnerships and
80507 positive working relationships with appropriate public and private sector entities, individuals,
80508 and institutions; and
80509 (6) foster government-to-government collaboration and good working relations
80510 between state and rural government regarding economic development and planning issues.
80511 Section 1878. Section **63M-1-1604**, which is renumbered from Section 63-38f-1604 is
80512 renumbered and amended to read:
80513 **[~~63-38f-1604~~]. 63M-1-1604. Duties.**
80514 (1) The program shall:
80515 (a) provide, in conjunction with the Rural Coordinating Committee, staff support to the
80516 Governor's Rural Partnership board;
80517 (b) facilitate within the department implementation of the strategic plan prepared under
80518 Subsection 63C-10-103(2);
80519 (c) work to enhance the capacity of the office to address rural economic development,
80520 planning, and leadership training challenges and opportunities by establishing partnerships and
80521 positive working relationships with appropriate public and private sector entities, individuals,
80522 and institutions;
80523 (d) work with the Rural Coordinating Committee to coordinate and focus available
80524 resources in ways that address the economic development, planning, and leadership training
80525 challenges and priorities in rural Utah; and
80526 (e) in accordance with economic development and planning policies set by state
80527 government, coordinate relations between:
80528 (i) the state;
80529 (ii) rural governments;
80530 (iii) other public and private groups engaged in rural economic planning and
80531 development; and
80532 (iv) federal agencies.
80533 (2) (a) The program may:
80534 (i) in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah

80535 Administrative Rulemaking Act, make rules necessary to carry out the duties of the office;
80536 (ii) accept gifts, grants, devises, and property, in cash or in kind, for the benefit of rural
80537 Utah citizens; and
80538 (iii) use those gifts, grants, devises, and property received under Subsection (2)(a)(ii)
80539 for the use and benefit of rural citizens within the state.
80540 (b) All resources received under Subsection (2)(a)(ii) shall be deposited in the General
80541 Fund as dedicated credits to be used as directed in Subsection (2)(a)(iii).
80542 (c) All funding for the benefit of rural Utah as defined in this section is nonlapsing.
80543 Section 1879. Section **63M-1-1605**, which is renumbered from Section 63-38f-1605 is
80544 renumbered and amended to read:
80545 **[~~63-38f-1605~~]. 63M-1-1605. Program manager.**
80546 (1) The director of the office shall appoint a manager for the program with the approval
80547 of the governor.
80548 (2) The manager shall be a person knowledgeable in the field of rural economic
80549 development and planning and experienced in administration.
80550 (3) Upon change of the director, the manager of the program may not be dismissed
80551 without cause for at least 180 days.
80552 (4) The manager shall be a member of the Rural Coordinating Committee's Steering
80553 Committee created in Subsection 63C-10-202(3).
80554 Section 1880. Section **63M-1-1606**, which is renumbered from Section 63-38f-1606 is
80555 renumbered and amended to read:
80556 **[~~63-38f-1606~~]. 63M-1-1606. Annual report.**
80557 The office shall submit an annual report of the program's operations and
80558 recommendations to:
80559 (1) the governor; and
80560 (2) the Rural Development Legislative Liaison Committee created in Section
80561 36-25-102.
80562 Section 1881. Section **63M-1-1701**, which is renumbered from Section 63-38f-1701 is
80563 renumbered and amended to read:
80564 **Part 17. Economic Development Incentives Act**
80565 **[~~63-38f-1701~~]. 63M-1-1701. Title.**

80566 This part is known as the "Economic Development Incentives Act."
80567 Section 1882. Section **63M-1-1702**, which is renumbered from Section 63-38f-1702 is
80568 renumbered and amended to read:
80569 **[~~63-38f-1702~~]. 63M-1-1702. Findings.**
80570 (1) The Legislature finds that:
80571 (a) to foster and develop industry in Utah is a public purpose necessary to assure
80572 adequate employment for, and the welfare of, Utah's citizens and the growth of the state's
80573 economy;
80574 (b) Utah loses prospective high paying jobs, economic impacts, and corresponding
80575 incremental new state and local revenues to competing states because of a wide variety of
80576 competing economic incentives offered by those states; and
80577 (c) economic development initiatives and interests of state and local economic
80578 development officials should be aligned and united in the creation of higher paying jobs that
80579 will lift the wage levels of the communities in which those jobs will be created.
80580 (2) This part is enacted to:
80581 (a) address the loss of new economic growth in Utah and the corresponding loss of
80582 incremental new state and local revenues by providing tax incremental financial incentives to
80583 attract new commercial projects in economic development zones in the state; and
80584 (b) provide a cooperative and unified working relationship between state and local
80585 economic development efforts.
80586 Section 1883. Section **63M-1-1703**, which is renumbered from Section 63-38f-1703 is
80587 renumbered and amended to read:
80588 **[~~63-38f-1703~~]. 63M-1-1703. Definitions.**
80589 As used in this part:
80590 (1) "Development zone" means an economic development zone created under Section
80591 [~~63-38f-1704~~] 63M-1-1704.
80592 (2) "High paying jobs" means the annual wages of employment positions that compare
80593 favorably against the median wage of a community in which the jobs will exist.
80594 (3) "Local incentives" means financial and other assistance provided by local taxing
80595 authorities within a development zone, which may include:
80596 (a) partial rebates of new local revenues; and

80597 (b) other sources of funds under authority of state law or local ordinances, or both state
80598 law and local ordinances.
80599 (4) "New incremental jobs" means jobs that are:
80600 (a) not shifted from one jurisdiction in the state to another jurisdiction in the state; and
80601 (b) created in addition to the baseline count of jobs already in existence within a
80602 company or employed by an individual.
80603 (5) "New local revenues" mean incremental new local tax revenues that are generated
80604 as a result of new economic commercial projects in a development zone, to include the local
80605 government's portion of sales taxes, property taxes, impact fees, and other taxes or fees, or both
80606 taxes and fees, derived from the projects, together with indirect local government revenues
80607 generated by the projects, but not to include any portion of sales taxes earmarked for state
80608 government or other taxing jurisdictions eligible for sales tax revenues.
80609 (6) "New state revenues" means incremental new state tax revenues that are generated
80610 as a result of new economic commercial projects in a development zone, to include the state's
80611 portion of sales taxes, and company and employee income taxes derived from the projects,
80612 together with indirect state revenues generated by the projects, but not to include any portion of
80613 sales taxes earmarked for local governments or other taxing jurisdictions eligible for sales tax
80614 revenues.
80615 (7) "Office" means the Governor's Office of Economic Development.
80616 (8) "Partial rebates" means returning a portion of the new local revenues and new state
80617 revenues generated by new commercial projects to companies or individuals that have created
80618 new economic growth within a development zone.
80619 Section 1884. Section **63M-1-1704**, which is renumbered from Section 63-38f-1704 is
80620 renumbered and amended to read:
80621 **[~~63-38f-1704~~]. 63M-1-1704. Creation of economic development zones --**
80622 **Incentives.**
80623 (1) The office, with advice from the board, may create an economic development zone
80624 in the state that satisfies all of the following requirements:
80625 (a) the area is zoned commercial, industrial, manufacturing, business park, research
80626 park, or other appropriate use in a community approved master plan; and
80627 (b) the request to create a development zone has been forwarded to the office after first

80628 being approved by an appropriate local government entity that has committed or will commit to
80629 provide local incentives.
80630 (2) (a) The office, with advice from the board, may enter into agreements providing for
80631 partial rebates of new state revenues generated by new commercial projects to companies or
80632 individuals that create new economic growth within a development zone under the same
80633 restrictions and limitations as provided in Section [~~63-38f-1304~~] 63M-1-1304.
80634 (b) The limitations and restrictions applied to partial rebates of new state revenues in
80635 Section [~~63-38f-1304~~] 63M-1-1304 also apply to partial rebates of new local revenues under
80636 this part.
80637 Section 1885. Section **63M-1-1705**, which is renumbered from Section 63-38f-1705 is
80638 renumbered and amended to read:
80639 **[~~63-38f-1705~~]. 63M-1-1705. Qualifications for rebates -- Payment**
80640 **procedure.**
80641 (1) The office shall set standards to qualify for partial rebates under this part, subject to
80642 the following:
80643 (a) the qualification criteria established in Subsections [~~63-38f-1305~~] 63M-1-1305(1),
80644 (2), (3), (4), and (6); and
80645 (b) only projects that include significant capital investment, the creation of high paying
80646 jobs, or significant purchases from Utah vendors and providers, or any combination of these
80647 three economic factors are eligible for partial rebates.
80648 (2) A payment of partial rebates of new state revenues shall be made in accordance
80649 with procedures adopted by the office, with advice from the board, to include the payment
80650 procedures described in Section [~~63-38f-1306~~] 63M-1-1306 as applied to partial rebates
80651 authorized under this part.
80652 Section 1886. Section **63M-1-1706**, which is renumbered from Section 63-38f-1706 is
80653 renumbered and amended to read:
80654 **[~~63-38f-1706~~]. 63M-1-1706. Office's authority -- Report to Legislature.**
80655 (1) The office, with advice from the board, and within the limitations of this part, may
80656 determine:
80657 (a) the structure and amount of any partial rebates offered under this part;
80658 (b) the economic impacts and job creation necessary to qualify for the incentive; and

80659 (c) the other terms and conditions of an agreement entered into under this part.
80660 (2) In reviewing claims for partial rebates of new state revenues, the office may accept
80661 the same type of information and evidence allowed under Subsections [~~63-38f-1307~~]
80662 63M-1-1307(2)(a) and (b).
80663 (3) (a) The office shall make a report to the Legislature's Workforce Services and
80664 Community and Economic Development Interim Committee on:
80665 (i) the success of attracting new commercial projects to development zones under this
80666 part and the corresponding increase in new incremental jobs;
80667 (ii) the period of time over which partial rebates of new state revenues shall be granted
80668 under this part; and
80669 (iii) the economic impact on the state related to generating new state revenues and
80670 rebating a portion of those revenues under this part.
80671 (b) The office shall make the report prior to the 2006 General Session of the
80672 Legislature to enable the committee to determine whether this part should be modified during
80673 the 2006 General Session.
80674 Section 1887. Section **63M-1-1801**, which is renumbered from Section 63-38f-1801 is
80675 renumbered and amended to read:
80676 **Part 18. Motion Picture Incentive Fund**
80677 **[~~63-38f-1801~~]. 63M-1-1801. Purpose.**
80678 (1) The Legislature finds that:
80679 (a) the state's natural beauty, scenic wonders, and diverse topography provide a variety
80680 of magnificent settings from which the motion picture industry can choose to film part or all of
80681 major or independent motion pictures, made-for-television movies, and television series;
80682 (b) the state has an abundance of resources, including a skilled and able workforce, the
80683 required infrastructure, and a friendly and hospitable populace that have been instrumental in
80684 the filming of several successful motion pictures and television series; and
80685 (c) further development of the motion picture industry in Utah is a state public purpose
80686 that will significantly impact growth in the state's economy and contribute to the fiscal well
80687 being of the state and its people.
80688 (2) The purpose of this part is to:
80689 (a) encourage the use of Utah as a site for the production of motion pictures, television

80690 series, and made-for-television movies;
80691 (b) provide a financial incentive to the film industry so that Utah might compete
80692 successfully with other states and countries for filming locations; and
80693 (c) help develop a strong motion picture industry presence in the state that will
80694 contribute substantially to improving the state's economy.
80695 Section 1888. Section **63M-1-1802**, which is renumbered from Section 63-38f-1802 is
80696 renumbered and amended to read:
80697 **[~~63-38f-1802~~]. 63M-1-1802. Definitions.**
80698 As used in this part:
80699 (1) "Administrator" means the director of the Governor's Office of Economic
80700 Development or the director's designee.
80701 (2) "Board" means the Board of Business and Economic Development.
80702 (3) "Fund" means the restricted account known as the Motion Picture Incentive Fund
80703 created in Section [~~63-38f-1803~~] 63M-1-1803.
80704 (4) "Motion picture company" means a company engaged in the production of motion
80705 pictures, television series, or made-for-television movies.
80706 (5) "State-approved production" means a motion picture, television series, or
80707 made-for-television movie approved by the administrator and ratified by the board that is
80708 produced in the state by a motion picture company.
80709 Section 1889. Section **63M-1-1803**, which is renumbered from Section 63-38f-1803 is
80710 renumbered and amended to read:
80711 **[~~63-38f-1803~~]. 63M-1-1803. Motion Picture Incentive Fund created.**
80712 (1) There is created within the General Fund a restricted account known as the Motion
80713 Picture Incentive Fund, which shall be used to provide incentives for within-the-state
80714 production of television series, made-for-television movies, and motion pictures, including
80715 feature films and independent films.
80716 (2) (a) The fund shall be administered by the administrator with advice from the board.
80717 (b) The administrator, with advice from the board, shall approve fund policies and
80718 qualification criteria to receive an incentive award consistent with the provisions of this part.
80719 (3) All interest generated from investment of money in the fund shall be deposited in
80720 the fund.

80721 (4) The fund shall consist of an annual appropriation by the Legislature.
80722 Section 1890. Section **63M-1-1804**, which is renumbered from Section 63-38f-1804 is
80723 renumbered and amended to read:
80724 **[~~63-38f-1804~~]. 63M-1-1804. Financial incentives for motion picture**
80725 **productions.**
80726 (1) A motion picture company that has a state-approved production under this section
80727 may receive a financial incentive from the fund as provided in this section.
80728 (2) (a) The administrator has authority to determine the structure, amount, and nature
80729 of the incentive given to a motion picture company, subject to the limitations and
80730 considerations set out in Subsections (3) and (4).
80731 (b) A financial incentive shall be paid to a motion picture company from the fund only
80732 after the administrator has determined with advice from the board that the motion picture
80733 company has satisfied the conditions upon which the incentive is to be given.
80734 (3) (a) In each fiscal year, the money in the fund shall be used for incentives to motion
80735 picture companies for state-approved productions that are either television series,
80736 made-for-television movies, or motion pictures, which may include both feature films and
80737 independent films.
80738 (b) An incentive awarded under Subsection (3)(a) for a motion picture production may
80739 not exceed $500,000 per production.
80740 (4) (a) The administrator shall enter into agreements with motion picture companies
80741 that represent postperformance incentive grants that take into consideration:
80742 (i) the fact that financing has been obtained and is in place for the production;
80743 (ii) distribution is in place, except that the administrator may make allowances for an
80744 independent filmmaker who plans to shop the production on a film festival circuit;
80745 (iii) the economic impact of the production on the state; and
80746 (iv) the production represents new incremental economic activity in the state as
80747 opposed to existing economic activity.
80748 (b) The administrator may also consider giving preference to a production that
80749 stimulates economic activity in rural areas of the state or that has Utah content, such as
80750 recognizing that the production was made in the state or uses Utah as Utah in the production.
80751 Section 1891. Section **63M-1-1805**, which is renumbered from Section 63-38f-1805 is

80752 renumbered and amended to read:
80753 **[~~63-38f-1805~~]. 63M-1-1805. Annual report.**
80754 (1) The administrator shall prepare an annual report for the board on the economic
80755 impact of this part.
80756 (2) The board shall present the report to the Legislature's Workforce Services and
80757 Community and Economic Development Interim Committee and the Economic Development
80758 and Human Resources Appropriations Subcommittee, together with any proposed
80759 recommendations for modifications in this part or the annual ongoing appropriation for the
80760 fund.
80761 Section 1892. Section **63M-1-1901**, which is renumbered from Section 63-38f-1901 is
80762 renumbered and amended to read:
80763 **Part 19. Economic Development on Military Installations**
80764 **[~~63-38f-1901~~]. 63M-1-1901. Military installation projects for economic**
80765 **development -- Funding -- Criteria -- Dispersal -- Report.**
80766 (1) The Legislature recognizes that significant growth in the state's economy can be
80767 achieved by state and local support of the continuing expansion and development of federal
80768 military installations throughout the state.
80769 (2) The office, through its director, may receive and distribute legislative
80770 appropriations and public and private grants and donations for military installation projects
80771 that:
80772 (a) have a strong probability of increasing the growth and development of a military
80773 facility within the state, thereby providing significant economic benefits to the state;
80774 (b) will provide a significant number of new jobs within the state that should remain
80775 within the state for a period of several years; and
80776 (c) involve a partnership between the military and private industry or local government
80777 or the military and private industry and local government.
80778 (3) (a) The director may distribute monies under this section to:
80779 (i) a regional or statewide nonprofit economic development organization; or
80780 (ii) a federal military partnership that has the mission of promoting the economic
80781 growth of a military installation.
80782 (b) The director shall make a distribution under this section upon:

80783 (i) receipt of an application on a form prescribed by the office that lists:
80784 (A) the particulars of the proposed use of the monies requested, such as needed
80785 equipment purchases and anticipated training costs;
80786 (B) the estimated number of new jobs that will be created by the proposed project;
80787 (C) pending contracts related to the project that are to be finalized from funding
80788 anticipated under this section; and
80789 (D) a projected date on which the applicant shall provide the director with a report on
80790 the implementation and performance of the project, including the creation of new jobs; and
80791 (ii) a determination by the director that the project satisfies the requirements listed in
80792 Subsection (2).
80793 (c) (i) The office shall monitor the activities of a recipient of monies under this section
80794 to ensure that there is compliance with the terms and conditions imposed on the recipient under
80795 this part.
80796 (ii) The office shall make an annual report to the Legislature's Workforce Services and
80797 Community and Economic Development Interim Committee and the Executive Appropriations
80798 Committee on the use and impact of the monies distributed under this section, with the first
80799 report to occur not later than September 1, 2005.
80800 (4) For the fiscal year ending June 30, 2005, the director may disperse an amount not to
80801 exceed $5,000,000 for projects referred to under this section.
80802 Section 1893. Section **63M-1-2001**, which is renumbered from Section 63-38f-2001 is
80803 renumbered and amended to read:
80804 **Part 20. Business Development for Disadvantaged Rural Communities Act**
80805 **[~~63-38f-2001~~]. 63M-1-2001. Title.**
80806 This part is known as the "Business Development for Disadvantaged Rural
80807 Communities Act."
80808 Section 1894. Section **63M-1-2002**, which is renumbered from Section 63-38f-2002 is
80809 renumbered and amended to read:
80810 **[~~63-38f-2002~~]. 63M-1-2002. Definitions.**
80811 As used in this part:
80812 (1) "Board" means the Board of Business and Economic Development created by
80813 Section [~~63-38f-301~~] 63M-1-301.

80814 (2) "Business incubator expense" means an expense relating to funding a program that
80815 is:
80816 (a) designed to provide business support services and resources to one or more
80817 business entities within a project area during the business entities' early stages of development;
80818 and
80819 (b) determined to be a business incubator by the board.
80820 (3) "Business rehabilitation expense" means an expense relating to the renovation or
80821 rehabilitation of an existing building within a project area as determined by the board.
80822 (4) "Debt service" means the payment of debt service on a bond issued to pay a:
80823 (a) business rehabilitation expense relating to a project; or
80824 (b) public infrastructure expense relating to a project.
80825 (5) "Eligible county" means a county of the third, fourth, fifth, or sixth class.
80826 (6) "Eligible expense" means an expense:
80827 (a) incurred by an eligible county;
80828 (b) relating to a project; and
80829 (c) that is:
80830 (i) a business incubator expense;
80831 (ii) debt service; or
80832 (iii) a public infrastructure expense.
80833 (7) "Project" means an economic development project:
80834 (a) as determined by the board; and
80835 (b) for which an eligible county applies to the board in accordance with this part for a
80836 loan or grant to assist the eligible county in paying an eligible expense.
80837 (8) "Project area" means the geographic area within which a project is implemented by
80838 an eligible county.
80839 (9) "Public infrastructure expense" means an expense relating to a publicly owned
80840 improvement located within a project area if:
80841 (a) the expense is:
80842 (i) incurred for:
80843 (A) construction;
80844 (B) demolition;

80845 (C) design;
80846 (D) engineering;
80847 (E) an environmental impact study;
80848 (F) environmental remediation; or
80849 (G) rehabilitation; or
80850 (ii) similar to an expense described in Subsection (9)(a)(i) as determined by the board;
80851 and
80852 (b) the publicly owned improvement is:
80853 (i) not a building as determined by the board; and
80854 (ii) necessary to support a project as determined by the board.
80855 (10) "Publicly owned improvement" means an improvement to real property if:
80856 (a) the real property is owned by:
80857 (i) the United States;
80858 (ii) the state; or
80859 (iii) a political subdivision:
80860 (A) as defined in Section 17B-1-102; and
80861 (B) of the state; and
80862 (b) the improvement relates to:
80863 (i) a sewage system including a system for collection, transport, storage, treatment,
80864 dispersal, effluent use, or discharge;
80865 (ii) a drainage or flood control system, including a system for collection, transport,
80866 diversion, storage, detention, retention, dispersal, use, or discharge;
80867 (iii) a water system including a system for production, collection, storage, treatment,
80868 transport, delivery, connection, or dispersal;
80869 (iv) a highway, street, or road system for vehicular use for travel, ingress, or egress;
80870 (v) a rail transportation system;
80871 (vi) a system for pedestrian use for travel, ingress, or egress;
80872 (vii) a public utility system including a system for electricity, gas, or
80873 telecommunications; or
80874 (viii) a system or device that is similar to a system or device described in Subsections
80875 (10)(b)(i) through (vii) as determined by the board.

80876 (11) "Restricted account" means the Business Development for Disadvantaged Rural
80877 Communities Restricted Account created by Section [~~63-38f-2003~~] 63M-1-2003.
80878 Section 1895. Section **63M-1-2003**, which is renumbered from Section 63-38f-2003 is
80879 renumbered and amended to read:
80880 **[~~63-38f-2003~~]. 63M-1-2003. Creation of Business Development for**
80881 **Disadvantaged Rural Communities Restricted Account -- Interest -- Costs of**
80882 **administering the restricted account -- Monies and interest nonlapsing -- Deposit of**
80883 **certain monies and interest into General Fund.**
80884 (1) There is created within the General Fund the Business Development for
80885 Disadvantaged Rural Communities Restricted Account.
80886 (2) The restricted account shall be funded by:
80887 (a) monies appropriated to the account by the Legislature;
80888 (b) monies received by the office as:
80889 (i) repayment of a loan that the board grants to an eligible county under this part; and
80890 (ii) interest on a loan described in Subsection (2)(b)(i); and
80891 (c) the interest described in Subsection (3).
80892 (3) (a) The restricted account shall earn interest.
80893 (b) The interest described in Subsection (3)(a) shall be deposited into the account.
80894 (4) Upon appropriation by the Legislature, the monies and interest deposited into the
80895 restricted account in accordance with this section may be expended:
80896 (a) by the board to award grants or loans to eligible counties as provided in this part;
80897 and
80898 (b) to cover the costs of administering this part:
80899 (i) in an amount not to exceed $5,000 in any fiscal year; and
80900 (ii) including the costs of providing staff support to administer this part.
80901 (5) (a) Except as provided in Subsection (5)(b), the monies and interest deposited into
80902 the restricted account in accordance with this section are nonlapsing.
80903 (b) Notwithstanding Subsection (5)(a), the Division of Finance shall deposit any
80904 monies and interest in the restricted account on July 1, 2015 into the General Fund.
80905 Section 1896. Section **63M-1-2004**, which is renumbered from Section 63-38f-2004 is
80906 renumbered and amended to read:

80907 **[~~63-38f-2004~~]. 63M-1-2004. Board authority to award a grant or loan to an**
80908 **eligible county -- Interest on a loan -- Eligible county proposal process -- Process for**
80909 **awarding a grant or loan.**
80910 (1) (a) Subject to the provisions of this section, beginning on July 1, 2005, through
80911 June 30, 2015, the board may make an award to an eligible county:
80912 (i) of one or more of the following to assist in paying an eligible expense relating to a
80913 project:
80914 (A) a grant; or
80915 (B) a loan; and
80916 (ii) from amounts or interest deposited into the restricted account in accordance with
80917 Section [~~63-38f-2003~~] 63M-1-2003 to the extent that there is a balance in the restricted account
80918 sufficient to cover the amount of the award.
80919 (b) The total amount of grants and loans that the board may award in accordance with
80920 this section relating to one project is $75,000.
80921 (c) If the board awards a loan to an eligible county in accordance with this section, the
80922 loan shall be subject to interest as provided by the procedures and methods referred to in
80923 Subsection (6).
80924 (2) (a) Before the board may award an eligible county a grant or loan in accordance
80925 with this section, the eligible county shall submit a written proposal to the board in accordance
80926 with Subsection (2)(b).
80927 (b) The proposal described in Subsection (2)(a) shall:
80928 (i) describe the project area;
80929 (ii) describe the characteristics of the project including a description of how the project
80930 will be implemented;
80931 (iii) provide an economic development plan for the project including a description of
80932 any eligible expenses that will be incurred as part of implementing the project;
80933 (iv) describe the characteristics of the community within which the project area is
80934 located;
80935 (v) establish that the community within which the project area is located is a
80936 disadvantaged community on the basis of one or more of the following factors:
80937 (A) median income per capita within the community;

80938 (B) median property tax revenues generated within the community;
80939 (C) median sales and use tax revenues generated within the community; or
80940 (D) unemployment rates within the community;
80941 (vi) demonstrate that there is a need for the project in the community within which the
80942 project area is located;
80943 (vii) describe the short-term and long-term benefits of the project to the community
80944 within which the project area is located;
80945 (viii) demonstrate that there is a need for assistance in paying eligible expenses relating
80946 to the project;
80947 (ix) indicate the amount of any revenues that will be pledged to match any funds the
80948 board may award as a loan or grant under this section; and
80949 (x) indicate whether there is support for the implementation of the project from:
80950 (A) the community within which the project area is located; and
80951 (B) any cities or towns within which the project area is located.
80952 (3) At the request of the board, representatives from an eligible county shall appear
80953 before the board to:
80954 (a) present a proposal submitted in accordance with Subsection (2)(b); and
80955 (b) respond to any questions or issues raised by the board relating to eligibility to
80956 receive a grant or loan under this section.
80957 (4) The board shall:
80958 (a) consider a proposal submitted to the board in accordance with Subsection (2);
80959 (b) make written findings as to whether the proposal described in Subsection (4)(a)
80960 meets the requirements of Subsection (2)(b);
80961 (c) make written findings as to whether to award the eligible county that submitted the
80962 proposal described in Subsection (4)(a) one or more grants or loans:
80963 (i) on the basis of the factors established in Subsection (5);
80964 (ii) in consultation with the director; and
80965 (iii) in accordance with the procedures established for prioritizing which projects may
80966 be awarded a grant or loan by the board under this section;
80967 (d) if the board determines to award an eligible county a grant or loan in accordance
80968 with this section, make written findings in consultation with the director specifying the:

80969 (i) amount of the grant or loan;
80970 (ii) time period for distributing the grant or loan;
80971 (iii) terms and conditions that the eligible county shall meet to receive the grant or
80972 loan;
80973 (iv) structure of the grant or loan; and
80974 (v) eligible expenses for which the eligible county may expend the grant or loan;
80975 (e) if the board determines to award an eligible county a loan in accordance with this
80976 section, make written findings stating:
80977 (i) the method of calculating interest applicable to the loan; and
80978 (ii) procedures for:
80979 (A) applying interest to the loan; and
80980 (B) paying interest on the loan; and
80981 (f) provide the written findings required by Subsections (4)(b) through (e) to the
80982 eligible county.
80983 (5) For purposes of Subsection (4)(c), the board shall consider the following factors in
80984 determining whether to award an eligible county one or more grants or loans authorized by this
80985 part:
80986 (a) whether the project is likely to result in economic development in the community
80987 within which the project area is located;
80988 (b) whether the community within which the project area is located is a disadvantaged
80989 community on the basis of one or more of the following factors:
80990 (i) median income per capita within the community;
80991 (ii) median property tax revenues generated within the community;
80992 (iii) median sales and use tax revenues generated within the community; or
80993 (iv) unemployment rates within the community;
80994 (c) whether there is a need for the project in the community within which the project
80995 area is located;
80996 (d) whether the project is likely to produce short-term and long-term benefits to the
80997 community within which the project area is located;
80998 (e) whether the project would be successfully implemented without the board awarding
80999 a grant or a loan to the eligible county;

81000 (f) whether any revenues will be pledged to match any funds the board may award as a
81001 grant or loan under this section;
81002 (g) whether there is support for the implementation of the project from:
81003 (i) the community within which the project area is located; and
81004 (ii) any cities or towns within which the project area is located; and
81005 (h) any other factor as determined by the board.
81006 (6) The office shall establish procedures:
81007 (a) for prioritizing which projects may be awarded a grant or loan by the board under
81008 this section; and
81009 (b) for loans awarded in accordance with this section:
81010 (i) the methods of calculating interest applicable to the loans; and
81011 (ii) procedures for:
81012 (A) applying interest to the loans; and
81013 (B) paying interest on the loans.
81014 Section 1897. Section **63M-1-2005**, which is renumbered from Section 63-38f-2005 is
81015 renumbered and amended to read:
81016 **[~~63-38f-2005~~]. 63M-1-2005. Agreement between the executive director and**
81017 **an eligible county -- Failure to meet or violation of a term or condition of an agreement.**
81018 (1) Before an eligible county that has been awarded a grant or loan in accordance with
81019 Section [~~63-38f-2004~~] 63M-1-2004 may receive the grant or loan, the eligible county shall
81020 enter into a written agreement with the director.
81021 (2) The written agreement described in Subsection (1):
81022 (a) shall:
81023 (i) specify the amount of the grant or loan;
81024 (ii) specify the time period for distributing the grant or loan;
81025 (iii) specify the terms and conditions that the eligible county shall meet to receive the
81026 grant or loan;
81027 (iv) specify the structure of the grant or loan;
81028 (v) specify the eligible expenses for which the eligible county may expend the grant or
81029 loan;
81030 (vi) if the eligible county has been awarded a loan:

81031 (A) specify the repayment schedule for the loan;
81032 (B) specify the method of calculating interest applicable to the loan; and
81033 (C) specify procedures for:
81034 (I) applying interest to the loan; and
81035 (II) paying interest on the loan; and
81036 (vii) subject to Subsection (3), contain provisions governing the failure to meet or the
81037 violation of a term or condition of the agreement; and
81038 (b) may contain any other provision as determined by the director.
81039 (3) (a) Except as provided in Subsection (3)(b), and subject to Subsection (3)(c), if an
81040 eligible county fails to meet or violates any provision of the agreement described in Subsection
81041 (2), the board shall impose one or more of the following penalties:
81042 (i) require the eligible county to repay all or a portion of the amount of any grant or
81043 loan the eligible county received in an amount determined by the board;
81044 (ii) provide that an eligible county may not receive any amounts of a grant or loan that
81045 the eligible county has been awarded in accordance with Section [~~63-38f-2004~~] 63M-1-2004
81046 but has not received; or
81047 (iii) provide that an eligible county may not be awarded a grant or loan under this part
81048 for a time period determined by the board.
81049 (b) Notwithstanding Subsection (3)(a), the board may waive, reduce, or compromise a
81050 penalty described in Subsection (3)(a) if an eligible county demonstrates that reasonable cause
81051 exists for the eligible county failing to meet or violating a provision of the agreement described
81052 in Subsection (2).
81053 (c) If the board imposes a penalty in accordance with this Subsection (3) on an eligible
81054 county, the board shall provide written notice of the penalty to the eligible county within ten
81055 calendar days after the day on which the board determines to impose the penalty.
81056 Section 1898. Section **63M-1-2006**, which is renumbered from Section 63-38f-2006 is
81057 renumbered and amended to read:
81058 **[~~63-38f-2006~~]. 63M-1-2006. Report to Workforce Services and Community**
81059 **and Economic Development Interim Committee.**
81060 The board shall annually report to the Workforce Services and Community and
81061 Economic Development Interim Committee on or before the November interim meeting:

81062 (1) the total amount of grants and loans the board awarded to eligible counties under
81063 this part during the fiscal year that ended on the June 30 immediately preceding the November
81064 interim meeting;
81065 (2) a description of the projects with respect to which the board awarded a grant or loan
81066 under this part;
81067 (3) the total amount of outstanding debt service that is being repaid by a grant or loan
81068 awarded under this part;
81069 (4) on whether the grants and loans awarded under this part have resulted in economic
81070 development within project areas;
81071 (5) on whether the board recommends:
81072 (a) that the grants and loans authorized by this part should be continued; or
81073 (b) any modifications to this part; and
81074 (6) on any other issue relating to this part as determined by the Workforce Services and
81075 Community and Economic Development Interim Committee.
81076 Section 1899. Section **63M-1-2101**, which is renumbered from Section 63-38f-2101 is
81077 renumbered and amended to read:
81078 **Part 21. Economic Development - Government Procurement Contracts**
81079 **[~~63-38f-2101~~]. 63M-1-2101. Projects to assist companies secure new**
81080 **business with federal, state, and local governments.**
81081 (1) The Legislature recognizes that:
81082 (a) many Utah companies provide products and services which are routinely procured
81083 by a myriad of governmental entities at all levels of government, but that attempting to
81084 understand and comply with the numerous certification, registration, proposal, and contract
81085 requirements associated with government procurement often raises significant barriers for
81086 those companies with no government contracting experience;
81087 (b) the costs associated with obtaining a government contract for products or services
81088 often prevent most small businesses from working in the governmental procurement market;
81089 (c) currently a majority of federal procurement opportunities are contracted to
81090 businesses located outside of the state;
81091 (d) the Governor's Office of Economic Development currently administers programs
81092 and initiatives that help create and grow companies in Utah and recruit companies to Utah

81093 through the use of state employees, public-private partnerships, and contractual services; and
81094 (e) there exists a significant opportunity for Utah companies to secure new business
81095 with federal, state, and local governments.
81096 (2) The office, through its director:
81097 (a) shall manage and direct the administration of state and federal programs and
81098 initiatives whose purpose is to procure federal, state, and local governmental contracts;
81099 (b) may require program accountability measures; and
81100 (c) may receive and distribute legislative appropriations and public and private grants
81101 for projects and programs that:
81102 (i) are focused on growing Utah companies and positively impacting statewide
81103 revenues by helping these companies secure new business with federal, state, and local
81104 governments;
81105 (ii) provide guidance to Utah companies interested in obtaining new business with
81106 federal, state, and local governmental entities;
81107 (iii) would facilitate marketing, business development, and expansion opportunities for
81108 Utah companies in cooperation with the Governor's Office of Economic Development's
81109 Procurement Technical Assistance Center Program and with public, non-profit, or private
81110 sector partners such as local chambers of commerce, trade associations, or private contractors
81111 as determined by the office's director to successfully match Utah businesses with government
81112 procurement opportunities; and
81113 (iv) may include the following components:
81114 (A) recruitment, individualized consultation, and an introduction to government
81115 contracting;
81116 (B) specialized contractor training for companies located in Utah;
81117 (C) a Utah contractor matching program for government requirements;
81118 (D) experienced proposal and bid support; and
81119 (E) specialized support services.
81120 (3) (a) The office, through its director, shall make any distribution referred to in
81121 Subsection (2) on a semiannual basis.
81122 (b) A recipient of monies distributed under this section shall provide the office with a
81123 set of standard monthly reports, the content of which shall be determined by the office to

81124 include at least the following information:
81125 (i) consultive meetings with Utah companies;
81126 (ii) seminars or training meetings held;
81127 (iii) government contracts awarded to Utah companies;
81128 (iv) increased revenues generated by Utah companies from new government contracts;
81129 (v) jobs created;
81130 (vi) salary ranges of new jobs; and
81131 (vii) the value of contracts generated.
81132 Section 1900. Section **63M-1-2201**, which is renumbered from Section 63-38f-2201 is
81133 renumbered and amended to read:
81134 **Part 22. Transient Room Tax Fund Act**
81135 **[~~63-38f-2201~~]. 63M-1-2201. Title.**
81136 This part is known as the "Transient Room Tax Fund Act."
81137 Section 1901. Section **63M-1-2202**, which is renumbered from Section 63-38f-2202 is
81138 renumbered and amended to read:
81139 **[~~63-38f-2202~~]. 63M-1-2202. Definitions.**
81140 As used in this part, "fund" means the Transient Room Tax Fund created by Section
81141 [~~63-38f-2203~~] 63M-1-2203.
81142 Section 1902. Section **63M-1-2203**, which is renumbered from Section 63-38f-2203 is
81143 renumbered and amended to read:
81144 **[~~63-38f-2203~~]. 63M-1-2203. Transient Room Tax Fund -- Source of**
81145 **revenues -- Interest -- Expenditure or pledge of revenues.**
81146 (1) There is created a restricted special revenue fund known as the Transient Room Tax
81147 Fund.
81148 (2) (a) The fund shall be funded by the portion of the sales and use tax described in
81149 Subsection 59-12-301(2).
81150 (b) (i) The fund shall earn interest.
81151 (ii) Any interest earned on fund monies shall be deposited into the fund.
81152 (3) (a) Subject to Subsection (3)(b), the director shall expend or pledge the monies
81153 deposited into the fund:
81154 (i) to mitigate the impacts of traffic and parking relating to a convention facility within

81155 a county of the first class;
81156 (ii) for a purpose listed in Section 17-31-2, except that any requirements in Section
81157 17-31-2 for the expenditure of monies do not apply; or
81158 (iii) for a combination of Subsections (3)(a)(i) and (ii).
81159 (b) The director may not expend more than $20,000,000 in total to mitigate the impacts
81160 of traffic and parking relating to a convention facility within a county of the first class.
81161 Section 1903. Section **63M-1-2301**, which is renumbered from Section 63-38f-2301 is
81162 renumbered and amended to read:
81163 **Part 23. Rural Broadband Service Fund Act**
81164 **[~~63-38f-2301~~]. 63M-1-2301. Title.**
81165 This part is known as the "Rural Broadband Service Fund Act."
81166 Section 1904. Section **63M-1-2302**, which is renumbered from Section 63-38f-2302 is
81167 renumbered and amended to read:
81168 **[~~63-38f-2302~~]. 63M-1-2302. Definitions.**
81169 As used in this part:
81170 (1) "Broadband service" means any wire line technology identified by the director as
81171 having the capacity to transmit data from and to a subscriber's computer to the Internet or
81172 Internet-related services at a minimum rate of data transmission of 256 kilobits per second.
81173 (2) "Fund" means the restricted account known as the Rural Broadband Service Fund
81174 created in Section [~~63-38f-2303~~] 63M-1-2303.
81175 (3) "Provider" means a person who will provide retail broadband service to subscribers
81176 in a rural area.
81177 (4) "Rural area" means any territory in the state:
81178 (a) within a city, town, or unincorporated area with a population of 10,000 or less
81179 based on the most recently published data of the United States Census Bureau; and
81180 (b) in which broadband service is not available.
81181 Section 1905. Section **63M-1-2303**, which is renumbered from Section 63-38f-2303 is
81182 renumbered and amended to read:
81183 **[~~63-38f-2303~~]. 63M-1-2303. Rural Broadband Service Fund created --**
81184 **Interest -- Costs -- Deposits to the General Fund.**
81185 (1) There is created within the General Fund a restricted account known as the Rural

81186 Broadband Service Fund.
81187 (2) The fund shall be funded by:
81188 (a) monies appropriated to the fund by the Legislature; and
81189 (b) the interest described in Subsection (3).
81190 (3) (a) The fund shall earn interest.
81191 (b) The interest described in Subsection (3)(a) shall be deposited into the fund.
81192 (4) Upon appropriation by the Legislature, the monies and interest deposited into the
81193 fund in accordance with this section may be expended:
81194 (a) by the director with the advice of the board to award grants to providers as provided
81195 in this part; and
81196 (b) to cover the costs of administering this part in an amount during any fiscal year not
81197 to exceed 2% of the fund balance at the start of any fiscal year.
81198 (5) (a) Except as provided in Subsection (5)(b), the monies and interest deposited into
81199 the fund in accordance with this section shall be nonlapsing.
81200 (b) Notwithstanding Subsection (5)(a), the Division of Finance shall deposit any
81201 monies and interest in the fund into the General Fund on July 1, 2010.
81202 Section 1906. Section **63M-1-2304**, which is renumbered from Section 63-38f-2304 is
81203 renumbered and amended to read:
81204 **[~~63-38f-2304~~]. 63M-1-2304. Grants for rural broadband deployment.**
81205 (1) (a) A provider that wishes to deploy broadband service in a rural area may file an
81206 application for a grant with the office.
81207 (b) An application shall:
81208 (i) be accompanied by an affidavit executed by the provider under oath; and
81209 (ii) provide information prescribed in rules adopted by the director.
81210 (2) The director shall:
81211 (a) provide reasonable public notice of an application;
81212 (b) allow public comment on the application for a reasonable period of time;
81213 (c) allow any other provider a reasonable opportunity to file an application to provide
81214 broadband service in all or part of the rural area specified in the application filed under
81215 Subsection (1); and
81216 (d) make rules concerning the method of providing public notice, the time period for

81217 public comment, and the manner of filing a competing application.
81218 (3) (a) The office shall review all applications submitted in accordance with
81219 Subsections (1) and (2) to provide broadband service in a rural area.
81220 (b) In reviewing any application, the office may obtain information from the provider
81221 or others and conduct its own analysis of any issue relevant to the application, including
81222 economic development.
81223 (4) After review of all applications for any rural area in accordance with Subsection
81224 (3), the director may approve an application and enter into a written agreement with a provider
81225 to provide a grant from the fund if the director, with the advice of the board, is satisfied that the
81226 provider's application establishes that:
81227 (a) the provider has the financial, managerial, and technical ability to deploy broadband
81228 service in the rural area in accordance with the application;
81229 (b) the territory in which the provider proposes to deploy broadband service is a rural
81230 area;
81231 (c) the cost of deployment of broadband service in the rural area is reasonable;
81232 (d) the initial terms and conditions on which broadband service will be made available
81233 to potential subscribers in the rural area are reasonable;
81234 (e) the provider has a viable business plan to continue providing broadband service to
81235 all or some subscribers within the rural area;
81236 (f) if a competitive application was filed for the rural area, the provider's application is
81237 the most advantageous application to potential subscribers or the state; and
81238 (g) the application otherwise meets the requirements of this part and any rules adopted
81239 by the director concerning broadband service deployment.
81240 (5) (a) The director may, with the advice of the board, require the provider to make
81241 adjustments to the application or agree to reasonable conditions consistent with the purposes of
81242 this part before approving the application.
81243 (b) Any adjustments and conditions required by the director shall be included in the
81244 written agreement entered into with the provider.
81245 (6) The amount of any grant provided from the fund shall be no greater than the lesser
81246 of 1/2 of:
81247 (a) the actual cost of deployment of broadband service in the rural area as established

81248 by verified accounts filed with the office after completion of deployment; or
81249 (b) the projected amount established during the application process by the director and
81250 board for the deployment of broadband service in the rural area as provided in the verified
81251 application.
81252 (7) Upon completion of deployment of broadband service by a provider in accordance
81253 with the terms of an agreement as provided in Subsection (4), the director shall pay the amount
81254 of the grant agreed upon consistent with Subsection (6) to the provider from the fund.
81255 (8) In making any determination required under this section, the director, the office,
81256 and the board:
81257 (a) may not discriminate against any accepted technology for provision of broadband
81258 service other than for reasons of cost or the terms and conditions upon which the provider
81259 proposes to provide broadband service to potential subscribers; and
81260 (b) may consult with the Division of Public Utilities created in Section 13-1-2.
81261 Section 1907. Section **63M-1-2305**, which is renumbered from Section 63-38f-2305 is
81262 renumbered and amended to read:
81263 **[~~63-38f-2305~~]. 63M-1-2305. Annual report.**
81264 (1) The office shall make a report to the Legislature's Workforce Services and
81265 Community and Economic Development Interim Committee by October 1 of each year until
81266 the fund is terminated under Subsection [~~63-38f-2303~~] 63M-1-2303(5)(b).
81267 (2) The report required by Subsection (1) shall provide information concerning
81268 deployment of broadband service using grants from the fund, pending applications, the balance
81269 remaining in the fund, and suggested appropriations to the fund to achieve the purposes of this
81270 part.
81271 Section 1908. Section **63M-1-2306**, which is renumbered from Section 63-38f-2306 is
81272 renumbered and amended to read:
81273 **[~~63-38f-2306~~]. 63M-1-2306. Rules.**
81274 The director, with the advice of the board, may, makes rules in accordance with [~~Title~~
81275 ~~63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer this
81276 part.
81277 Section 1909. Section **63M-2-101**, which is renumbered from Section 63-38g-101 is
81278 renumbered and amended to read:

81279 **CHAPTER 2. UTAH SCIENCE TECHNOLOGY AND**
81280 **RESEARCH GOVERNING AUTHORITY ACT**
81281 **Part 1. General Provisions**
81282 **[~~63-38g-101~~]. 63M-2-101. Title.**
81283 This chapter is known as the "Utah Science Technology and Research Governing
81284 Authority Act."
81285 Section 1910. Section **63M-2-102**, which is renumbered from Section 63-38g-102 is
81286 renumbered and amended to read:
81287 **[~~63-38g-102~~]. 63M-2-102. Definitions.**
81288 As used in this chapter:
81289 (1) "Commercialization revenues " means dividends, realized capital gains, license
81290 fees, royalty fees, and other revenues received by a university as a result of commercial
81291 applications developed from the project, less:
81292 (a) the portion of those revenues allocated to the inventor; and
81293 (b) expenditures incurred by the university to legally protect the intellectual property.
81294 (2) "Executive director" means the person appointed by the governing authority under
81295 Section [~~63-38g-301~~] 63M-2-301.
81296 (3) "Governing authority" means the Utah Science Technology and Research
81297 Governing Authority created in Section [~~63-38g-301~~] 63M-2-301.
81298 (4) "Project" means the Utah Science Technology and Research Project.
81299 (5) "Research buildings" means any of the buildings listed in Section [~~63-38g-201~~]
81300 63M-2-201.
81301 (6) "Research universities" means the University of Utah and Utah State University.
81302 (7) "Technology outreach program" means the program required by Section
81303 [~~63-38g-202~~] 63M-2-202.
81304 (8) "Utah Science Technology and Research Project" means the buildings and activities
81305 described in Part 2, Utah Science Technology and Research Project.
81306 Section 1911. Section **63M-2-201**, which is renumbered from Section 63-38g-201 is
81307 renumbered and amended to read:
81308 **Part 2. Utah Science Technology and Research Project**
81309 **[~~63-38g-201~~]. 63M-2-201. Science technology research buildings.**

81310 (1) As funding becomes available from the Legislature or other sources, the Utah
81311 Science Technology and Research Governing Authority created in Part 3 shall:
81312 (a) construct at Utah State University:
81313 (i) a Bio Innovations Research Institute;
81314 (ii) an Infectious Disease Research Center; and
81315 (iii) an Informatics/Computing Research Center; and
81316 (b) construct at the University of Utah:
81317 (i) a Neuroscience and Biomedical Technology Research Building; and
81318 (ii) an Information Technology and Bioinformatics Research Center.
81319 (2) The governing authority shall, subject to any restrictions or directions established
81320 by the Legislature, plan, design, and construct the buildings.
81321 (3) (a) Utah State University shall provide the land for the construction of science
81322 technology and research buildings on its campus.
81323 (b) The University of Utah shall provide the land for the construction of science
81324 technology and research buildings on its campus.
81325 (4) The governing authority shall hold title to the research buildings.
81326 (5) The governing authority may:
81327 (a) lease the buildings to Utah State University and the University of Utah;
81328 (b) require research teams to generate a certain amount of revenue from grants or other
81329 sources to contribute to the project; and
81330 (c) unless prohibited by law, deposit lease payments and other monies received from
81331 the universities and research teams with the state treasurer for deposit into the sinking funds
81332 created under Section 63B-1a-301 for debt service on the bonds issued to fund planning,
81333 design, and construction of the research buildings.
81334 Section 1912. Section **63M-2-202**, which is renumbered from Section 63-38g-202 is
81335 renumbered and amended to read:
81336 **[~~63-38g-202~~]. 63M-2-202. Technology outreach program.**
81337 (1) As funding becomes available from the Legislature or other sources, the Utah
81338 Science Technology and Research Governing Authority created in Part 3 shall establish a
81339 technology outreach program at up to five locations distributed strategically throughout Utah.
81340 (2) (a) The governing authority shall ensure that the technology outreach program acts

81341 as a resource to:
81342 (i) broker ideas, new technologies, and services to entrepreneurs and businesses
81343 throughout a defined service area;
81344 (ii) engage local entrepreneurs and professors at applied technology centers, colleges,
81345 and universities by connecting them to Utah's research universities;
81346 (iii) screen business ideas and new technologies to ensure that the ones with the highest
81347 growth potential receive the most targeted services and attention;
81348 (iv) connect market ideas and technologies in new or existing businesses or industries
81349 or in regional colleges and universities with the expertise of Utah's research universities;
81350 (v) assist businesses, applied technology centers, colleges, and universities in
81351 developing commercial applications for their research; and
81352 (vi) disseminate and share discoveries and technologies emanating from Utah's
81353 research universities to local entrepreneurs, businesses, applied technology centers, colleges,
81354 and universities.
81355 (b) In designing and operating the technology outreach program, the governing
81356 authority shall work cooperatively with the Technology Commercialization Offices at Utah
81357 State University and the University of Utah.
81358 Section 1913. Section **63M-2-203**, which is renumbered from Section 63-38g-203 is
81359 renumbered and amended to read:
81360 **[~~63-38g-203~~]. 63M-2-203. Research teams.**
81361 As funding becomes available from the Legislature or other sources, and subject to any
81362 restrictions or directions established by the Legislature, the governing authority shall allocate
81363 monies to Utah State University and the University of Utah to provide funding for research
81364 teams to conduct science and technology research.
81365 Section 1914. Section **63M-2-204**, which is renumbered from Section 63-38g-204 is
81366 renumbered and amended to read:
81367 **[~~63-38g-204~~]. 63M-2-204. Financial participation agreement.**
81368 (1) In consideration of the monies and services provided or agreed to be provided, the
81369 state of Utah, Utah State University, and the University of Utah covenant and agree that they
81370 will allocate commercialization revenues as follows:
81371 (a) for the first $15,000,000 received:

81372 (i) $10,000,000 to Utah State University and the University of Utah, with the monies
81373 distributed proportionately based upon which university conducted the research that generated
81374 the commercialization revenues; and
81375 (ii) $5,000,000 to the Governor's Office of Economic Development for the Centers of
81376 Excellence program created by Chapter 38f, Part 7, Centers of Excellence Act; and
81377 (b) for all subsequent monies received:
81378 (i) 50% to Utah State University and the University of Utah, with the monies
81379 distributed proportionately based upon which university conducted the research that generated
81380 the commercialization revenues; and
81381 (ii) 50% to the governing authority or other entity designated by the state to be used
81382 for:
81383 (A) the Centers of Excellence program created by Chapter 38f, Part 7, Centers of
81384 Excellence Act;
81385 (B) replacement of equipment in the research buildings;
81386 (C) recruiting and paying additional research teams; and
81387 (D) construction of additional research buildings.
81388 (2) The Governor's Office of Economic Development shall:
81389 (a) distribute that portion of the $5,000,000 allocated to the Centers of Excellence
81390 program by Subsection (1)(a)(ii) to Utah State University and the University of Utah based
81391 upon which institution performed the research that generated the commercialization revenues;
81392 and
81393 (b) credit those amounts to the universities as matching funds under Subsection
81394 [~~63-38f-701~~] 63M-1-702(2).
81395 Section 1915. Section **63M-2-301**, which is renumbered from Section 63-38g-301 is
81396 renumbered and amended to read:
81397 **Part 3. Utah Science Technology and Research Governing Authority**
81398 **[~~63-38g-301~~]. 63M-2-301. The Utah Science Technology and Research**
81399 **Governing Authority -- Creation -- Membership -- Meetings -- Staff.**
81400 (1) There is created the Utah Science Technology and Research Governing Authority
81401 consisting of the state treasurer and the following eight members appointed as follows with the
81402 consent of the Senate:

81403 (a) three appointed by the governor;
81404 (b) two appointed by the president of the Senate;
81405 (c) two appointed by the speaker of the House of Representatives; and
81406 (d) one appointed by the commissioner of higher education.
81407 (2) (a) (i) The eight appointed members shall serve four-year staggered terms.
81408 (ii) The appointed members may not serve more than two full consecutive terms.
81409 (b) Notwithstanding Subsection (2)(a)(i), the terms of the first members of the
81410 governing authority shall be staggered by lot so that half of the initial members serve two-year
81411 terms and half serve four-year terms.
81412 (3) Vacancies in the appointed positions on the governing authority shall be filled by
81413 the appointing authority with consent of the Senate for the unexpired term.
81414 (4) (a) The governor shall select the chair of the governing authority to serve a one-year
81415 term.
81416 (b) The president of the Senate and the speaker of the House of Representatives shall
81417 jointly select the vice chair of the governing authority to serve a one-year term.
81418 (5) The governing authority shall meet at least monthly and may meet more frequently
81419 at the request of a majority of the members of the governing authority.
81420 (6) Five members of the governing authority are a quorum.
81421 (7) (a) Members who are not government employees shall receive no compensation or
81422 benefits for their services, but may receive per diem and expenses incurred in the performance
81423 of the member's official duties at the rates established by the Division of Finance under
81424 Sections 63A-3-106 and 63A-3-107.
81425 (b) Members may decline to receive per diem and expenses for their service.
81426 (8) (a) (i) The governing authority shall hire a full-time executive director to provide
81427 staff support for the governing authority.
81428 (ii) The executive director is an at-will employee who may be terminated without cause
81429 by the governor or by majority vote of the governing authority.
81430 (b) The Governor's Office of Economic Development shall provide office space and
81431 administrative support for the executive director.
81432 Section 1916. Section **63M-2-302**, which is renumbered from Section 63-38g-302 is
81433 renumbered and amended to read:

81434 **[~~63-38g-302~~]. 63M-2-302. Governing authority powers.**
81435 (1) The governing authority shall:
81436 (a) ensure that funds appropriated and received for research and development at the
81437 research universities and for the technology outreach program are used appropriately,
81438 effectively, and efficiently in accordance with the intent of the Legislature;
81439 (b) in cooperation with the universities' administrations, expand key research at the two
81440 research universities;
81441 (c) enhance technology transfer and commercialization of research and technologies
81442 developed at the research universities to create high-quality jobs and new industries in the
81443 private sector in Utah;
81444 (d) review state and local economic development plans and appropriations to ensure
81445 that the project and appropriations do not duplicate existing or planned programs;
81446 (e) establish economic development objectives for the project;
81447 (f) by following the procedures and requirements of [~~Title 63, Chapter 46a~~] Title 63G,
81448 Chapter 3, Utah Administrative Rulemaking Act, make rules for allocating monies
81449 appropriated to it for research teams and for the commercialization of new technology between
81450 Utah State University and the University of Utah;
81451 (g) verify that the project is being enhanced by research grants and that it is meeting the
81452 governing authority's economic development objectives;
81453 (h) monitor all research plans that are part of the project at the research universities to
81454 determine that appropriations are being spent in accordance with legislative intent and to
81455 maximize the benefit and return to the state;
81456 (i) develop methods and incentives to encourage investment in and contributions to the
81457 project from the private sector; and
81458 (j) annually report and make recommendations to:
81459 (i) the governor;
81460 (ii) the Executive Appropriations Committee; and
81461 (iii) the Economic Development Appropriations Subcommittee.
81462 (2) The governing authority may:
81463 (a) in addition to monies received by it from the Legislature, receive contributions from
81464 any source in the form of money, property, labor, or other things of value for the project;

81465 (b) subject to any restrictions imposed by the donation, appropriations, or bond
81466 authorizations, allocate monies received by it among the research universities, technology
81467 outreach program, and technology transfer offices to support commercialization and technology
81468 transfer to the private sector; or
81469 (c) enter into agreements necessary to obtain private equity investment in the project.
81470 Section 1917. Section **63M-2-303**, which is renumbered from Section 63-38g-303 is
81471 renumbered and amended to read:
81472 **[~~63-38g-303~~]. 63M-2-303. Utah Science Technology and Research**
81473 **Governing Authority Advisory Council -- Chair -- Meetings.**
81474 (1) There is created the Utah Science Technology and Research Governing Authority
81475 Advisory Council consisting of 12 members appointed as follows:
81476 (a) one member appointed by the director of the Governor's Office of Economic
81477 Development;
81478 (b) one member appointed by the Utah Information Technology Association;
81479 (c) one member appointed by the Utah Nanotechnology Initiative;
81480 (d) one member appointed by the Economic Development Corporation of Utah;
81481 (e) one member appointed by the Utah Life Science Association;
81482 (f) one member appointed by the Salt Lake Area Chamber of Commerce;
81483 (g) one member appointed by the Provo-Orem Chamber of Commerce;
81484 (h) one member appointed by the Davis Area Chamber of Commerce;
81485 (i) one member appointed by the Ogden-Weber Chamber of Commerce;
81486 (j) one member appointed by the Cache Chamber of Commerce;
81487 (k) one member appointed by the St. George Area Chamber of Commerce; and
81488 (l) one member appointed by the Vernal Chamber of Commerce.
81489 (2) The governing authority shall consult with the advisory council about the project.
81490 (3) The advisory council shall select a chair from among its members to serve a
81491 two-year term.
81492 (4) The advisory council shall convene whenever the governing authority requests a
81493 meeting for consultation.
81494 (5) (a) (i) Members who are not government employees shall receive no compensation
81495 or benefits for their services, but may receive per diem and expenses incurred in the

81496 performance of the member's official duties at the rates established by the Division of Finance
81497 under Sections 63A-3-106 and 63A-3-107.
81498 (ii) Members may decline to receive per diem and expenses for their service.
81499 (b) (i) State government officer and employee members who do not receive salary, per
81500 diem, or expenses from their agency for their service may receive per diem and expenses
81501 incurred in the performance of their official duties from the committee at the rates established
81502 by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
81503 (ii) State government officer and employee members may decline to receive per diem
81504 and expenses for their service.
81505 Section 1918. Section **63M-3-101** is enacted to read:
81506 **CHAPTER 3. TAR SANDS PILOT PLANT ACT**
81507 **Part 1. General Provisions**
81508 **63M-3-101. Title.**
81509 This chapter is known as the "Tar Sands Pilot Plant Act."
81510 Section 1919. Section **63M-3-102**, which is renumbered from Section 63-45a-1 is
81511 renumbered and amended to read:
81512 **[~~63-45a-1~~]. 63M-3-102. Legislative findings -- Purpose of act.**
81513 (1) The Legislature finds that:
81514 (a) Substantial deposits of tar sands exist within lands located in various places within
81515 the state of Utah, but this is primarily a Utah phenomenon, there being no similar significant
81516 deposits within lands located elsewhere in the United States.
81517 (b) While large known deposits of tar sands exist outside the United States, primarily
81518 in South America and Canada, only those in Canada produce commercial quantities of
81519 hydrocarbons, this having come about only after years of research and experimentation and
81520 substantial private and public investment.
81521 (c) Significant laboratory research has been conducted, including research by the
81522 University of Utah, which demonstrates a potential for commercial production of the tar sands
81523 deposits located in the state of Utah, which potential remains to be established by the scale-up
81524 of laboratory research to a pilot plant development stage.
81525 (d) Successful demonstration of a hydrocarbon recovery process from Utah tar sands as
81526 commercially viable at the pilot plant level of production could form the basis for the

81527 development by private industry of commercial production of a substantial volume of
81528 hydrocarbon energy fuel, thereby commensurately reducing the amount of petroleum products
81529 which are required to be imported at exorbitant cost from foreign sources to meet the needs of
81530 the citizens of this state and the United States.
81531 (2) The purpose of this act is to stimulate and encourage the development and
81532 commercial production by private industry of hydrocarbons from the tar sands deposits lying
81533 within the state of Utah for the public good and economic well-being of the citizens of this
81534 state and the United States, and to so do by providing for the design, construction, and
81535 operation of a pilot plant to be employed for the purpose of demonstrating the commercial
81536 viability of processes for the recovery of hydrocarbons from the tar sands deposits of the state
81537 through certain funding by the state in conjunction with funding furnished from other sources,
81538 both public and private.
81539 Section 1920. Section **63M-3-103**, which is renumbered from Section 63-45a-2 is
81540 renumbered and amended to read:
81541 **[~~63-45a-2~~]. 63M-3-103. Definitions.**
81542 As used in this act:
81543 (1) "Contractor" means the parties from private industry who design, construct, or
81544 operate the pilot plant.
81545 (2) "Council" means the state advisory council on science and technology.
81546 (3) "Intellectual property" means the sum of knowledge contained in patents,
81547 know-how, copyrights, trade secrets, and technical information relating to the pilot plant and
81548 the research which has preceded it.
81549 (4) "Objective period" means that period of time required for the pilot plant to achieve
81550 its design objectives.
81551 (5) "Pilot plant" means the tar sands pilot plant which is the subject of this act.
81552 (6) "Station" means the Utah engineering experiment station, University of Utah.
81553 Section 1921. Section **63M-3-201**, which is renumbered from Section 63-45a-3 is
81554 renumbered and amended to read:
81555 **Part 2. Contracts and Intellectual Property**
81556 **[~~63-45a-3~~]. 63M-3-201. Contract for pilot plant -- Contents -- Financing --**
81557 **Termination of contract.**

81558 (1) The council is authorized to enter into contracts with contractors to provide for the
81559 design, construction, and operation of a pilot plant to fulfill the purposes of this act.
81560 (2) The contracts provided for in Subsection (1) shall provide, among other things, for
81561 the following:
81562 (a) The plans and specifications for and the processes to be used in the pilot plant must
81563 be approved by the council.
81564 (b) The station is to be the project engineer in respect to the pilot plant and is to
81565 represent the council in respect to it. As the project engineer the station has the responsibility of
81566 monitoring performance by the contractors, gathering data pertinent to the purpose for which
81567 the pilot plant is to be constructed and operated, and performing such administrative,
81568 accounting, and other duties assigned to it in respect to the pilot plant by the council. As
81569 compensation for its services the station is to receive its costs, direct and indirect, calculated in
81570 accordance with standard accounting procedures followed by the University of Utah in
81571 contracts with the United States government and its agencies; and the amount to be so paid to
81572 the station is to be considered part of the costs of design, construction, and operation of the
81573 pilot plant.
81574 (c) The contractor shall provide all funds necessary to the design, construction, and
81575 operation of the pilot plant for the objective period which are not provided by the appropriation
81576 made to the council for purposes of this act under Section 5. To provide its portion of these
81577 funds the contractor may use both private and public sources, but that from public sources can
81578 only be used with prior approval by the council.
81579 (d) The site for the pilot plant is subject to prior approval by the council.
81580 (e) The pilot plant and any production from it shall be owned by the state of Utah in the
81581 proportion that its appropriation for purposes of this act under Section 5 bears to the total cost
81582 of designing, constructing, and operating the pilot plant for the objective period. This total cost
81583 does not include the cost or value of the site for the pilot plant or tar sand feedstock for the
81584 objective period.
81585 (f) The council shall have the exclusive right to determine when the end of the
81586 objective period has been reached, at which time any contracts between the council and the
81587 contractor regarding the pilot plant shall terminate. The pilot plant is then to be sold for cash
81588 pursuant to law at competitive bidding when the sale of the pilot plant equipment is determined

81589 to be practicable by the council. The gross proceeds from the sale shall be paid to the state but
81590 not in excess of the amount of the appropriation made under Section 5 plus an interest factor of
81591 10% per year from the date of the contracts to the sale date.
81592 Section 1922. Section **63M-3-202**, which is renumbered from Section 63-45a-4 is
81593 renumbered and amended to read:
81594 **[~~63-45a-4~~]. 63M-3-202. Intellectual properties discovered or developed --**
81595 **Ownership -- Patenting -- Licensing.**
81596 (1) To the extent not inconsistent with the patent laws of the United States, the
81597 intellectual properties which are newly discovered or newly developed in the course of the
81598 design, construction, and operation of the pilot plant during the objective period:
81599 (a) shall be owned by the state of Utah to the same extent as the pilot plant and
81600 production from it as provided for in Subsection [~~63-45a-3~~] 63M-3-201(2)(e); and
81601 (b) shall, if patentable, be patented in a manner appropriate to this ownership by the
81602 state and the other owners.
81603 (2) Any intellectual properties described in Subsection (1) insofar as they are so owned
81604 by the state may be licensed for the objective period upon such terms as are approved by the
81605 council.
81606 Section 1923. Section **63M-4-101**, which is renumbered from Section 63-53b-101 is
81607 renumbered and amended to read:
81608 **CHAPTER 4. UTAH ENERGY ACT**
81609 **Part 1. General Provisions**
81610 **[~~63-53b-101~~]. 63M-4-101. Title.**
81611 This chapter is known as the "Utah Energy Act."
81612 Section 1924. Section **63M-4-102**, which is renumbered from Section 63-53b-102 is
81613 renumbered and amended to read:
81614 **[~~63-53b-102~~]. 63M-4-102. Definitions.**
81615 As used in this chapter, "state agency" means an executive branch:
81616 (1) department;
81617 (2) agency;
81618 (3) board;
81619 (4) commission;

81620 (5) division; or
81621 (6) state educational institution.
81622 Section 1925. Section **63M-4-201**, which is renumbered from Section 63-53b-201 is
81623 renumbered and amended to read:
81624 **Part 2. Governor's Energy Advisor**
81625 **[~~63-53b-201~~]. 63M-4-201. Governor's energy advisor -- Duties.**
81626 (1) (a) The governor shall appoint an energy advisor.
81627 (b) The governor's energy advisor serves at the pleasure of the governor.
81628 (2) The governor's energy advisor shall:
81629 (a) advise the governor on energy-related matters;
81630 (b) annually review and propose updates to the state's energy policy, as contained in
81631 Section [~~63-53b-301~~] 63M-4-301;
81632 (c) promote as the governor's energy advisor considers necessary:
81633 (i) the development of cost-effective energy resources both renewable and
81634 nonrenewable; and
81635 (ii) educational programs, including programs supporting conservation and energy
81636 efficiency measures;
81637 (d) coordinate across state agencies to assure consistency with state energy policy,
81638 including:
81639 (i) working with the State Energy Program to promote access to federal assistance for
81640 energy-related projects for state agencies and members of the public;
81641 (ii) working with the Division of Homeland Security to assist the governor in carrying
81642 out the governor's energy emergency powers under [~~Title 63, Chapter 53a~~] Title 63K, Chapter
81643 2, Energy Emergency Powers of Governor;
81644 (iii) participating in the annual review of the energy emergency plan and the
81645 maintenance of the energy emergency plan and a current list of contact persons required by
81646 Section 53-2-110; and
81647 (iv) identifying and proposing measures necessary to facilitate low-income consumers'
81648 access to energy services;
81649 (e) coordinate with the Division of Homeland Security ongoing activities designed to
81650 test an energy emergency plan to ensure coordination and information sharing among state

81651 agencies and political subdivisions in the state, public utilities and other energy suppliers, and
81652 other relevant public sector persons as required by Sections 53-2-110, [~~63-53a-3~~] 63K-2-201,
81653 [~~63-53a-7~~] 63K-2-205, and [~~63-53a-8~~] 63K-2-301;
81654 (f) coordinate with requisite state agencies to study:
81655 (i) the creation of a centralized state repository for energy-related information;
81656 (ii) methods for streamlining state review and approval processes for energy-related
81657 projects; and
81658 (iii) the development of multistate energy transmission and transportation
81659 infrastructure;
81660 (g) coordinate energy-related regulatory processes within the state;
81661 (h) compile, and make available to the public, information about federal, state, and
81662 local approval requirements for energy-related projects;
81663 (i) act as the state's advocate before federal and local authorities for energy-related
81664 infrastructure projects or coordinate with the appropriate state agency; and
81665 (j) help promote the Division of Facilities Construction and Management's measures to
81666 improve energy efficiency in state buildings.
81667 Section 1926. Section **63M-4-202**, which is renumbered from Section 63-53b-202 is
81668 renumbered and amended to read:
81669 **[~~63-53b-202~~]. 63M-4-202. Agency cooperation.**
81670 A state agency shall provide the state energy officer with any energy-related
81671 information requested by the governor's energy advisor if the governor's energy advisor's
81672 request is consistent with other law.
81673 Section 1927. Section **63M-4-203**, which is renumbered from Section 63-53b-203 is
81674 renumbered and amended to read:
81675 **[~~63-53b-203~~]. 63M-4-203. Reports.**
81676 (1) The governor's energy advisor shall report annually to:
81677 (a) the governor;
81678 (b) the Natural Resources, Agriculture, and Environment Interim Committee; and
81679 (c) the Public Utilities and Technology Interim Committee.
81680 (2) The report required in Subsection (1) shall:
81681 (a) summarize the status and development of the state's energy resources;

81682 (b) address the governor's energy advisor's activities under this part; and
81683 (c) recommend any energy-related executive or legislative action the governor's energy
81684 advisor considers beneficial to the state, including updates to the state energy policy under
81685 Section [~~63-53b-301~~] 63M-4-301.
81686 Section 1928. Section **63M-4-301**, which is renumbered from Section 63-53b-301 is
81687 renumbered and amended to read:
81688 **Part 3. State Energy Policy**
81689 **[~~63-53b-301~~]. 63M-4-301. State energy policy.**
81690 (1) It is the policy of the state that:
81691 (a) Utah have adequate, reliable, affordable, sustainable, and clean energy resources;
81692 (b) Utah will promote the development of:
81693 (i) nonrenewable energy resources, including natural gas, coal, oil, oil shale, and tar
81694 sands; and
81695 (ii) renewable energy resources, including geothermal, solar, wind, biomass, biodiesel,
81696 hydroelectric, and ethanol;
81697 (c) Utah will promote the study of nuclear power generation;
81698 (d) Utah will promote the development of resources and infrastructure sufficient to
81699 meet the state's growing demand, while contributing to the regional and national energy supply,
81700 thus reducing dependence on international energy sources;
81701 (e) Utah will allow market forces to drive prudent use of energy resources, although
81702 incentives and other methods may be used to ensure the state's optimal development and use of
81703 energy resources in the short- and long-term;
81704 (f) Utah will pursue energy conservation, energy efficiency, and environmental quality;
81705 (g) (i) state regulatory processes should be streamlined to balance economic costs with
81706 the level of review necessary to ensure protection of the state's various interests; and
81707 (ii) where federal action is required, Utah will encourage expedited federal action and
81708 will collaborate with federal agencies to expedite review;
81709 (h) Utah will maintain an environment that provides for stable consumer prices that are
81710 as low as possible while providing producers and suppliers a fair return on investment,
81711 recognizing that:
81712 (i) economic prosperity is linked to the availability, reliability, and affordability of

81713 consumer energy supplies; and
81714 (ii) investment will occur only when adequate financial returns can be realized; and
81715 (i) Utah will promote training and education programs focused on developing a
81716 comprehensive understanding of energy, including programs addressing:
81717 (i) energy conservation;
81718 (ii) energy efficiency;
81719 (iii) supply and demand; and
81720 (iv) energy related workforce development.
81721 (2) State agencies are encouraged to conduct agency activities consistent with
81722 Subsection (1).
81723 (3) A person may not file suit to challenge a state agency's action that is inconsistent
81724 with Subsection (1).
81725 Section 1929. Section **63M-4-302**, which is renumbered from Section 63-53b-302 is
81726 renumbered and amended to read:
81727 **[~~63-53b-302~~]. 63M-4-302. Legislative committee review.**
81728 The Natural Resources, Agriculture, and Environment Interim Committee and the
81729 Public Utilities and Technology Interim Committee shall review the state energy policy
81730 annually and propose any changes to the Legislature.
81731 Section 1930. Section **63M-5-101** is enacted to read:
81732 **CHAPTER 5. RESOURCE DEVELOPMENT ACT**
81733 **Part 1. General Provisions**
81734 **63M-5-101. Title.**
81735 This chapter is known as the "Resource Development Act."
81736 Section 1931. Section **63M-5-102**, which is renumbered from Section 63-51-1 is
81737 renumbered and amended to read:
81738 **[~~63-51-1~~]. 63M-5-102. Policy -- Legislative recognition.**
81739 (1) The Legislature declares that the policy of this state is:
81740 (a) to encourage industrial development and the development and utilization of the
81741 natural resources in this state in order to promote the economic development of this state and to
81742 provide benefits to the citizens of this state and other states; and
81743 (b) to encourage co-operation between the state and its agencies and political

81744 subdivisions with individuals, firms, and business organizations to provide for industrial
81745 development and the development and utilization of the natural resources of this state.
81746 (2) The Legislature recognizes that:
81747 (a) industrial development and the development and utilization of the natural resources
81748 in this state, particularly in rural areas, may have a significant financial impact on state
81749 agencies and units of local government unless adequate financing is made available to these
81750 state agencies and units of local government to enable them to provide necessary public works
81751 and improvements and public services prior to completion of natural resource and industrial
81752 facilities; and
81753 (b) because of the time lag between the financial impact on affected units of
81754 government and the normal beginning of the receipt of additional tax revenues from this
81755 development normally begins, it may be necessary and in the public interest of this state and its
81756 political subdivisions to provide through utilization of ad valorem taxes funds for these
81757 necessary public works and improvements; and
81758 (c) these necessary public works and improvements may in part be of benefit primarily
81759 to the industrial developer or the person developing or utilizing the natural resources in this
81760 state.
81761 Section 1932. Section **63M-5-103**, which is renumbered from Section 63-51-2 is
81762 renumbered and amended to read:
81763 **[~~63-51-2~~]. 63M-5-103. Definitions.**
81764 As used in this chapter:
81765 (1) "Commencement of construction" means any clearing of land, excavation, or
81766 construction but does not include preliminary site review, including soil tests, topographical
81767 surveys, exploratory drilling, boring or mining, or other preliminary tests.
81768 (2) "Developer" means any person engaged or to be engaged in industrial development
81769 or the development or utilization of natural resources in this state through a natural resource or
81770 industrial facility, including owners, contract purchases of owners, and persons who, as a lessee
81771 or under an agreement, are engaged or to be engaged in industrial development or the
81772 development or utilization of natural resources in this state through a natural resource or
81773 industrial facility.
81774 (3) "Major developer" means any developer whose proposed new or additional natural

81775 resource facility or industrial facility is projected:
81776 (a) To employ more than 500 people; or
81777 (b) To cause the population of an affected unit of local government to increase by more
81778 than 5%, the increase to include the primary work force of the facility and their dependents and
81779 the work force and dependents attributable to commercial and public service employment
81780 created by the presence of the facility.
81781 (4) "Natural resource facility" or "industrial facility" means any land, structure,
81782 building, plant, mine, road, installation, excavation, machinery, equipment, or device, or any
81783 addition to, reconstruction, replacement, or improvement of, land or an existing structure,
81784 building, plant, mine, road, installation, excavation, machinery, or device reasonably used,
81785 erected, constructed, acquired, or installed by any person, if a substantial purpose of or result of
81786 the use, erection, construction, acquisition, rental, lease, or installation is related to industrial
81787 development or the development or utilization of the natural resources in this state.
81788 (5) "Person" includes any individual, firm, co-partnership, joint venture, corporation,
81789 estate, trust, business trust, syndicate, or any group or combination acting as a unit.
81790 (6) "Unit of local government" means any county, municipality, school district, local
81791 district, special service district, or any other political subdivision of the state.
81792 Section 1933. Section **63M-5-201**, which is renumbered from Section 63-51-3 is
81793 renumbered and amended to read:
81794 **Part 2. Prepayments**
81795 **[~~63-51-3~~]. 63M-5-201. Prepayment of ad valorem property taxes on natural**
81796 **resources or industrial facility.**
81797 The developer also may prepay, with the consent of the governing bodies of the units of
81798 local government affected, to the county treasurer, or to other persons authorized by the
81799 governing body of a unit of local government under Section [~~63-51-10~~] 63M-5-306, a portion
81800 of the ad valorem property taxes which the developer anticipates will be imposed by the unit of
81801 local government under Title 59, Chapter 2, Part 9, in connection with the natural resources or
81802 industrial facility. Ad valorem property taxes prepaid under this chapter may not act as an
81803 abatement of the ad valorem property tax but rather shall be construed as a prepayment for
81804 which, notwithstanding Section 59-2-1321 or any statute of limitations to the contrary, a credit
81805 will be given the developer making the prepayment at the time the ad valorem property taxes

81806 become due and otherwise payable.
81807 Section 1934. Section **63M-5-202**, which is renumbered from Section 63-51-4 is
81808 renumbered and amended to read:
81809 **[~~63-51-4~~]. 63M-5-202. Prepaid Sales and Use Tax Construction Account -- Use**
81810 **of account funds.**
81811 There is created a Prepaid Sales and Use Tax Construction Account as a special
81812 suspense account within the state General Fund. All revenues collected or received by the
81813 State Tax Commission from the prepayment of sales or use taxes under this chapter shall be
81814 deposited with the state treasurer daily and credited by the state treasurer to the Prepaid Sales
81815 and Use Tax Construction Account. This account shall be used to finance state-related public
81816 improvements, including but not limited to highways and related facilities and schools and
81817 related facilities. Funds from this account shall only be disbursed or drawn upon after proper
81818 authorization and only after appropriation of these funds by the Legislature.
81819 Section 1935. Section **63M-5-301**, which is renumbered from Section 63-51-5 is
81820 renumbered and amended to read:
81821 **Part 3. Use of Funds**
81822 **[~~63-51-5~~]. 63M-5-301. State Board of Education and Department of**
81823 **Transportation to prepare budget and submit to governor.**
81824 The State Board of Education and the Department of Transportation shall prepare and
81825 submit to the governor, to be included in [~~his~~] the governor's budget to the Legislature, a
81826 budget of the requirements for carrying out the provisions of this chapter.
81827 Section 1936. Section **63M-5-302**, which is renumbered from Section 63-51-6 is
81828 renumbered and amended to read:
81829 **[~~63-51-6~~]. 63M-5-302. Appropriations for use of funds -- Board of Education**
81830 **and Department of Transportation -- Repayment by Board of Education -- Board of**
81831 **Education and Transportation Commission requirements.**
81832 (1) The funds needed for construction of schools and highways and any of their related
81833 facilities as a result of industrial development or as a result of development or utilization of
81834 natural resources in this state through natural resource or industrial facilities shall be made
81835 available from the Prepaid Sales and Use Tax Construction Account through appropriations by
81836 the Legislature.

81837 (2) Appropriations will be made to the State Board of Education and the Department of
81838 Transportation for specific public facilities related to a specific natural resource or industrial
81839 facility.
81840 (3) (a) Appropriations made to the State Board of Education for schools and related
81841 facilities shall be repaid to the General Fund through property tax assessments by the school
81842 district within whose boundary the natural resource or industrial facility is located.
81843 (b) The repayment shall be made within a period of six years from the date of
81844 substantial completion of the natural resource or industrial facility or from the date the school
81845 district has a taxable value exceeding $50,000,000, whichever occurs first.
81846 (c) A refund shall be made to the developer of the natural resource or industrial facility
81847 to the extent of sales and use taxes prepaid by the developer in accordance with this chapter
81848 and appropriated by the Legislature for the specific public school facility, which have not been
81849 credited against sales and use taxes imposed by Title 59, Chapter 12, Sales and Use Tax Act.
81850 (4) The State Board of Education shall:
81851 (a) determine school facility needs as respective communities develop by consulting
81852 with the school district within whose boundary the development project is located; and
81853 (b) recommend to the Legislature the amount to be appropriated at each session of the
81854 Legislature.
81855 (5) The Transportation Commission shall:
81856 (a) determine highway needs in the area of the natural resource or industrial facility;
81857 (b) determine whether the highway should be a part of the state highway system; and
81858 (c) recommend to the Legislature the amounts to be appropriated to the Department of
81859 Transportation for use on the highways.
81860 (6) (a) The State Board of Education and the Department of Transportation shall assess
81861 and determine in connection with each public facility the portion of each facility of benefit
81862 primarily to the industrial developer or the person developing or utilizing the natural resources.
81863 (b) The assessment shall be reported to the Legislature to be used in determining the
81864 amount to be appropriated subject to this chapter.
81865 Section 1937. Section **63M-5-303**, which is renumbered from Section 63-51-7 is
81866 renumbered and amended to read:
81867 **[~~63-51-7~~]. 63M-5-303. Public facility -- Prepayment of sales and use tax in**

81868 **installments.**
81869 Notwithstanding anything to the contrary contained in this chapter, prepaid sales or use
81870 taxes sufficient to construct a particular public facility need not be prepaid in one sum but may
81871 be prepaid in installments as may be required by the state or any of its agencies or political
81872 subdivisions in fulfilling contractual commitments for the construction of the public facility if
81873 the state receives assurance that the funds for the agreed project will be prepaid to the State Tax
81874 Commission at the time or times for which the state or any of its agencies or political
81875 subdivisions have made contractual commitments for the disbursement of these funds for the
81876 public facility. In no event shall the total accumulated prepayment be less than the amount of
81877 sales and use taxes due for the calendar quarters for which returns are required to be filed under
81878 Section 59-12-107.
81879 Section 1938. Section **63M-5-304**, which is renumbered from Section 63-51-8 is
81880 renumbered and amended to read:
81881 **[~~63-51-8~~]. 63M-5-304. Department of Transportation and county executives --**
81882 **Cooperation in development or utilization -- Written agreements authorized -- Survey**
81883 **and location work.**
81884 (1) The Department of Transportation and county executives shall cooperate with
81885 persons engaged in industrial development or the development of or utilization of natural
81886 resources in this state through a natural resource or industrial facility who desire to assist this
81887 state or its counties in obtaining financing through prepaid sales or use taxes for improvements
81888 to existing state or county roads or the construction of new state or county roads which are
81889 necessary to provide access to areas of natural resource or industrial facilities.
81890 (2) Where it is determined that the improvements or construction referred to cannot be
81891 financed with existing public funds or when the necessary improvement or construction would
81892 be unduly delayed by postponing the improvements or construction until funds are otherwise
81893 available and the Legislature has appropriated the necessary funds pursuant to Section
81894 [~~63-51-6~~] 63M-5-302, the Department of Transportation or any county executive may enter
81895 into written agreements with the person engaged or to be engaged in industrial development or
81896 the development or utilization of natural resources through a natural resource or industrial
81897 facility providing for the necessary improvements or construction if that person agrees to the
81898 prepayment of sales or use taxes as provided in this chapter to the extent necessary to provide

81899 the funds needed to finance the necessary improvements or construction.
81900 (3) The agreements shall include the assurances necessary to provide the state or the
81901 county adequate funds for the payment of all obligations incurred by the state or county for the
81902 necessary improvements or construction and for the transfer of funds and all necessary
81903 adjustments, if the funds prepaid exceed the actual expenditures made for the improvements or
81904 construction.
81905 (4) If the actual expenditures made by the state, its agencies, or political subdivisions
81906 for the improvements or construction exceed the amount of prepaid sales and use taxes actually
81907 imposed by Title 59, Chapter 12, Sales and Use Tax Act, then no refund shall be allowed for
81908 the excess amount prepaid as sales or use taxes.
81909 (5) Initial survey and location work by the Department of Transportation or a county
81910 may proceed prior to the execution of any agreements if otherwise authorized and funded.
81911 Section 1939. Section **63M-5-305**, which is renumbered from Section 63-51-9 is
81912 renumbered and amended to read:
81913 **[~~63-51-9~~]. 63M-5-305. Tax Commission -- Rules and regulations.**
81914 For the purpose of more efficiently administering this act the State Tax Commission is
81915 authorized in its discretion to formulate, amend, or cancel rules and regulations establishing
81916 procedures regarding matters pertaining to the prepayment of sales or use taxes as provided in
81917 this act and the credit against sales or use taxes as the same become due and otherwise payable.
81918 Section 1940. Section **63M-5-306**, which is renumbered from Section 63-51-10 is
81919 renumbered and amended to read:
81920 **[~~63-51-10~~]. 63M-5-306. Financial impact statement -- Alleviation plan -- Filing**
81921 **required -- Contents -- Payments credited against tax -- Provisions neither exclusive nor**
81922 **mandatory.**
81923 (1) (a) A developer desiring to prepay ad valorem property taxes under Section
81924 [~~63-51-3~~] 63M-5-201 shall first prepare and file with the Governor's Office of Economic
81925 Development and all units of local government likely to be affected with a significant financial
81926 impact due to a natural resource or industrial facility a financial impact statement together with
81927 a plan for alleviating these impacts.
81928 (b) The impact statement and the alleviation plan shall be prepared in cooperation with
81929 and after consultation with the Governor's Office of Economic Development and the affected

81930 units of local government.
81931 (c) The financial impact statement shall assess the projected financial impact on state
81932 agencies and units of local government, including the impact on transportation systems,
81933 culinary water systems, waste treatment facilities, public safety, schools, public health,
81934 housing, planning and zoning, and general government administration.
81935 (d) The alleviation plan shall set out proposals for alleviating the impact and may
81936 include payments to local units of government or direct expenditures by the developer to
81937 alleviate the impact.
81938 (e) The impact statement and the alleviation plan may be amended by the developer in
81939 cooperation with and after consultation with the Governor's Office of Economic Development
81940 and those units of local government affected by the amendment.
81941 (2) At least 90 days prior to commencement of construction of an industrial facility or
81942 natural resources facility by a major developer, an impact statement and alleviation plan as
81943 described in Subsection (1) shall be filed by the major developer whether or not the major
81944 developer desires to prepay ad valorem property taxes.
81945 (3) (a) Upon the filing of the financial impact statement and alleviation plan, a
81946 developer may apply to the governing body of the affected unit of local government for
81947 authorization to prepay a portion of the anticipated ad valorem property taxes to be expended
81948 consistent with the alleviation plan.
81949 (b) This authorization may provide that only a portion of the amounts so prepaid can be
81950 applied against the ad valorem property taxes due in any given year.
81951 (c) In addition to payments directly to the affected unit of local government, an affected
81952 unit of local government may authorize a tax credit on anticipated ad valorem property taxes
81953 for expenditures made by the developer to other persons so long as the expenditure is
81954 consistent with the alleviation plan.
81955 (4) (a) This chapter is designed to provide an additional mechanism for the alleviation
81956 of impacts on units of local government and is not intended to discourage the use of other
81957 mechanisms as may be available.
81958 (b) Nothing in this chapter requires a developer to prepay ad valorem property taxes or
81959 to make any other expenditure not otherwise required by law.
81960 Section 1941. Section **63M-6-101** is enacted to read:

81961 **CHAPTER 6. MILITARY BASE EASEMENTS ACT**
81962 **Part 1. General Provisions**
81963 **63M-6-101. Title.**
81964 This chapter is known as the "Military Base Easements Act."
81965 Section 1942. Section **63M-6-201**, which is renumbered from Section 63-49a-1 is
81966 renumbered and amended to read:
81967 **Part 2. Easements and Improvements**
81968 **[~~63-49a-1~~]. 63M-6-201. Acquisition of easements -- Restrictions -- Resale.**
81969 (1) (a) The Governor's Office of Economic Development shall acquire, by purchase or
81970 condemnation, easements for the establishment, maintenance, and operation of a restrictive use
81971 area for the operation of aircraft to and from Hill Air Force Base because:
81972 (i) Hill Air Force Base is a military installation of vital importance to security of the
81973 United States of America and to the economic well-being of the citizens of Utah;
81974 (ii) there are certain portions of land around the entire base that are being developed for
81975 residential and other uses that are incompatible with current and future operations of the base
81976 because of noise, health, safety, and accident reasons; and
81977 (iii) it is the purpose of this chapter for the state to acquire those easements restricting
81978 the use of those lands and the air space above them in order to assure the continued operation
81979 of Hill Air Force Base as an active military base and to protect the health, safety, and economic
81980 well-being of the citizens of Utah.
81981 (b) The Governor's Office of Economic Development may delegate its power to
81982 purchase or condemn easements under this subsection to other state agencies if the department
81983 ensures that those agencies comply with the procedures and requirements of this chapter.
81984 (2) (a) The Governor's Office of Economic Development shall ensure that the
81985 easements restrict the land from those uses identified in the Hill Air Force Base AICUZ Land
81986 Use Compatibility Guidelines Study, as amended, dated October, 1982, as not being
81987 acceptable.
81988 (b) The Governor's Office of Economic Development may allow certain other uses not
81989 prohibited by those guidelines if those uses are consistent with the purpose of this chapter.
81990 (c) Nothing in this chapter may be construed to authorize the Governor's Office of
81991 Economic Development or any other state agency to:

81992 (i) acquire any ownership interest in real property other than an easement restricting the
81993 land from future uses inconsistent with the Hill Air Force Base AICUZ Land Use
81994 Compatibility Guidelines Study, as amended, dated October 1982;
81995 (ii) purchase businesses; or
81996 (iii) require people to relocate or move from their property.
81997 (d) To calculate the purchase price for the easements, the Governor's Office of
81998 Economic Development shall subtract the market value of the real property and its
81999 improvements after the acquisition of the easements from the market value of the real property
82000 and its improvements before the acquisition of the easements.
82001 (e) When the Hill Air Force Base runways have not been used for seven years to
82002 accommodate the arrival and departure of airplanes, the Governor's Office of Economic
82003 Development shall:
82004 (i) notify by certified mail each current owner of the property to which each easement
82005 is attached;
82006 (ii) inform that owner that the owner may purchase the easement from the state for the
82007 same price that the state paid for it originally or for the market value of the easement at the
82008 time of the buyback, whichever is smaller; and
82009 (iii) sell the easement to the owner of the property to which the easement is attached if
82010 the owner tenders the purchase price.
82011 (f) In addition to purchasing the easements required by this chapter, the Governor's
82012 Office of Economic Development may provide reasonable relocation expenses to all churches,
82013 businesses, and schools that, as of March 1, 1994, were located either within the north Hill Air
82014 Force Base accident potential zone (APZ) identified in Subsection [~~63-49a-2~~] 63M-6-202(1)(a)
82015 or within the south Hill Air Force Base accident potential zone (APZ) identified in Subsection
82016 [~~63-49a-2~~] 63M-6-202(1)(b) if those churches, businesses, and schools can reasonably
82017 demonstrate that expansion of the use would have been permitted before acquisition of the
82018 easements but is now prohibited because of the easement.
82019 (3) (a) The Governor's Office of Economic Development may take action to enforce
82020 the provisions of this chapter.
82021 (b) The attorney general shall represent the Governor's Office of Economic
82022 Development in that action.

82023 Section 1943. Section **63M-6-202**, which is renumbered from Section 63-49a-2 is
82024 renumbered and amended to read:
82025 **[~~63-49a-2~~]. 63M-6-202. Location of easements.**
82026 (1) The Governor's Office of Economic Development or its designees may acquire
82027 easements on the land within the following boundaries:
82028 (a) beginning on the north Hill Air Force Base accident potential zone (APZ) at a point
82029 which is North 1,089,743.170 meters and East 459,346.946 meters based on the North zone,
82030 State of Utah, NAD 83 coordinates and runs north to North 63 degrees 10 minutes 44 seconds,
82031 East 457.109 meters, North 26 degrees 49 minutes 16 seconds, West 3,352.129 meters, South
82032 63 degrees 10 minutes 44 seconds, West 914.217 meters, South 26 degrees 49 minutes 16
82033 seconds, East 3,352.129 meters, North 63 degrees 10 minutes 44 seconds, East 457.109 meters
82034 back to the point of beginning; and
82035 (b) beginning on the south Hill Air Force Base APZ which is North 1,086,065.786
82036 meters and East 461,206.222 meters based on the North zone, State of Utah, NAD 83
82037 coordinates and runs South 63 degrees 10 minutes 44 seconds, West 457.109 meters, South 26
82038 degrees 49 minutes 16 seconds, East 502.179 meters, South 0 degrees 20 minutes 35 seconds,
82039 West 1,722.227 meters, South 89 degrees 39 minutes 25 seconds, East 883.743 meters, North
82040 63 degrees 10 minutes 44 seconds, East 914.217 meters, North 26 degrees 49 minutes 16
82041 seconds, West 2,437.912 meters, South 63 degrees 10 minutes 44 seconds, West 457.109
82042 meters back to the point of beginning.
82043 (2) The Governor's Office of Economic Development or its designees may acquire
82044 easements on the following land that is located inside the 75 and 80 level day-night (LDN)
82045 noise contour as identified in the Hill Air Force Base AICUZ Land Use Compatibility
82046 Guidelines Study, as amended, dated October, 1982:
82047 (a) in the west half of Section 3, T4NR1W;
82048 (b) in the east half of Section 4, T4NR1W;
82049 (c) in the northeast quarter of Section 8, T4NR1W;
82050 (d) within all of Section 9, T4NR1W;
82051 (e) in the northwest quarter of Section 10, T4NR1W;
82052 (f) within the southwest quarter of Section 19, T5NR1W;
82053 (g) in the south half of Section 20, T5NR1W;

82054 (h) within the southwest quarter of Section 28, T5NR1W; and
82055 (i) within Section 29, T5NR1W.
82056 Section 1944. Section **63M-6-203**, which is renumbered from Section 63-49a-3 is
82057 renumbered and amended to read:
82058 **[~~63-49a-3~~]. 63M-6-203. Certain improvements, alterations, and expansions**
82059 **prohibited.**
82060 (1) A person or entity may not begin to develop, or authorize development, on any land
82061 identified in this chapter until the Governor's Office of Economic Development has
82062 affirmatively authorized the development of the land because the development is consistent
82063 with those uses identified in the Hill Air Force Base AICUZ Land Use Compatibility
82064 Guidelines Study, as amended, dated October 1982.
82065 (2) Nothing in this chapter prohibits any property owner from improving, altering, or
82066 expanding any existing residential or commercial use of [~~his~~] the property owner's property so
82067 long as the improvement, alteration, or expansion does not materially increase the human
82068 density of that present use.
82069 Section 1945. Section **63M-7-101** is enacted to read:
82070 **CHAPTER 7. CRIMINAL JUSTICE AND SUBSTANCE ABUSE**
82071 **Part 1. General Provisions**
82072 **63M-7-101. Title.**
82073 This chapter is known as "Criminal Justice and Substance Abuse."
82074 Section 1946. Section **63M-7-201**, which is renumbered from Section 63-25a-101 is
82075 renumbered and amended to read:
82076 **Part 2. Commission on Criminal and Juvenile Justice**
82077 **[~~63-25a-101~~]. 63M-7-201. Creation -- Purpose.**
82078 (1) The State Commission on Criminal and Juvenile Justice is created within the
82079 governor's office.
82080 (2) The commission's purpose is to:
82081 (a) promote broad philosophical agreement concerning the objectives of the criminal
82082 and juvenile justice system in Utah;
82083 (b) provide a mechanism for coordinating the functions of the various branches and
82084 levels of government concerned with criminal and juvenile justice to achieve those objectives;

82085 (c) coordinate statewide efforts to reduce crime and victimization in Utah; and
82086 (d) accomplish the duties enumerated in Section [~~63-25a-104~~] 63M-7-204.
82087 Section 1947. Section **63M-7-202**, which is renumbered from Section 63-25a-102 is
82088 renumbered and amended to read:
82089 **[~~63-25a-102~~]. 63M-7-202. Composition -- Appointments -- Ex officio**
82090 **members -- Terms -- U.S. Attorney as nonvoting member.**
82091 (1) The commission on criminal and juvenile justice shall be composed of 21 voting
82092 members as follows:
82093 (a) the chief justice of the supreme court, as the presiding officer of the judicial
82094 council, or a judge designated by the chief justice;
82095 (b) the state court administrator;
82096 (c) the executive director of the Department of Corrections;
82097 (d) the director of the Division of Juvenile Justice Services;
82098 (e) the commissioner of the Department of Public Safety;
82099 (f) the attorney general;
82100 (g) the president of the chiefs of police association or a chief of police designated by
82101 the association's president;
82102 (h) the president of the sheriffs' association or a sheriff designated by the association's
82103 president;
82104 (i) the chair of the Board of Pardons and Parole or a member designated by the chair;
82105 (j) the chair of the Utah Sentencing Commission;
82106 (k) the chair of the Utah Substance Abuse and Anti-Violence Coordinating Council;
82107 (l) the chair of the Utah Board of Juvenile Justice;
82108 (m) the chair of the Utah Council on Victims of Crime or the chair's designee;
82109 (n) the director of the Division of Substance Abuse and Mental Health; and
82110 (o) the following members designated to serve four-year terms:
82111 (i) a juvenile court judge, appointed by the chief justice, as presiding officer of the
82112 Judicial Council;
82113 (ii) a representative of the statewide association of public attorneys designated by the
82114 association's officers;
82115 (iii) one member of the House of Representatives who is appointed by the speaker of

82116 the House of Representatives; and
82117 (iv) one member of the Senate who is appointed by the president of the Senate.
82118 (2) The governor shall appoint the remaining three members to four-year staggered
82119 terms as follows:
82120 (a) one criminal defense attorney appointed from a list of three nominees submitted by
82121 the Utah State Bar Association;
82122 (b) one representative of public education; and
82123 (c) one citizen representative.
82124 (3) In addition to the members designated under Subsections (1) and (2), the United
82125 States Attorney for the district of Utah may serve as a nonvoting member.
82126 (4) In appointing the members under Subsection (2), the governor shall take into
82127 account the geographical makeup of the commission.
82128 Section 1948. Section **63M-7-203**, which is renumbered from Section 63-25a-103 is
82129 renumbered and amended to read:
82130 **[~~63-25a-103~~]. 63M-7-203. Executive director -- Qualifications --**
82131 **Compensation -- Appointment -- Functions.**
82132 (1) The governor, with the consent of the Senate, shall appoint a person experienced in
82133 the field of criminal justice and in administration as the executive director of the Commission
82134 on Criminal and Juvenile Justice. The governor shall establish the executive director's salary
82135 within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer
82136 Compensation.
82137 (2) (a) The executive director, under the direction of the commission, shall administer
82138 the duties of the commission and act as the governor's advisor on national, state, regional,
82139 metropolitan, and local government planning as it relates to criminal justice.
82140 (b) This chapter does not derogate the planning authority conferred on state, regional,
82141 metropolitan, and local governments by existing law.
82142 Section 1949. Section **63M-7-204**, which is renumbered from Section 63-25a-104 is
82143 renumbered and amended to read:
82144 **[~~63-25a-104~~]. 63M-7-204. Duties of commission.**
82145 The State Commission on Criminal and Juvenile Justice administration shall:
82146 (1) promote the commission's purposes as enumerated in Section [~~63-25a-101~~]

82147 63M-7-201;
82148 (2) promote the communication and coordination of all criminal and juvenile justice
82149 agencies;
82150 (3) study, evaluate, and report on the status of crime in the state and on the
82151 effectiveness of criminal justice policies, procedures, and programs that are directed toward the
82152 reduction of crime in the state;
82153 (4) study, evaluate, and report on policies, procedures, and programs of other
82154 jurisdictions which have effectively reduced crime;
82155 (5) identify and promote the implementation of specific policies and programs the
82156 commission determines will significantly reduce crime in Utah;
82157 (6) provide analysis and recommendations on all criminal and juvenile justice
82158 legislation, state budget, and facility requests, including program and fiscal impact on all
82159 components of the criminal and juvenile justice system;
82160 (7) provide analysis, accountability, recommendations, and supervision for state and
82161 federal criminal justice grant monies;
82162 (8) provide public information on the criminal and juvenile justice system and give
82163 technical assistance to agencies or local units of government on methods to promote public
82164 awareness;
82165 (9) promote research and program evaluation as an integral part of the criminal and
82166 juvenile justice system;
82167 (10) provide a comprehensive criminal justice plan annually;
82168 (11) review agency forecasts regarding future demands on the criminal and juvenile
82169 justice systems, including specific projections for secure bed space;
82170 (12) promote the development of criminal and juvenile justice information systems that
82171 are consistent with common standards for data storage and are capable of appropriately sharing
82172 information with other criminal justice information systems by:
82173 (a) developing and maintaining common data standards for use by all state criminal
82174 justice agencies;
82175 (b) annually performing audits of criminal history record information maintained by
82176 state criminal justice agencies to assess their accuracy, completeness, and adherence to
82177 standards;

82178 (c) defining and developing state and local programs and projects associated with the
82179 improvement of information management for law enforcement and the administration of
82180 justice; and
82181 (d) establishing general policies concerning criminal and juvenile justice information
82182 systems and making rules as necessary to carry out the duties under this Subsection (12) and
82183 Subsection (10);
82184 (13) allocate and administer grants, from monies made available, for approved
82185 education programs to help prevent the sexual exploitation of children; and
82186 (14) allocate and administer grants funded from monies from the Law Enforcement
82187 Operations Account created in Section [~~63-63a-10~~] 51-9-411 for law enforcement operations
82188 and programs related to reducing illegal drug activity and related criminal activity.
82189 Section 1950. Section **63M-7-205**, which is renumbered from Section 63-25a-104.5 is
82190 renumbered and amended to read:
82191 **[~~63-25a-104.5~~]. 63M-7-205. Annual report by the commission.**
82192 (1) The commission shall annually prepare and publish a report directed to the
82193 governor, the Legislature, and the Judicial Council.
82194 (2) The report shall describe how the commission fulfilled its statutory purposes and
82195 duties during the year.
82196 Section 1951. Section **63M-7-206**, which is renumbered from Section 63-25a-105 is
82197 renumbered and amended to read:
82198 **[~~63-25a-105~~]. 63M-7-206. Election of chair -- Meetings.**
82199 The membership of the Commission on Criminal and Juvenile Justice by simple
82200 majority vote of those in attendance shall annually elect one of their number to serve as chair.
82201 The chair is responsible for the call and conduct of meetings. Meetings shall be called and held
82202 at least bimonthly. One of the bimonthly meetings shall be held while the Legislature is
82203 convened in its annual session. Additional meetings may be called upon request by a majority
82204 of the commission's members.
82205 Section 1952. Section **63M-7-207**, which is renumbered from Section 63-25a-106 is
82206 renumbered and amended to read:
82207 **[~~63-25a-106~~]. 63M-7-207. Members serve without pay -- Reimbursement**
82208 **for expenses.**

82209 (1) (a) (i) Members who are not government employees shall receive no compensation
82210 or benefits for their services, but may receive per diem and expenses incurred in the
82211 performance of the member's official duties at the rates established by the Division of Finance
82212 under Sections 63A-3-106 and 63A-3-107.
82213 (ii) Members may decline to receive per diem and expenses for their service.
82214 (b) (i) State government officer and employee members who do not receive salary, per
82215 diem, or expenses from their agency for their service may receive per diem and expenses
82216 incurred in the performance of their official duties from the commission at the rates established
82217 by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
82218 (ii) State government officer and employee members may decline to receive per diem
82219 and expenses for their service.
82220 (2) Legislators on the committee shall receive compensation and expenses as provided
82221 by law and legislative rule.
82222 Section 1953. Section **63M-7-301**, which is renumbered from Section 63-25a-201 is
82223 renumbered and amended to read:
82224 **Part 3. Utah Substance Abuse and Anti-Violence Coordinating Council**
82225 **[~~63-25a-201~~]. 63M-7-301. Creation of council -- Membership -- Terms.**
82226 (1) There is created within the governor's office the Utah Substance Abuse and
82227 Anti-Violence Coordinating Council.
82228 (2) The Utah Substance Abuse and Anti-Violence Coordinating Council comprises 25
82229 voting members as follows:
82230 (a) the attorney general or the attorney general's designee;
82231 (b) a county commissioner designated by the Utah Association of Counties;
82232 (c) the commissioner of public safety or the commissioner's designee;
82233 (d) the director of the Division of Substance Abuse and Mental Health or the director's
82234 designee;
82235 (e) the state superintendent of public instruction or the superintendent's designee;
82236 (f) the director of the Department of Health or the director's designee;
82237 (g) the executive director of the Commission on Criminal and Juvenile Justice or the
82238 executive director's designee;
82239 (h) the governor or the governor's designee;

82240 (i) the executive director of the Department of Corrections or the executive director's
82241 designee;
82242 (j) the director of the Division of Juvenile Justice Services or the director's designee;
82243 (k) the chair of the Domestic Violence Advisory Council or the chair's designee;
82244 (l) the following members designated to serve four-year terms:
82245 (i) a member of the House of Representatives designated by the speaker;
82246 (ii) a member of the Senate designated by the president;
82247 (iii) a member of the judiciary designated by the chief justice of the Utah Supreme
82248 Court;
82249 (iv) a representative designated by the Utah League of Cities and Towns; and
82250 (v) a representative from the offices of minority affairs designated by the directors of
82251 those offices or a designee;
82252 (m) the following members appointed by the governor to serve four-year terms:
82253 (i) a representative of the Utah National Guard, appointed by the governor;
82254 (ii) one resident of the state who has been personally affected by domestic violence;
82255 (iii) one resident of the state who has been personally affected by gang violence;
82256 (iv) one resident of the state who has been personally affected by alcohol or other drug
82257 abuse; and
82258 (v) one citizen representative; and
82259 (n) the following members appointed by the members in Subsections (2)(a) through
82260 (2)(m) to serve four-year terms:
82261 (i) a person knowledgeable in criminal justice issues;
82262 (ii) a person knowledgeable in substance abuse treatment issues;
82263 (iii) a person knowledgeable in substance abuse prevention issues; and
82264 (iv) a person knowledgeable in judiciary issues.
82265 Section 1954. Section **63M-7-302**, which is renumbered from Section 63-25a-202 is
82266 renumbered and amended to read:
82267 **[~~63-25a-202~~]. 63M-7-302. Chair -- Vacancies -- Quorum -- Expenses.**
82268 (1) The Utah Substance Abuse and Anti-Violence Coordinating Council shall annually
82269 select one of its members to serve as chair.
82270 (2) When a vacancy occurs in the membership for any reason, the replacement shall be

82271 appointed for the unexpired term in the same manner as the position was originally filled.
82272 (3) A majority of the members of the council constitutes a quorum.
82273 (4) (a) (i) Members who are not government employees shall receive no compensation
82274 or benefits for their services, but may receive per diem and expenses incurred in the
82275 performance of the member's official duties at the rates established by the Division of Finance
82276 under Sections 63A-3-106 and 63A-3-107.
82277 (ii) Members may decline to receive per diem and expenses for their service.
82278 (b) (i) State government officer and employee members who do not receive salary, per
82279 diem, or expenses from their agency for their service may receive per diem and expenses
82280 incurred in the performance of their official duties from the council at the rates established by
82281 the Division of Finance under Sections 63A-3-106 and 63A-3-107.
82282 (ii) State government officer and employee members may decline to receive per diem
82283 and expenses for their service.
82284 (c) Legislators on the council shall receive compensation and expenses as provided by
82285 law and legislative rule.
82286 (d) (i) Local government members who do not receive salary, per diem, or expenses
82287 from the entity that they represent for their service may receive per diem and expenses incurred
82288 in the performance of their official duties at the rates established by the Division of Finance
82289 under Sections 63A-3-106 and 63A-3-107.
82290 (ii) Local government members may decline to receive per diem and expenses for their
82291 service.
82292 (5) The council may establish subcommittees as needed to assist in accomplishing its
82293 duties under Section [~~63-25a-203~~] 63M-7-303.
82294 Section 1955. Section **63M-7-303**, which is renumbered from Section 63-25a-203 is
82295 renumbered and amended to read:
82296 **[~~63-25a-203~~]. 63M-7-303. Duties of council.**
82297 (1) The Utah Substance Abuse and Anti-Violence Coordinating Council shall:
82298 (a) provide leadership and generate unity for Utah's ongoing efforts to combat
82299 substance abuse and community violence;
82300 (b) recommend and coordinate the creation, dissemination, and implementation of a
82301 statewide substance abuse and anti-violence policy;

82302 (c) facilitate planning for a balanced continuum of substance abuse and community
82303 violence prevention, treatment, and justice services;
82304 (d) promote collaboration and mutually beneficial public and private partnerships;
82305 (e) coordinate recommendations made by any subcommittees created under Section
82306 [~~63-25a-202~~] 63M-7-302;
82307 (f) analyze and provide an objective assessment of all proposed legislation concerning
82308 alcohol and other drug issues and community violence issues; and
82309 (g) coordinate the implementation of Section 77-18-1.1 and related provisions in
82310 Subsections 77-18-1(5)(d) and (e) and 77-27-9(2)(g), as provided in Section [~~63-25a-205.5~~]
82311 63M-7-305.
82312 (2) The council shall meet quarterly or more frequently as determined necessary by the
82313 chair.
82314 (3) The council shall report its recommendations annually to the commission,
82315 governor, the Legislature, and the Judicial Council.
82316 Section 1956. Section **63M-7-304**, which is renumbered from Section 63-25a-205 is
82317 renumbered and amended to read:
82318 **[~~63-25a-205~~]. 63M-7-304. Chair -- Vacancies -- Quorum -- Expenses.**
82319 (1) The members of any subcommittees established by the council shall each annually
82320 select one of their members as chairs.
82321 (2) When a vacancy occurs in the membership for any reason, the replacement shall be
82322 appointed for the unexpired term in the same manner as the position was originally filled.
82323 (3) A majority of the members of a subcommittee constitutes a quorum for the
82324 transaction of business by the subcommittee.
82325 (4) (a) (i) Members who are not government employees shall receive no compensation
82326 or benefits for their services, but may receive per diem and expenses incurred in the
82327 performance of the member's official duties at the rates established by the Division of Finance
82328 under Sections 63A-3-106 and 63A-3-107.
82329 (ii) Members may decline to receive per diem and expenses for their service.
82330 (b) (i) State government officer and employee members who do not receive salary, per
82331 diem, or expenses from their agency for their service may receive per diem and expenses
82332 incurred in the performance of their official duties from the committee at the rates established

82333 by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
82334 (ii) State government officer and employee members may decline to receive per diem
82335 and expenses for their service.
82336 (c) Legislators on the subcommittee shall receive compensation and expenses as
82337 provided by law and legislative rule.
82338 (d) Members from higher education may not receive per diem or expenses for their
82339 service.
82340 (e) (i) Local government members who do not receive salary, per diem, or expenses
82341 from the entity that they represent for their service may receive per diem and expenses incurred
82342 in the performance of their official duties at the rates established by the Division of Finance
82343 under Sections 63A-3-106 and 63A-3-107.
82344 (ii) Local government members may decline to receive per diem and expenses for their
82345 service.
82346 Section 1957. Section **63M-7-305**, which is renumbered from Section 63-25a-205.5 is
82347 renumbered and amended to read:
82348 **[~~63-25a-205.5~~]. 63M-7-305. Drug Offender Reform Act -- Coordination.**
82349 (1) As used in this section:
82350 (a) "Council" means the Utah Substance Abuse and Anti-Violence Coordinating
82351 Council.
82352 (b) "Drug Offender Reform Act" and "act" mean the screening, assessment, and
82353 substance abuse treatment provided to:
82354 (i) convicted offenders under Subsection 77-18-1.1(2) with funds appropriated by the
82355 Legislature under Subsection 77-18-1.1(4); and
82356 (ii) offenders released on parole under Subsection 77-27-9(2)(g)(iv).
82357 (c) "Substance abuse authority" has the same meaning as in Section 17-43-201.
82358 (2) The council shall provide ongoing oversight of the implementation and functions of
82359 the Drug Offender Reform Act.
82360 (3) The council shall evaluate the impact and results of the Drug Offender Reform Act.
82361 (4) The council shall develop an implementation plan for the Drug Offender Reform
82362 Act. The plan shall:
82363 (a) include guidelines on how funds appropriated under the act should be used;

82364 (b) require that treatment plans under the act are appropriate for criminal offenders;
82365 (c) include guidelines on the membership of local planning groups; and
82366 (d) include guidelines on the membership of the Department of Corrections' planning
82367 group under Subsection (6).
82368 (5) (a) Each local substance abuse authority shall establish a local planning group and
82369 shall submit a plan to the council detailing how the authority proposes to use the Drug
82370 Offender Reform Act funds. The uses shall be in accordance with the guidelines established by
82371 the council under Subsection (4).
82372 (b) Upon approval of the plan by the council, the Department of Human Services shall
82373 allocate the funds.
82374 (c) Local substance abuse authorities shall annually submit to the Department of
82375 Human Services and to the council reports detailing use of the funds and the impact and results
82376 of the use of the funds.
82377 (6) (a) The Department of Corrections shall establish a planning group and shall submit
82378 a plan to the council detailing how the department proposes to use the Drug Offender Reform
82379 Act funds. The uses shall be in accordance with the guidelines established by the council under
82380 Subsection (4).
82381 (b) The Department of Corrections shall annually submit to the council a report
82382 detailing use of the funds and the impact and results of the use of the funds.
82383 Section 1958. Section **63M-7-306**, which is renumbered from Section 63-25a-207 is
82384 renumbered and amended to read:
82385 **[~~63-25a-207~~]. 63M-7-306. Staffing.**
82386 The Commission on Criminal and Juvenile Justice shall provide staff to the council and
82387 any subcommittees established by the council.
82388 Section 1959. Section **63M-7-401**, which is renumbered from Section 63-25a-301 is
82389 renumbered and amended to read:
82390 **Part 4. Sentencing Commission**
82391 **[~~63-25a-301~~]. 63M-7-401. Creation -- Members -- Appointment --**
82392 **Qualifications.**
82393 (1) There is created a state commission to be known as the Sentencing Commission
82394 composed of 27 members. The commission shall develop by-laws and rules in compliance

82395 with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and
82396 elect its officers.
82397 (2) The commission's members shall be:
82398 (a) two members of the House of Representatives, appointed by the speaker of the
82399 House and not of the same political party;
82400 (b) two members of the Senate, appointed by the president of the Senate and not of the
82401 same political party;
82402 (c) the executive director of the Department of Corrections or a designee appointed by
82403 the executive director;
82404 (d) the director of the Division of Juvenile Justice Services or a designee appointed by
82405 the director;
82406 (e) the executive director of the Commission on Criminal and Juvenile Justice or a
82407 designee appointed by the executive director;
82408 (f) the chair of the Board of Pardons and Parole or a designee appointed by the chair;
82409 (g) the chair of the Youth Parole Authority or a designee appointed by the chair;
82410 (h) two trial judges and an appellate judge appointed by the chair of the Judicial
82411 Council;
82412 (i) two juvenile court judges designated by the chair of the Judicial Council;
82413 (j) an attorney in private practice who is a member of the Utah State Bar, experienced
82414 in criminal defense, and appointed by the Utah Bar Commission;
82415 (k) an attorney who is a member of the Utah State Bar, experienced in the defense of
82416 minors in juvenile court, and appointed by the Utah Bar Commission;
82417 (l) the director of Salt Lake Legal Defenders or a designee appointed by the director;
82418 (m) the attorney general or a designee appointed by the attorney general;
82419 (n) a criminal prosecutor appointed by the Statewide Association of Public Attorneys;
82420 (o) a juvenile court prosecutor appointed by the Statewide Association of Public
82421 Attorneys;
82422 (p) a representative of the Utah Sheriff's Association appointed by the governor;
82423 (q) a chief of police appointed by the governor;
82424 (r) a licensed professional appointed by the governor who assists in the rehabilitation
82425 of adult offenders;

82426 (s) a licensed professional appointed by the governor who assists in the rehabilitation
82427 of juvenile offenders;
82428 (t) two members from the public appointed by the governor who exhibit sensitivity to
82429 the concerns of victims of crime and the ethnic composition of the population; and
82430 (u) one member from the public at large appointed by the governor.
82431 Section 1960. Section **63M-7-402**, which is renumbered from Section 63-25a-302 is
82432 renumbered and amended to read:
82433 **[~~63-25a-302~~]. 63M-7-402. Terms of members -- Vacancies --**
82434 **Reappointment.**
82435 (1) (a) Except as required by Subsection (1)(b), as terms of current commission
82436 members expire, the appointing authority shall appoint each new member or reappointed
82437 member to a four-year term.
82438 (b) Notwithstanding the requirements of Subsection (1)(a), the appointing authority
82439 shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the
82440 terms of commission members are staggered so that approximately half of the commission is
82441 appointed every two years.
82442 (2) When a vacancy occurs in the membership for any reason, the replacement shall be
82443 appointed for the unexpired term.
82444 (3) All members of the commission, including those appointed before July 1, 1995,
82445 shall be eligible for reappointment one time.
82446 Section 1961. Section **63M-7-403**, which is renumbered from Section 63-25a-303 is
82447 renumbered and amended to read:
82448 **[~~63-25a-303~~]. 63M-7-403. Vacancies.**
82449 If a commission member no longer holds a qualifying position, resigns, or is unable to
82450 serve, the vacancy shall be filled by the appointing authority.
82451 Section 1962. Section **63M-7-404**, which is renumbered from Section 63-25a-304 is
82452 renumbered and amended to read:
82453 **[~~63-25a-304~~]. 63M-7-404. Purpose -- Duties.**
82454 The purpose of the commission shall be to develop guidelines and propose
82455 recommendations to the Legislature, the governor, and the Judicial Council about the
82456 sentencing and release of juvenile and adult offenders in order to:

82457 (1) respond to public comment;
82458 (2) relate sentencing practices and correctional resources;
82459 (3) increase equity in criminal sentencing;
82460 (4) better define responsibility in criminal sentencing; and
82461 (5) enhance the discretion of sentencing judges while preserving the role of the Board
82462 of Pardons and Parole and the Youth Parole Authority.
82463 Section 1963. Section **63M-7-405**, which is renumbered from Section 63-25a-305 is
82464 renumbered and amended to read:
82465 **[~~63-25a-305~~]. 63M-7-405. Compensation of members -- Reports to the**
82466 **Legislature, the courts, and the governor.**
82467 (1) (a) (i) Members who are not government employees shall receive no compensation
82468 or benefits for their services, but may receive per diem and expenses incurred in the
82469 performance of the member's official duties at the rates established by the Division of Finance
82470 under Sections 63A-3-106 and 63A-3-107.
82471 (ii) Members may decline to receive per diem and expenses for their service.
82472 (b) (i) State government officer and employee members who do not receive salary, per
82473 diem, or expenses from their agency for their service may receive per diem and expenses
82474 incurred in the performance of their official duties from the commission at the rates established
82475 by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
82476 (ii) State government officer and employee members may decline to receive per diem
82477 and expenses for their service.
82478 (2) The commission shall submit to the Legislature, the courts, and to the governor at
82479 least 60 days prior to the annual general session of the Legislature its reports and
82480 recommendations for sentencing guidelines and amendments. It is intended that the
82481 commission utilize existing data and resources from state criminal justice agencies. The
82482 commission is authorized to employ professional assistance and other staff members as it
82483 considers necessary or desirable.
82484 (3) The commission shall be responsive to all three branches of government, but be
82485 part of the Commission on Criminal and Juvenile Justice for coordination on criminal and
82486 juvenile justice issues, budget, and administrative support.
82487 Section 1964. Section **63M-7-406**, which is renumbered from Section 63-25a-306 is

82488 renumbered and amended to read:
82489 **[~~63-25a-306~~]. 63M-7-406. Publication of reports.**
82490 The commission shall also be authorized to prepare, publish, and distribute from time
82491 to time reports of its studies, recommendations, and statements.
82492 Section 1965. Section **63M-7-501**, which is renumbered from Section 63-25a-401 is
82493 renumbered and amended to read:
82494 **Part 5. Crime Victims' Reparations Act**
82495 **[~~63-25a-401~~]. 63M-7-501. Title.**
82496 This part is known as the "Crime Victims' Reparations Act" and may be abbreviated as
82497 the "CVRA."
82498 Section 1966. Section **63M-7-502**, which is renumbered from Section 63-25a-402 is
82499 renumbered and amended to read:
82500 **[~~63-25a-402~~]. 63M-7-502. Definitions.**
82501 As used in this chapter:
82502 (1) "Accomplice" means a person who has engaged in criminal conduct as defined in
82503 Section 76-2-202.
82504 (2) "Board" means the Crime Victims' Reparations Board created under Section
82505 [~~63-25a-404~~] 63M-7-504.
82506 (3) "Bodily injury" means physical pain, illness, or any impairment of physical
82507 condition.
82508 (4) "Claim" means:
82509 (a) the victim's application or request for a reparations award; and
82510 (b) the formal action taken by a victim to apply for reparations pursuant to Sections
82511 [~~63-25a-401~~] 63M-7-501 through [~~63-25a-428~~] 63M-7-525.
82512 (5) "Claimant" means any of the following claiming reparations under this chapter:
82513 (a) a victim;
82514 (b) a dependent of a deceased victim;
82515 (c) a representative other than a collateral source; or
82516 (d) the person or representative who files a claim on behalf of a victim.
82517 (6) "Child" means an unemancipated person who is under 18 years of age.
82518 (7) "Collateral source" means the definition as provided in Section [~~63-25a-413~~]

82519 63M-7-513.
82520 (8) "Contested case" means a case which the claimant contests, claiming the award was
82521 either inadequate or denied, or which a county attorney, a district attorney, a law enforcement
82522 officer, or other individual related to the criminal investigation proffers reasonable evidence of
82523 the claimant's lack of cooperation in the prosecution of a case after an award has already been
82524 given.
82525 (9) (a) "Criminally injurious conduct" other than acts of war declared or not declared
82526 means conduct that:
82527 (i) is or would be subject to prosecution in this state under Section 76-1-201;
82528 (ii) occurs or is attempted;
82529 (iii) causes, or poses a substantial threat of causing, bodily injury or death;
82530 (iv) is punishable by fine, imprisonment, or death if the person engaging in the conduct
82531 possessed the capacity to commit the conduct; and
82532 (v) does not arise out of the ownership, maintenance, or use of a motor vehicle,
82533 aircraft, or water craft, unless the conduct is intended to cause bodily injury or death, or is
82534 conduct which is or would be punishable under Title 76, Chapter 5, Offenses Against the
82535 Person, or as any offense chargeable as driving under the influence of alcohol or drugs.
82536 (b) "Criminally injurious conduct" includes an act of terrorism, as defined in 18 U.S.C.
82537 2331 committed outside of the United States against a resident of this state. "Terrorism" does
82538 not include an "act of war" as defined in 18 U.S.C. 2331.
82539 (10) "Dependent" means a natural person to whom the victim is wholly or partially
82540 legally responsible for care or support and includes a child of the victim born after [~~his~~] the
82541 victim's death.
82542 (11) "Dependent's economic loss" means loss after the victim's death of contributions
82543 of things of economic value to [~~his~~] the victim's dependent, not including services the
82544 dependent would have received from the victim if [~~he~~] the victim had not suffered the fatal
82545 injury, less expenses of the dependent avoided by reason of victim's death.
82546 (12) "Dependent's replacement services loss" means loss reasonably and necessarily
82547 incurred by the dependent after the victim's death in obtaining services in lieu of those the
82548 decedent would have performed for [~~his~~] the victim's benefit if [~~he~~] the victim had not suffered
82549 the fatal injury, less expenses of the dependent avoided by reason of the victim's death and not

82550 subtracted in calculating the dependent's economic loss.
82551 (13) "Director" means the director of the Reparations Office.
82552 (14) "Disposition" means the sentencing or determination of penalty or punishment to
82553 be imposed upon a person:
82554 (a) convicted of a crime;
82555 (b) found delinquent; or
82556 (c) against whom a finding of sufficient facts for conviction or finding of delinquency
82557 is made.
82558 (15) "Economic loss" means economic detriment consisting only of allowable expense,
82559 work loss, replacement services loss, and if injury causes death, dependent's economic loss and
82560 dependent's replacement service loss. Noneconomic detriment is not loss, but economic
82561 detriment is loss although caused by pain and suffering or physical impairment.
82562 (16) "Elderly victim" means a person 60 years of age or older who is a victim.
82563 (17) "Fraudulent claim" means a filed claim based on material misrepresentation of
82564 fact and intended to deceive the reparations staff for the purpose of obtaining reparation funds
82565 for which the claimant is not eligible as provided in Section [~~63-25a-410~~] 63M-7-510.
82566 (18) "Fund" means the Crime Victim Reparation Fund created in Section [~~63-63a-4~~]
82567 51-9-404.
82568 (19) "Law enforcement officer" means a law enforcement officer as defined in Section
82569 53-13-103.
82570 (20) "Medical examination" means a physical examination necessary to document
82571 criminally injurious conduct but does not include mental health evaluations for the prosecution
82572 and investigation of a crime.
82573 (21) "Mental health counseling" means outpatient and inpatient counseling necessitated
82574 as a result of criminally injurious conduct. The definition of mental health counseling is
82575 subject to rules promulgated by the board pursuant to [~~Title 63, Chapter 46a~~] Title 63G,
82576 Chapter 3, Utah Administrative Rulemaking Act.
82577 (22) "Misconduct" as provided in Subsection [~~63-25a-412~~] 63M-7-512(1)(b) means
82578 conduct by the victim which was attributable to the injury or death of the victim as provided by
82579 rules promulgated by the board pursuant to [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
82580 Administrative Rulemaking Act.

82581 (23) "Noneconomic detriment" means pain, suffering, inconvenience, physical
82582 impairment, and other nonpecuniary damage, except as provided in this chapter.
82583 (24) "Pecuniary loss" does not include loss attributable to pain and suffering except as
82584 otherwise provided in this chapter.
82585 (25) "Offender" means a person who has violated the criminal code through criminally
82586 injurious conduct regardless of whether [~~he~~] the person is arrested, prosecuted, or convicted.
82587 (26) "Offense" means a violation of the criminal code.
82588 (27) "Perpetrator" means the person who actually participated in the criminally
82589 injurious conduct.
82590 (28) "Personal property" has the same definition as provided in Section 68-3-12.
82591 (29) "Reparations Office" means the office of the reparations staff for the purpose of
82592 carrying out this chapter.
82593 (30) "Reparations officer" means a person employed by the Reparations Office to
82594 investigate claims of victims and award reparations under this chapter, and includes the
82595 director when [~~he~~] the director is acting as a reparations officer.
82596 (31) "Reparations staff" means the director, the reparations officers, and any other staff
82597 employed to administer the Crime Victims' Reparations Act.
82598 (32) "Replacement service loss" means expenses reasonably and necessarily incurred in
82599 obtaining ordinary and necessary services in lieu of those the injured person would have
82600 performed, not for income but the benefit of [~~himself~~] the injured person or [~~his~~] the injured
82601 person's dependents if [~~he~~] the injured person had not been injured.
82602 (33) "Representative" means the victim, immediate family member, legal guardian,
82603 attorney, conservator, executor, or an heir of a person but does not include service providers.
82604 (34) "Restitution" means money or services an appropriate authority orders an offender
82605 to pay or render to a victim of the offender's conduct.
82606 (35) "Secondary victim" means a person who is traumatically affected by the criminally
82607 injurious conduct subject to rules promulgated by the board pursuant to [~~Title 63, Chapter 46a~~]
82608 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
82609 (36) "Service provider" means a person or agency who provides a service to crime
82610 victims for a monetary fee except attorneys as provided in Section [~~63-25a-424~~] 63M-7-524.
82611 (37) (a) "Victim" means a person who suffers bodily or psychological injury or death as

82612 a direct result of criminally injurious conduct or of the production of pornography in violation
82613 of Sections 76-5a-1 through 76-5a-4 if the person is a minor.
82614 (b) "Victim" does not include a person who participated in or observed the judicial
82615 proceedings against an offender unless otherwise provided by statute or rule.
82616 (c) "Victim" includes a resident of this state who is injured or killed by an act of
82617 terrorism, as defined in 18 U.S.C. 2331, committed outside of the United States.
82618 (38) "Work loss" means loss of income from work the injured victim would have
82619 performed if [~~he~~] the injured victim had not been injured and expenses reasonably incurred by
82620 [~~him~~] the injured victim in obtaining services in lieu of those [~~he~~] the injured victim would
82621 have performed for income, reduced by any income from substitute work [~~he~~] the injured
82622 victim was capable of performing but unreasonably failed to undertake.
82623 Section 1967. Section **63M-7-503**, which is renumbered from Section 63-25a-403 is
82624 renumbered and amended to read:
82625 **[~~63-25a-403~~]. 63M-7-503. Restitution -- Reparations not to supplant**
82626 **restitution -- Assignment of claim for restitution judgment to Reparations Office.**
82627 (1) A reparations award shall not supplant restitution as established under Title 77,
82628 Chapter 38a, Crime Victims Restitution Act, or as established by any other provisions.
82629 (2) The court shall not consider a reparations award when determining the order of
82630 restitution nor when enforcing restitution.
82631 (3) If, due to reparation payments to a victim, the Reparations Office is assigned under
82632 Section [~~63-25a-419~~] 63M-7-519 a claim for the victim's judgment for restitution or a portion
82633 of the restitution, the Reparations Office may file with the sentencing court a notice of the
82634 assignment. The notice of assignment shall be signed by the victim and a Reparations Officer
82635 and shall state the amount of the claim assigned.
82636 (4) Upon conviction and sentencing of the defendant, the court shall enter a civil
82637 judgment for complete restitution as provided in Section 77-38a-401 and identify the
82638 Reparations Office as the assignee of the assigned portion of the judgment.
82639 (5) If the notice of assignment is filed after sentencing, the court shall modify the civil
82640 judgment for restitution to identify the Reparations Office as the assignee of the assigned
82641 portion of the judgment.
82642 Section 1968. Section **63M-7-504**, which is renumbered from Section 63-25a-404 is

82643 renumbered and amended to read:

82644 **[~~63-25a-404~~]. 63M-7-504. Crime Victims' Reparations Board -- Members.**

82645 (1) (a) A Crime Victims' Reparations Board is created, consisting of seven members
82646 appointed by the governor with the consent of the Senate.

82647 (b) The membership of the board shall consist of:

82648 (i) a member of the bar of this state;

82649 (ii) a victim of criminally injurious conduct;

82650 (iii) a licensed physician;

82651 (iv) a representative of law enforcement;

82652 (v) a mental health care provider; and

82653 (vi) two other private citizens.

82654 (c) The governor may appoint a chair of the board who shall serve for a period of time
82655 prescribed by the governor, not to exceed the length of the chair's term. The board may elect a
82656 vice chair to serve in the absence of the chair.

82657 (d) The board may hear appeals from administrative decisions as provided in rules
82658 adopted pursuant to Section [~~63-25a-415~~] 63M-7-515.

82659 (2) (a) Except as required by Subsection (2)(b), as terms of current board members
82660 expire, the governor shall appoint each new member or reappointed member to a four-year
82661 term.

82662 (b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the
82663 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
82664 board members are staggered so that approximately half of the board is appointed every two
82665 years.

82666 (c) A member may be reappointed to one successive term.

82667 (3) (a) When a vacancy occurs in the membership for any reason, the replacement shall
82668 be appointed for the unexpired term.

82669 (b) A member resigning from the board shall serve until [~~his~~] the member's successor
82670 is appointed and qualified.

82671 (4) (a) (i) Members who are not government employees shall receive no compensation
82672 or benefits for their services, but may receive per diem and expenses incurred in the
82673 performance of the member’s official duties at the rates established by the Division of Finance

82674 under Sections 63A-3-106 and 63A-3-107.
82675 (ii) Members may decline to receive per diem and expenses for their service.
82676 (b) (i) State government officer and employee members who do not receive salary, per
82677 diem, or expenses from their agency for their service may receive per diem and expenses
82678 incurred in the performance of their official duties from the board at the rates established by the
82679 Division of Finance under Sections 63A-3-106 and 63A-3-107.
82680 (ii) State government officer and employee members may decline to receive per diem
82681 and expenses for their service.
82682 (5) The board shall meet at least once quarterly but may meet more frequently as
82683 necessary.
82684 Section 1969. Section **63M-7-505**, which is renumbered from Section 63-25a-405 is
82685 renumbered and amended to read:
82686 **[~~63-25a-405~~]. 63M-7-505. Board and office within Commission on**
82687 **Criminal and Juvenile Justice.**
82688 (1) The Crime Victims' Reparations Board and Reparations Office are placed within
82689 the Commission on Criminal and Juvenile Justice for the provision by the commission of
82690 administrative and support services to the Reparations Office.
82691 (2) The board or the director may request assistance from the Commission on Criminal
82692 and Juvenile Justice, the Department of Public Safety, and other state agencies in conducting
82693 research or monitoring victims' programs.
82694 (3) The fund shall appear as a separate line item in the Commission on Criminal and
82695 Juvenile Justice budget.
82696 Section 1970. Section **63M-7-506**, which is renumbered from Section 63-25a-406 is
82697 renumbered and amended to read:
82698 **[~~63-25a-406~~]. 63M-7-506. Functions of board.**
82699 (1) The Crime Victim Reparations Board shall:
82700 (a) adopt a description of the organization and prescribe the general operation of the
82701 board;
82702 (b) prescribe policy for the Office of Crime Victim Reparations;
82703 (c) adopt rules to implement and administer Sections [~~63-25a-401~~] 63M-7-501 through
82704 [~~63-25a-428~~] 63M-7-525 pursuant to [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah

82705 Administrative Rulemaking Act, which may include setting of ceilings on reparations, defining
82706 of terms not specifically stated in this chapter, and establishing of rules governing attorney
82707 fees;
82708 (d) prescribe forms for applications for reparations;
82709 (e) review all awards made by the reparations staff, although the board may not reverse
82710 or modify awards authorized by the reparations staff;
82711 (f) render an annual report to the governor and the Legislature regarding the staff's and
82712 the board's activities;
82713 (g) cooperate with the director and [~~his~~] the director's staff in formulating standards for
82714 the uniform application of Section [~~63-25a-409~~] 63M-7-509, taking into consideration the rates
82715 and amounts of reparation payable for injuries and death under other laws of this state and the
82716 United States;
82717 (h) allocate monies available in the Crime Victim Reparations Fund to victims of
82718 criminally injurious conduct for reparations claims; and
82719 (i) allocate monies available to other victim services as provided by administrative rule
82720 once a sufficient reserve has been established for reparation claims.
82721 (2) All rules, or other statements of policy, along with application forms specified by
82722 the board, are binding upon the director, the reparations officers, and other staff.
82723 Section 1971. Section **63M-7-507**, which is renumbered from Section 63-25a-407 is
82724 renumbered and amended to read:
82725 **[~~63-25a-407~~]. 63M-7-507. Director -- Appointment and functions.**
82726 The executive director of the Commission on Criminal and Juvenile Justice, after
82727 consulting with the board, shall appoint a director to carry out the provisions of this chapter.
82728 The director shall be an experienced administrator with a background in at least one of the
82729 following fields: social work, psychology, criminal justice, law, or a related field. The director
82730 shall demonstrate an understanding of the needs of crime victims and of services to victims.
82731 The director shall devote [~~his~~] the director's time and capacity to [~~his~~] the director's duties. The
82732 director shall:
82733 (1) hire staff, including reparations officers, as necessary;
82734 (2) act when necessary as a reparations officer in deciding initial claims;
82735 (3) possess the same investigation and decision-making authority as the reparations

82736 officers;
82737 (4) hear appeals from the decisions of the reparations officers, unless [~~he~~] the director
82738 acted as a reparations officer on the initial claim;
82739 (5) serve as a liaison between the reparations staff and the Reparations Office;
82740 (6) serve as the public relations representative of the Reparations Office;
82741 (7) provide for payment of all administrative salaries, fees, and expenses incurred by
82742 the staff of the board, to be paid out of appropriations from the fund;
82743 (8) cooperate with the state treasurer and the state Division of Finance in causing the
82744 funds in the trust fund to be invested and its investments sold or exchanged and the proceeds
82745 and income collected;
82746 (9) apply for, receive, allocate, disburse, and account for grants of funds made
82747 available by the United States, the state, foundations, corporations, and other businesses,
82748 agencies, or individuals;
82749 (10) obtain and utilize the services of other governmental agencies upon request; and
82750 (11) act in any other capacity or perform any other acts necessary for the Reparations
82751 Office or board to successfully fulfill its statutory objectives.
82752 Section 1972. Section **63M-7-508**, which is renumbered from Section 63-25a-408 is
82753 renumbered and amended to read:
82754 **[~~63-25a-408~~]. 63M-7-508. Reparations officers.**
82755 The reparations officers shall in addition to any assignments made by the director of the
82756 Reparations Office:
82757 (1) hear and determine all matters relating to claims for reparations and reinvestigate or
82758 reopen claims without regard to statutes of limitation or periods of prescription;
82759 (2) obtain from prosecuting attorneys, law enforcement officers, and other criminal
82760 justice agencies, investigations and data to enable the reparations officer to determine whether
82761 and to what extent a claimant qualifies for reparations;
82762 (3) hold hearings, administer oaths or affirmations, examine any person under oath or
82763 affirmation, issue subpoenas requiring the attendance and giving of testimony of witnesses,
82764 require the production of any books, papers, documents, or other evidence which may
82765 contribute to the reparations officer's ability to determine particular reparation awards;
82766 (4) determine who is a victim or dependent;

82767 (5) award reparations or other benefits determined to be due under this chapter and the
82768 rules of the board;
82769 (6) take notice of judicially recognized facts and general, technical, and scientific facts
82770 within their specialized knowledge;
82771 (7) advise and assist the board in developing policies recognizing the rights, needs, and
82772 interests of crime victims;
82773 (8) render periodic reports as requested by the board concerning:
82774 (a) the officers' activities; and
82775 (b) the manner in which the rights, needs, and interests of crime victims are being
82776 addressed by the state's criminal justice system;
82777 (9) establish priorities for assisting elderly victims of crime or those victims facing
82778 extraordinary hardships;
82779 (10) cooperate with the Commission on Criminal and Juvenile Justice to develop
82780 information regarding crime victims' problems and programs; and
82781 (11) assist the director in publicizing the provisions of the Crime Victims' Reparations
82782 Act, including the procedures for obtaining reparation, and in encouraging law enforcement
82783 agencies, health providers, and other related officials to take reasonable care to ensure that
82784 victims are informed about the provisions of this chapter and the procedure for applying for
82785 reparation.
82786 Section 1973. Section **63M-7-509**, which is renumbered from Section 63-25a-409 is
82787 renumbered and amended to read:
82788 **[~~63-25a-409~~]. 63M-7-509. Grounds for eligibility.**
82789 In order to be eligible for a reparations award under this chapter:
82790 (1) The claimant shall be:
82791 (a) a victim of criminally injurious conduct;
82792 (b) a dependent of a deceased victim of criminally injurious conduct; or
82793 (c) a representative acting on behalf of one of the above.
82794 (2) The victim shall be either a resident of Utah or the criminally injurious conduct
82795 shall have occurred in Utah.
82796 (3) The application shall be made in writing in a form that conforms substantially to
82797 that prescribed by the board.

82798 (4) The criminally injurious conduct shall be reported to a law enforcement officer, in
82799 [~~his~~] the law enforcement officer's capacity as a law enforcement officer, or other federal or
82800 state investigative agencies.
82801 (5) (a) The claimant or victim shall cooperate with the appropriate law enforcement
82802 agencies in their efforts to apprehend or convict the perpetrator of the alleged offense.
82803 (b) An award to a victim may be made whether any person is arrested, prosecuted, or
82804 convicted of the criminally injurious conduct giving rise to the claim.
82805 (6) The criminally injurious conduct shall have occurred after December 31, 1986.
82806 Section 1974. Section **63M-7-510**, which is renumbered from Section 63-25a-410 is
82807 renumbered and amended to read:
82808 **[~~63-25a-410~~]. 63M-7-510. Ineligible persons -- Fraudulent claims --**
82809 **Penalties.**
82810 (1) The following individuals shall not be eligible to receive an award of reparations:
82811 (a) persons who do not meet all of the provisions set forth in Section [~~63-25a-409~~]
82812 63M-7-509;
82813 (b) the offender;
82814 (c) an accomplice of the offender;
82815 (d) any person whose receipt of an award would unjustly benefit the offender,
82816 accomplice, or other person reasonably suspected of participating in the offense;
82817 (e) the victim of a motor vehicle injury who was the owner or operator of the motor
82818 vehicle and was not at the time of the injury in compliance with the state motor vehicle
82819 insurance laws;
82820 (f) any convicted offender serving a sentence of imprisonment for that conviction or
82821 residing in any other institution which provides for the maintenance of convicted persons; and
82822 (g) residents of halfway houses or any other correctional facilities and all persons who
82823 are on probation or parole if the circumstances surrounding the offense of which they are
82824 victims constitute a violation of their parole or probation.
82825 (2) A person who knowingly submits a fraudulent claim for reparations or who
82826 knowingly misrepresents material facts in making a claim, and who receives an award based on
82827 that claim, is guilty of an offense, based on the following award amounts:
82828 (a) for value under $300, a class B misdemeanor;

82829 (b) for value equal to or greater than $300, but less than $1,000, a class A
82830 misdemeanor;
82831 (c) for value equal to or greater than $1,000, but less than $5,000, a third degree felony;
82832 and
82833 (d) for value equal to or greater than $5,000, a second degree felony.
82834 (3) A person who submits a claim described in Subsection (2) but receives no award
82835 based on that claim is guilty of a class B misdemeanor.
82836 (4) The state attorney general may prosecute violations under this section or may make
82837 arrangements with county attorneys for the prosecution of violations under this section when
82838 the attorney general cannot conveniently prosecute.
82839 (5) The state may also bring a civil action against a claimant who receives reparation
82840 payments that are later found to be unjustified and who does not return to the board the
82841 unjustified amount.
82842 Section 1975. Section **63M-7-511**, which is renumbered from Section 63-25a-411 is
82843 renumbered and amended to read:
82844 **[~~63-25a-411~~]. 63M-7-511. Compensable losses and amounts.**
82845 A reparations award under this chapter may be made if:
82846 (1) the reparations officer finds the claim satisfies the requirements for the award under
82847 the provisions of this chapter and the rules of the board;
82848 (2) monies are available in the fund;
82849 (3) the person for whom the award of reparations is to be paid is otherwise eligible
82850 under this act;
82851 (4) the claim is for an allowable expense incurred by the victim, as follows:
82852 (a) reasonable and necessary charges incurred for products, services, and
82853 accommodations;
82854 (b) inpatient and outpatient medical treatment and physical therapy, subject to rules
82855 promulgated by the board pursuant to [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
82856 Administrative Rulemaking Act;
82857 (c) mental health counseling which:
82858 (i) is set forth in a mental health treatment plan which has been approved prior to any
82859 payment by a reparations officer; and

82860 (ii) qualifies within any further rules promulgated by the board pursuant to [~~Title 63,~~
82861 ~~Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
82862 (d) actual loss of past earnings and anticipated loss of future earnings because of a
82863 death or disability resulting from the personal injury at a rate not to exceed 66-2/3% of the
82864 person's weekly gross salary or wages or the maximum amount allowed under the state
82865 workers' compensation statute;
82866 (e) care of minor children enabling a victim or spouse of a victim, but not both of them,
82867 to continue gainful employment at a rate per child per week as determined under rules
82868 established by the board;
82869 (f) funeral and burial expenses for death caused by the criminally injurious conduct,
82870 subject to rules promulgated by the board pursuant to [~~Title 63, Chapter 46a~~] Title 63G,
82871 Chapter 3, Utah Administrative Rulemaking Act;
82872 (g) loss of support to the dependent or dependents not otherwise compensated for a
82873 pecuniary loss for personal injury, for as long as the dependence would have existed had the
82874 victim survived, at a rate not to exceed 66-2/3% of the person's weekly salary or wages or the
82875 maximum amount allowed under the state workers' compensation statute, whichever is less;
82876 (h) personal property necessary and essential to the health or safety of the victim as
82877 defined by rules promulgated by the board pursuant to [~~Title 63, Chapter 46a~~] Title 63G,
82878 Chapter 3, Utah Administrative Rulemaking Act; and
82879 (i) medical examinations as defined in Section [~~63-25a-402~~] 63M-7-502, subject to
82880 rules promulgated by the board pursuant to [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
82881 Administrative Rulemaking Act, which may allow for exemptions from Sections [~~63-25a-409~~]
82882 63M-7-509, [~~63-25a-412~~] 63M-7-512, and [~~63-25a-413~~] 63M-7-513.
82883 (5) If a Utah resident suffers injury or death as a result of criminally injurious conduct
82884 inflicted in a state, territory, or country that does not provide a reciprocal crime victims'
82885 compensation program, the Utah resident has the same rights under this chapter as if the
82886 injurious conduct occurred in this state.
82887 (6) An award of reparations shall not exceed $25,000 in the aggregate unless the victim
82888 is entitled to proceeds in excess of that amount as provided in Subsection 77-38a-403(2).
82889 However, reparations for actual medical expenses incurred as a result of homicide, attempted
82890 homicide, aggravated assault, or DUI offenses, may be awarded up to $50,000 in the aggregate.

82891 Section 1976. Section **63M-7-512**, which is renumbered from Section 63-25a-412 is
82892 renumbered and amended to read:
82893 **[~~63-25a-412~~]. 63M-7-512. Reparations reduction.**
82894 (1) Reparations otherwise payable to a claimant may be reduced or denied as follows:
82895 (a) the economic loss upon which the claim is based has been or could be recouped
82896 from other persons, including collateral sources, and the victim was not entitled to nor
82897 receiving monies prior to the criminally injurious conduct giving rise to the claim under this
82898 chapter;
82899 (b) the reparations officer considers the claim unreasonable because of the misconduct
82900 of the claimant or of a victim through whom [~~he~~] the claimant claims; or
82901 (c) the victim had not used a facility or health care provider that would be covered by a
82902 collateral source.
82903 (2) When two or more dependents are entitled to an award as a result of a victim's
82904 death, the award shall be apportioned by the reparations officer among the dependents.
82905 Section 1977. Section **63M-7-513**, which is renumbered from Section 63-25a-413 is
82906 renumbered and amended to read:
82907 **[~~63-25a-413~~]. 63M-7-513. Collateral sources.**
82908 (1) Collateral source shall include any source of benefits or advantages for economic
82909 loss otherwise reparable under this chapter which the victim or claimant has received, or which
82910 is readily available to the victim from:
82911 (a) the offender;
82912 (b) the insurance of the offender;
82913 (c) the United States government or any of its agencies, a state or any of its political
82914 subdivisions, or an instrumentality of two or more states, except in the case on nonobligatory
82915 state-funded programs;
82916 (d) social security, Medicare, and Medicaid;
82917 (e) state-required temporary nonoccupational income replacement insurance or
82918 disability income insurance;
82919 (f) workers' compensation;
82920 (g) wage continuation programs of any employer;
82921 (h) proceeds of a contract of insurance payable to the victim for the loss [~~he~~] the victim

82922 sustained because of the criminally injurious conduct;
82923 (i) a contract providing prepaid hospital and other health care services or benefits for
82924 disability; or
82925 (j) veteran's benefits, including veteran's hospitalization benefits.
82926 (2) (a) An order of restitution shall not be considered readily available as a collateral
82927 source.
82928 (b) Receipt of an award of reparations under this chapter shall be considered an
82929 assignment of the victim's rights to restitution from the offender.
82930 (3) The victim shall not discharge a claim against a person or entity without the state's
82931 written permission and shall fully cooperate with the state in pursuing its right of
82932 reimbursement, including providing the state with any evidence in [~~his~~] the victim's possession.
82933 (4) The state's right of reimbursement applies regardless of whether the victim has been
82934 fully compensated for [~~his~~] the victim's losses.
82935 (5) Notwithstanding the collateral source provisions in Subsection (1) and Subsection
82936 [~~63-25a-412~~] 63M-7-512(1)(a), a victim of a sexual offense who requests testing of himself
82937 may be reimbursed for the costs of the HIV test only as provided in Subsection 76-5-503(4).
82938 Section 1978. Section **63M-7-514**, which is renumbered from Section 63-25a-414 is
82939 renumbered and amended to read:
82940 **[~~63-25a-414~~]. 63M-7-514. Notification of claimant -- Suspension of**
82941 **proceedings.**
82942 (1) The Reparations Office shall immediately notify the claimant in writing of any
82943 decision and shall forward to the Division of Finance a certified copy of the decision and a
82944 warrant request for the amount of the claim. The Division of Finance shall pay the claimant
82945 the amount submitted to the division, out of the fund. If monies in the fund are temporarily
82946 depleted, claimants entitled to receive awards shall be placed on a waiting list and shall receive
82947 their awards as funds are available in the order in which their claims were awarded.
82948 (2) The reparations officer may suspend the proceedings pending disposition of a
82949 criminal prosecution that has been commenced or is imminent.
82950 Section 1979. Section **63M-7-515**, which is renumbered from Section 63-25a-415 is
82951 renumbered and amended to read:
82952 **[~~63-25a-415~~]. 63M-7-515. Rules for contested claims -- Exemption from**

82953 **Administrative Procedures Act.**
82954 (1) Rules for procedures for contested determinations by a reparations officer shall be
82955 adopted pursuant to [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
82956 Rulemaking Act.
82957 (2) Crime Victims' Reparations is exempt from [~~Title 63, Chapter 46b~~] Title 63G,
82958 Chapter 4, Administrative Procedures Act.
82959 Section 1980. Section **63M-7-516**, which is renumbered from Section 63-25a-416 is
82960 renumbered and amended to read:
82961 **[~~63-25a-416~~]. 63M-7-516. Waiver of privilege.**
82962 (1) A victim filing a claim under the provisions of this chapter shall be considered to
82963 have waived any privilege as to communications or records relevant to an issue of the physical,
82964 mental, or emotional conditions of the victim except for the attorney-client privilege. The
82965 waiver shall apply only to reparations officers, the director of reparations, the board, and legal
82966 counsel.
82967 (2) The claimant may be required to supply any additional medical or psychological
82968 reports available relating to the injury or death for which compensation is claimed.
82969 (3) The reparations officer hearing a claim or an appeal from a claim shall make
82970 available to the claimant a copy of the report. If the victim is deceased, the director or [~~his~~] the
82971 director's appointee, on request, shall furnish the claimant a copy of the report unless
82972 dissemination of that copy is prohibited by law.
82973 Section 1981. Section **63M-7-517**, which is renumbered from Section 63-25a-417 is
82974 renumbered and amended to read:
82975 **[~~63-25a-417~~]. 63M-7-517. Additional testing.**
82976 (1) If the mental, physical, or emotional condition of a victim is material to a claim, the
82977 reparations officer, director, or chair of the board who hears the claim or the appeal may order
82978 the claimant to submit to a mental or physical examination by a physician or psychologist and
82979 may recommend to the court to order an autopsy of a deceased victim.
82980 (2) Any order for additional examination shall be for good cause shown and shall
82981 provide notice to the person to be examined and [~~his~~] the person's representative.
82982 (3) All reports from additional examinations shall set out findings, including results of
82983 all tests made, diagnoses, prognoses, other conclusions, and reports of earlier examinations of

82984 the same conditions.
82985 (4) A copy of the report shall be made available to the victim or the representative of
82986 the victim unless dissemination of that copy is prohibited by law.
82987 Section 1982. Section **63M-7-518**, which is renumbered from Section 63-25a-418 is
82988 renumbered and amended to read:
82989 **[~~63-25a-418~~]. 63M-7-518. Failure to comply.**
82990 If a person refuses to comply with an order under this chapter or asserts a privilege,
82991 except privileges arising from the attorney-client relationship, to withhold or suppress evidence
82992 relevant to a claim, the director or reparations officer may make any appropriate determination
82993 including denial of the claim.
82994 Section 1983. Section **63M-7-519**, which is renumbered from Section 63-25a-419 is
82995 renumbered and amended to read:
82996 **[~~63-25a-419~~]. 63M-7-519. Assignment of recovery -- Reimbursement.**
82997 (1) By accepting an award of reparations, the victim automatically assigns to the state,
82998 subject to the provisions of Subsection (2), all claims against any third party to the lesser of:
82999 (a) the amount paid by the state; or
83000 (b) the amount recovered from the third party.
83001 (2) The board, with the concurrence of the director, may reduce the state's right of
83002 reimbursement if it is determined that the reduction will benefit the fund.
83003 (3) The state reserves the right to make a claim for reimbursement on behalf of the
83004 victim and the victim shall not impair the state's claim or the state's right of reimbursement.
83005 Section 1984. Section **63M-7-520**, which is renumbered from Section 63-25a-420 is
83006 renumbered and amended to read:
83007 **[~~63-25a-420~~]. 63M-7-520. Special verdict -- Allocation of damages.**
83008 In an action in a court of this state arising out of criminally injurious conduct, the judge,
83009 on timely motion, shall direct the jury to return a special verdict, indicating separately the
83010 awards to noneconomic detriment, punitive damages, and economic loss.
83011 Section 1985. Section **63M-7-521**, which is renumbered from Section 63-25a-421 is
83012 renumbered and amended to read:
83013 **[~~63-25a-421~~]. 63M-7-521. Award -- Payment methods -- Claims against the**
83014 **award.**

83015 (1) The reparations officer may provide for the payment of an award in a lump sum or
83016 in installments. The part of an award equal to the amount of economic loss accrued to the date
83017 of the award shall be paid in a lump sum. An award of allowable expense that would accrue
83018 after an initial award is made may not be paid in a lump sum. Except as provided in
83019 Subsection (2), the part of an award that may not be paid in a lump sum shall be paid in
83020 installments.
83021 (2) At the request of the claimant, the reparations officer may convert future economic
83022 loss installment payments, other than allowable expense, to a lump sum payment, discounted to
83023 present value, but only upon a finding by the officer that the award in a lump sum will promote
83024 the interests of the claimant.
83025 (3) An award for future economic loss payable in installments may be made only for a
83026 period for which the reparations officer can reasonably determine future economic loss. The
83027 reparations officer may reconsider and modify an award for future economic loss payable in
83028 installments, upon [~~his~~] the reparations officer's finding that a material and substantial change
83029 of circumstances has occurred.
83030 (4) An award is not subject to execution, attachment, or garnishment, except that an
83031 award for allowable expense is not exempt from a claim of a creditor to the extent that [~~he~~] the
83032 creditor provided products, services, or accommodations, the costs of which are included in the
83033 award.
83034 (5) An assignment or agreement to assign a right to reparations for loss accruing in the
83035 future is unenforceable, except:
83036 (a) an assignment of a right to reparations for work loss to secure payment of alimony,
83037 maintenance, or child support;
83038 (b) an assignment of a right to reparations for allowable expense to the extent that the
83039 benefits are for the cost of products, services, or accommodations necessitated by the injury or
83040 death on which the claim is based and are provided or to be provided by the assignee; or
83041 (c) an assignment to repay a loan obtained to pay for the obligations or expenses
83042 described in Subsection (5) (a) or (b).
83043 Section 1986. Section **63M-7-522**, which is renumbered from Section 63-25a-422 is
83044 renumbered and amended to read:
83045 **[~~63-25a-422~~]. 63M-7-522. Emergency award.**

83046 If the reparations officer determines that the claimant will suffer financial hardship
83047 unless an emergency award is made, and it appears likely that a final award will be made, an
83048 amount may be paid to the claimant, to be deducted from the final award or repaid by and
83049 recoverable from the claimant to the extent that it exceeds the final award. The board may
83050 limit emergency awards to any amount it considers necessary.
83051 Section 1987. Section **63M-7-523**, which is renumbered from Section 63-25a-423 is
83052 renumbered and amended to read:
83053 **[~~63-25a-423~~]. 63M-7-523. Review of award decision.**
83054 The reparations officer shall review at least annually every award being paid in
83055 installments. An order on review of an award does not require refund of amounts previously
83056 paid unless the award was obtained by fraud or a material mistake of fact.
83057 Section 1988. Section **63M-7-524**, which is renumbered from Section 63-25a-424 is
83058 renumbered and amended to read:
83059 **[~~63-25a-424~~]. 63M-7-524. Attorney fees.**
83060 (1) The claims procedures shall be sufficiently simple that the assistance of an attorney
83061 is unnecessary, and no attorney fees shall be paid for the assistance of an attorney or any other
83062 representative in filing the claim or providing information to the reparations officer.
83063 (2) Attorney fees may be granted in the following circumstances and shall be paid out
83064 of the reparations award not to exceed 15% of the amount of the reparations award:
83065 (a) when an award has been denied and, after a hearing, the decision to deny is
83066 overturned; or
83067 (b) when minor dependents of a deceased victim require assistance in establishing a
83068 trust or determining a guardian.
83069 (3) An attorney or any other person providing assistance in a reparations claim, who
83070 contracts for or receives sums not allowed under this chapter, is guilty of a class B
83071 misdemeanor. This provision shall not extend to attorneys who assist the victim in filing a
83072 civil action against the perpetrator.
83073 Section 1989. Section **63M-7-525**, which is renumbered from Section 63-25a-428 is
83074 renumbered and amended to read:
83075 **[~~63-25a-428~~]. 63M-7-525. Purpose -- Not entitlement program.**
83076 (1) Crime Victims' Reparations is a program with the purpose to assist victims of

83077 criminally injurious conduct. Reparation to a victim is limited to the monies available in the
83078 fund.
83079 (2) This program is not an entitlement program. Awards may be limited or denied as
83080 determined appropriate by the board. Failure to grant an award does not create a cause of
83081 action against Crime Victims' Reparations, the state, or any of its subdivisions. There is no
83082 right to judicial review over the decision whether or not to grant an award.
83083 (3) A cause of action based on a failure to give or receive the notice required by this
83084 chapter does not accrue to any person against the state, any of its agencies or local
83085 subdivisions, any of their law enforcement officers or other agents or employees, or any health
83086 care or medical provider or its agents or employees. The failure does not affect or alter any
83087 requirement for filing or payment of a claim.
83088 Section 1990. Section **63M-7-601**, which is renumbered from Section 63-25a-601 is
83089 renumbered and amended to read:
83090 **Part 6. Utah Council on Victims of Crime**
83091 **[~~63-25a-601~~]. 63M-7-601. Creation -- Members -- Chair.**
83092 (1) There is created within the governor's office the Utah Council on Victims of Crime.
83093 (2) The Utah Council on Victims of Crime shall be composed of 24 voting members as
83094 follows:
83095 (a) a representative of the Commission on Criminal and Juvenile Justice appointed by
83096 the executive director;
83097 (b) a representative of the Department of Corrections appointed by the executive
83098 director;
83099 (c) a representative of the Board of Pardons and Parole appointed by the chair;
83100 (d) a representative of the Department of Public Safety appointed by the commissioner;
83101 (e) a representative of the Division of Juvenile Justice Services appointed by the
83102 director;
83103 (f) a representative of the Office of Crime Victim Reparations appointed by the
83104 director;
83105 (g) a representative of the Office of the Attorney General appointed by the attorney
83106 general;
83107 (h) a representative of the United States Attorney for the district of Utah appointed by

83108 the United States Attorney;
83109 (i) a
83110 professional or volunteer working in the area of violence against women and families
83111 appointed by the governor;
83112 (j) the chair of each judicial district's victims' rights committee;
83113 (k) the following members appointed to serve four-year terms:
83114 (i) a representative of the Statewide Association of Public Attorneys appointed by that
83115 association;
83116 (ii) a representative of the Utah Chiefs of Police Association appointed by the president
83117 of that association;
83118 (iii) a representative of the Utah Sheriffs' Association appointed by the president of that
83119 association;
83120 (iv) a representative of a Children's Justice Center appointed by the Advisory Board on
83121 Children's Justice; and
83122 (v) a citizen representative appointed by the governor; and
83123 (l) the following members appointed by the members in Subsections (2)(a) through
83124 (2)(k) to serve four-year terms:
83125 (i) an individual who works professionally with victims of crime; and
83126 (ii) a victim of crime.
83127 (3) The council shall annually elect one member to serve as chair.
83128 Section 1991. Section **63M-7-602**, which is renumbered from Section 63-25a-602 is
83129 renumbered and amended to read:
83130 **[~~63-25a-602~~]. 63M-7-602. Reappointment -- Vacancies.**
83131 (1) Members appointed to serve four-year terms shall be eligible for reappointment one
83132 time.
83133 (2) When a vacancy occurs in the membership for any reason, the replacement shall be
83134 appointed for the unexpired term.
83135 Section 1992. Section **63M-7-603**, which is renumbered from Section 63-25a-603 is
83136 renumbered and amended to read:
83137 **[~~63-25a-603~~]. 63M-7-603. Duties.**
83138 (1) The council shall:

83139 (a) make recommendations to the Legislature, the governor, and the Judicial Council
83140 on the following:
83141 (i) enforcing existing rights of victims of crime;
83142 (ii) enhancing rights of victims of crime;
83143 (iii) the role of victims of crime in the criminal justice system;
83144 (iv) victim restitution;
83145 (v) educating and training criminal justice professionals on the rights of victims of
83146 crime; and
83147 (vi) enhancing services to victims of crimes;
83148 (b) provide training on the rights of victims of crime; and
83149 (c) establish a subcommittee to consider complaints not resolved by the Victims'
83150 Rights Committee established in Section 77-37-5.
83151 (2) The council shall advocate the adoption, repeal, or modification of laws or
83152 proposed legislation in the interest of victims of crime.
83153 (3) The council may establish additional subcommittees to assist in accomplishing its
83154 duties.
83155 Section 1993. Section **63M-7-604**, which is renumbered from Section 63-25a-604 is
83156 renumbered and amended to read:
83157 **[~~63-25a-604~~]. 63M-7-604. Compensation of members.**
83158 (1) (a) Members who are not government employees shall receive no compensation or
83159 benefits for their services, but may receive per diem and expenses incurred in the performance
83160 of the member's official duties at the rates established by the Division of Finance under
83161 Sections 63A-3-106 and 63A-3-107.
83162 (b) Members may decline to receive per diem and expenses for their services.
83163 (2) (a) State government officer and employee members who do not receive salary, per
83164 diem, or expenses from their agency for their service may receive per diem and expenses
83165 incurred in the performance of their official duties at the rates established by the Division of
83166 Finance under Sections 63A-3-106 and 63A-3-107.
83167 (b) State government officer and employee members may decline to receive per diem
83168 and expenses for their service.
83169 Section 1994. Section **63M-7-605**, which is renumbered from Section 63-25a-605 is

83170 renumbered and amended to read:
83171 **[~~63-25a-605~~]. 63M-7-605. Staffing.**
83172 The Commission on Criminal and Juvenile Justice shall provide staff to the council and
83173 any subcommittees established by the council.
83174 Section 1995. Section **63M-8-101** is enacted to read:
83175 **CHAPTER 8. UTAH COMMISSION FOR WOMEN AND FAMILIES ACT**
83176 **Part 1. General Provisions**
83177 **63M-8-101. Title.**
83178 This chapter is known as the "Utah Commission for Women and Families Act."
83179 Section 1996. Section **63M-8-201**, which is renumbered from Section 63-47-1 is
83180 renumbered and amended to read:
83181 **Part 2. Commission Members**
83182 **[~~63-47-1~~]. 63M-8-201. Creation -- Purpose.**
83183 (1) There is established the Utah Commission for Women and Families.
83184 (2) The governor's office shall provide administrative support for the commission.
83185 Section 1997. Section **63M-8-202**, which is renumbered from Section 63-47-2 is
83186 renumbered and amended to read:
83187 **[~~63-47-2~~]. 63M-8-202. Members -- Appointment -- Terms -- Vacancies --**
83188 **Expenses.**
83189 (1) (a) Except as required by Subsection (1)(b), the commission shall consist of up to
83190 15 members to be appointed by the governor for a four-year term.
83191 (b) Notwithstanding the requirements of Subsection (1)(a), the governor shall, at the
83192 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
83193 commission members are staggered so that approximately half of the commission is appointed
83194 every two years.
83195 (c) Members may serve two consecutive appointments.
83196 (d) In making appointments, the governor shall insure that no more than one more than
83197 half the membership is from the same political party.
83198 (2) When a vacancy occurs in the membership for any reason, the replacement shall be
83199 appointed by the governor for the remainder of the unexpired term.
83200 (3) (a) Members shall receive no compensation or benefits for their services, but may

83201 receive per diem and expenses incurred in the performance of the member's official duties at
83202 the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
83203 (b) Members may decline to receive per diem and expenses for their service.
83204 Section 1998. Section **63M-8-203**, which is renumbered from Section 63-47-3 is
83205 renumbered and amended to read:
83206 **[~~63-47-3~~]. 63M-8-203. Qualifications of members.**
83207
83208 (1) Members appointed to the commission shall have the following qualifications:
83209 (a) a demonstrated record of leadership and involvement; and
83210 (b) a willingness to make a commitment to the furtherance of the purposes of the
83211 commission.
83212 (2) The commission may make recommendations to the governor concerning
83213 appointment of members.
83214 Section 1999. Section **63M-8-204**, which is renumbered from Section 63-47-4 is
83215 renumbered and amended to read:
83216 **[~~63-47-4~~]. 63M-8-204. Election of chairman -- Meetings.**
83217 Commission members shall elect a chairman, and may appoint such other officers from
83218 its membership as is deemed necessary. The commission shall meet in regular meetings and
83219 may meet at special meetings at the request of the chairman or the governor.
83220 Section 2000. Section **63M-8-301**, which is renumbered from Section 63-47-5 is
83221 renumbered and amended to read:
83222 **Part 3. Commission Duties and Activities**
83223 **[~~63-47-5~~]. 63M-8-301. Duties.**
83224 The commission shall:
83225 (1) confer with state agencies and advise the governor, through the governor's program
83226 director, concerning programs of importance to women and families;
83227 (2) conduct studies, workshops, or fact-finding hearings to develop recommendations
83228 for constructive action in all areas of interest to women and families;
83229 (3) conduct or participate in educational programs concerning issues of importance to
83230 women and families; and
83231 (4) act as a liaison between the governor and national advisory organizations on the

83232 status of women or families.
83233 Section 2001. Section **63M-8-302**, which is renumbered from Section 63-47-7 is
83234 renumbered and amended to read:
83235 **[~~63-47-7~~]. 63M-8-302. Authority to accept funds, gifts, and donations.**
83236 The commission may, subject to [~~Title 63, Chapter 38e~~] Title 63J, Chapter 5, Federal
83237 Funds Procedures, receive and accept federal funds, and receive and accept private gifts,
83238 donations, or funds from any source.
83239 Section 2002. Section **63M-8-303**, which is renumbered from Section 63-47-8 is
83240 renumbered and amended to read:
83241 **[~~63-47-8~~]. 63M-8-303. Enactment of bylaws and rules.**
83242 The commission may enact bylaws or other rules for its own governance.
83243 Section 2003. Section **63M-9-101**, which is renumbered from Section 63-75-1 is
83244 renumbered and amended to read:
83245 **CHAPTER 9. FAMILIES, AGENCIES, AND COMMUNITIES**
83246 **TOGETHER FOR CHILDREN AND YOUTH AT RISK ACT**
83247 **Part 1. General Provisions**
83248 **[~~63-75-1~~]. 63M-9-101. Title.**
83249 This chapter is known as the "Families, Agencies, and Communities Together for
83250 Children and Youth At Risk Act."
83251 Section 2004. Section **63M-9-102**, which is renumbered from Section 63-75-2 is
83252 renumbered and amended to read:
83253 **[~~63-75-2~~]. 63M-9-102. Purpose of chapter.**
83254 (1) It is declared that the policy of the state is to unite the Department of Human
83255 Services, the State Office of Education, the Department of Health, the Office of the Court
83256 Administrator, and the Department of Workforce Services, community-based service
83257 organizations, and parents to develop and implement comprehensive systems of services and
83258 supports for children and youth at risk and their families.
83259 (2) It is the intent of the Legislature that service delivery systems developed under this
83260 chapter shall require collaboration between existing state and local agencies and between
83261 public, private, and voluntary agencies to enhance their capacity to meet community needs.
83262 Section 2005. Section **63M-9-103**, which is renumbered from Section 63-75-3 is

83263 renumbered and amended to read:
83264 **[~~63-75-3~~]. 63M-9-103. Definitions.**
83265 As used in this chapter:
83266 (1) "Children and youth at risk" means:
83267 (a) disabled persons age 18 to 22; or
83268 (b) persons in the custody of the Division of Juvenile Justice Services within the
83269 Department of Human Services age 18 to 21; and
83270 (c) minors who may at times require appropriate and uniquely designed intervention to:
83271 (i) achieve literacy;
83272 (ii) advance through the schools;
83273 (iii) achieve commensurate with their ability; and
83274 (iv) participate in society in a meaningful way as competent, productive, caring, and
83275 responsible citizens.
83276 (2) "Council" means the Families, Agencies, and Communities Together Council
83277 established under Section [~~63-75-4~~] 63M-9-201.
83278 (3) "Local interagency council" means a council established under Section [~~63-75-5.7~~]
83279 63M-9-301.
83280 (4) "Steering committee" means the Families, Agencies, and Communities Together
83281 Steering Committee established under Section [~~63-75-5~~] 63M-9-202.
83282 (5) (a) "Child and family centered service delivery system" means services provided to
83283 children and youth at risk and their families that may be delivered by teams and within a
83284 supportive community environment.
83285 (b) "Community" includes, when available, parents of children and youth at risk;
83286 directors of geographical service delivery areas designated by state agencies; local government
83287 elected officials; appointed county officials who are responsible for providing substance abuse,
83288 mental health, or public health services; educators; school districts; parent-teacher
83289 organizations; child and family advocacy groups; religious and community-based service
83290 organizations; individuals; and private sector entities who come together to develop, adopt, and
83291 administer a plan for a collaborative service delivery system for children and youth at risk.
83292 (c) "Community resources" means time, money, services, and other contributions
83293 provided by individuals, private sector entities, religious organizations, community-based

83294 service organizations, school districts, municipal governments, and county governments.
83295 (d) "Individualized and coordinated service plan" means a plan for services and
83296 supports that is comprehensive in its scope, is the product of a collaborative process between
83297 public and private service providers, and is specifically tailored to the unique needs of each
83298 child or youth served under this chapter.
83299 (e) "Performance monitoring system" means a process to regularly collect and analyze
83300 performance information including performance indicators and performance goals:
83301 (i) "performance indicators" means actual performance information regarding a
83302 program or activity; and
83303 (ii) "performance goals" means a target level of performance or an expected level of
83304 performance against which actual performance is measured.
83305 (f) "Plan for a collaborative service delivery system," "plan," or "plans" means a
83306 written document describing how a community proposes to deliver services and supports to
83307 children and youth at risk that effectively bring to bear all needed resources, including
83308 community resources, to enable them to achieve the outcomes described in Subsection (1)(c).
83309 Section 2006. Section **63M-9-104**, which is renumbered from Section 63-75-8 is
83310 renumbered and amended to read:
83311 **[~~63-75-8~~]. 63M-9-104. Relationship to political subdivisions.**
83312 Nothing in this chapter affects the power of a political subdivision to carry out its
83313 responsibilities as otherwise provided by law.
83314 Section 2007. Section **63M-9-201**, which is renumbered from Section 63-75-4 is
83315 renumbered and amended to read:
83316 **Part 2. State Council and Steering Committee**
83317 **[~~63-75-4~~]. 63M-9-201. Families, Agencies, and Communities Together State**
83318 **Council -- Composition -- Duties -- Interagency case management team.**
83319 (1) (a) There is created within state government the Families, Agencies, and
83320 Communities Together State Council composed of:
83321 (i) the state superintendent of public instruction;
83322 (ii) the executive director of the Department of Health;
83323 (iii) the executive director of the Department of Human Services;
83324 (iv) the state court administrator; and

83325 (v) the executive director of the Department of Workforce Services.
83326 (b) The council members listed in Subsection (1)(a) shall appoint to a four-year term
83327 the following nonvoting members:
83328 (i) a representative of community-based service organizations appointed to a four-year
83329 term;
83330 (ii) a parent representative from a rural community; and
83331 (iii) a parent representative from an urban community.
83332 (c) If a vacancy occurs with respect to a council member appointed under Subsection
83333 (1)(b), council members listed in Subsection (1)(a) shall appoint a replacement for the
83334 unexpired term.
83335 (d) Appointments and reappointments under Subsection (1)(b) and (c) shall be made
83336 within 60 days of a vacancy.
83337 (2) (a) The council shall annually elect a chair from its membership.
83338 (b) All voting members of the council are necessary to constitute a quorum at any
83339 meeting.
83340 (c) The action of a majority of a quorum is the action of the council, except that a
83341 unanimous vote of the council is required to appoint or remove a nonvoting council member.
83342 (d) The council shall meet quarterly or more frequently as determined by the chair.
83343 (3) (a) State government officer and employee members who do not receive salary, per
83344 diem, or expenses from their agency for their service may receive per diem and expenses
83345 incurred in the performance of their official duties from the council at the rates established by
83346 the Division of Finance under Sections 63A-3-106 and 63A-3-107.
83347 (b) Members who are not government employees may not receive compensation or
83348 benefits for their services, but may receive per diem and expenses incurred in the performance
83349 of the member's official duties from the council at rates established by the Division of Finance
83350 under Sections 63A-3-106 and 63A-3-107.
83351 (c) Council members may decline to receive per diem and expenses for their service.
83352 (4) The council shall:
83353 (a) provide leadership to increase and enhance efficient and effective services to Utah's
83354 children and youth at risk by:
83355 (i) cooperatively planning, funding, monitoring, evaluating, and marketing innovative

83356 and individualized service delivery and funding strategies;
83357 (ii) recommending legislative, executive, and judicial policy and procedural changes,
83358 including joint budget proposals as described in Section [~~63-38-2~~] 63J-1-201;
83359 (iii) developing incentives and strategies to increase family involvement, collaboration,
83360 and public-private partnerships in the planning and delivery of services at the state and local
83361 level;
83362 (iv) promoting prevention and early intervention services;
83363 (v) increasing public understanding of and advocating for the needs of Utah's children
83364 and youth who are at risk; and
83365 (vi) establishing policies to remove administrative barriers to collaboration in
83366 communities;
83367 (b) compile and disseminate information regarding effective service delivery and
83368 funding strategies for replication;
83369 (c) receive and act upon recommendations of the steering committee;
83370 (d) approve the establishment of collaborative service delivery systems under Section
83371 [~~63-75-6.5~~] 63M-9-402 and adopt performance goals for those systems;
83372 (e) recommend to the governor for each fiscal year funds contained in an agency's base
83373 budget and building block request that can be identified for collaborative service delivery
83374 systems established under Section [~~63-75-6.5~~] 63M-9-402;
83375 (f) (i) develop model administrative and governance structures to be established by
83376 communities that at least:
83377 (A) ensure accountability for public funds;
83378 (B) are voluntarily adopted and modified by communities, based on community needs;
83379 (C) ensure collaboration on matters of policy and administrative processes in operating
83380 programs under this chapter between the state, school districts, and counties;
83381 (D) establish a board consisting of heads of state and local government agencies,
83382 private agencies, and school districts that provide services under this chapter; and
83383 (E) ensure equity in the scope, duration, and level of services throughout a prescribed
83384 geographical area;
83385 (ii) the council may, through contracts that provide funding for programs under this
83386 chapter, give incentives to communities to establish an administrative and governance structure

83387 that meets the requirements of Subsection (4)(f)(i) and to designate the geographical area
83388 within which that administrative and governance structure will operate;
83389 (g) review the structure and function of the steering committee before December 1,
83390 1999, to determine the effectiveness of the steering committee in:
83391 (i) achieving the purposes and carrying out the responsibilities of the committee; and
83392 (ii) assisting communities to establish collaborative service delivery systems;
83393 (h) forward to the Legislature for the 2000 General Session recommendations for
83394 restructuring the size, membership, and function of the steering committee based on the review
83395 conducted under Subsection (4)(g); and
83396 (i) report to the governor and the Legislature on an annual basis.
83397 (5) The council shall ensure that projects selected under Section [~~63-75-6~~] 63M-9-401
83398 have outcomes that:
83399 (a) focus all project activities on the prevention of academic failure and social
83400 misbehaviors;
83401 (b) involve parents in planning, implementation, and evaluation of services;
83402 (c) allow frequent opportunities for planning between teachers, parents, school
83403 administrators, and representatives of agencies and community-based service organizations that
83404 provide services; and
83405 (d) provide frequent monitoring and assessment of each child's and youth's progress.
83406 (6) (a) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
83407 Administrative Rulemaking Act, the council shall make rules to ensure cooperative
83408 development of individualized and coordinated service plans by local interagency councils and
83409 case management teams for children or youth at risk and their families who receive services
83410 under this chapter.
83411 (b) For purposes of developing and implementing individualized and coordinated
83412 plans, the members of the local interagency councils and case management teams shall be
83413 considered to be employees of each agency represented on the team and entitled to review and
83414 discuss agency records as necessary in planning and providing services under a plan.
83415 (c) Records shared by the teams remain the property of the supplying agency and may
83416 not be incorporated in the records of another agency unless transferred in accordance with
83417 standard procedures for transfer of records of the type in question.

83418 Section 2008. Section **63M-9-202**, which is renumbered from Section 63-75-5 is
83419 renumbered and amended to read:
83420 **[~~63-75-5~~]. 63M-9-202. Steering committee -- Membership -- Duties.**
83421 (1) As used in this section, "Council of Mental Health Programs" means a council
83422 consisting of all of the directors of Utah public mental health centers.
83423 (2) There is established a Families, Agencies, and Communities Together Steering
83424 Committee.
83425 (3) The steering committee shall include at least 18 voting members as follows:
83426 (a) the director of the Division of Health Care Financing within the Department of
83427 Health;
83428 (b) a representative annually designated by the Council of Mental Health Programs;
83429 (c) the director of the Division of Substance Abuse and Mental Health within the
83430 Department of Human Services;
83431 (d) the director of the Division of Juvenile Justice Services within the Department of
83432 Human Services;
83433 (e) the state director of special education;
83434 (f) the person responsible for programs for at risk students within the Utah State Office
83435 of Education, if that person is not the state director of special education;
83436 (g) the Juvenile Court Administrator;
83437 (h) a representative annually designated by substance abuse directors;
83438 (i) the director of the Division of Child and Family Services within the Department of
83439 Human Services;
83440 (j) the director of family health services programs;
83441 (k) a representative annually designated by the Utah School Superintendents
83442 Association;
83443 (l) a juvenile court judge designated by the presiding officer of the state Judicial
83444 Council;
83445 (m) a representative annually designated by the local health officers;
83446 (n) a representative annually designated by the executive director of the Department of
83447 Workforce Services;
83448 (o) three at-large members appointed by a majority of the committee to four-year

83449 terms, who represent a statewide perspective on children and youth issues; and
83450 (p) parent representatives appointed by members specified in Subsections (3)(a)
83451 through (o).
83452 (4) Additional members may be selected by a majority of the committee to serve as
83453 voting members for four-year terms.
83454 (5) (a) Except as required by Subsection (5)(b), as terms of current at-large committee
83455 members expire, the committee shall appoint each new member or reappointed member to a
83456 four-year term.
83457 (b) Notwithstanding the requirements of Subsection (5)(a), the committee shall, at the
83458 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
83459 at-large committee members are staggered so that approximately half of the at-large committee
83460 members are appointed every two years.
83461 (6) When a vacancy occurs in the membership for any reason, the replacement shall be
83462 appointed for the unexpired term.
83463 (7) The members shall annually elect a chair and vice chair.
83464 (8) A majority of committee members are necessary to constitute a quorum and to
83465 transact the business of the committee.
83466 (9) (a) (i) Members who are not government employees may not receive compensation
83467 or benefits for their services, but may receive per diem and expenses incurred in the
83468 performance of the member's official duties at the rates established by the Division of Finance
83469 under Sections 63A-3-106 and 63A-3-107.
83470 (ii) Members may decline to receive per diem and expenses for their service.
83471 (b) (i) State government officer and employee members who do not receive salary, per
83472 diem, or expenses from their agency for their service may receive per diem and expenses
83473 incurred in the performance of their official duties from the committee at the rates established
83474 by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
83475 (ii) State government officer and employee members may decline to receive per diem
83476 and expenses for their service.
83477 (c) (i) Local government members who do not receive salary, per diem, or expenses
83478 from the entity that they represent for their service may receive per diem and expenses incurred
83479 in the performance of their official duties at the rates established by the Division of Finance

83480 under Sections 63A-3-106 and 63A-3-107.
83481 (ii) Local government members may decline to receive per diem and expenses for their
83482 service.
83483 (10) The committee shall:
83484 (a) assist the council in fulfilling its duties set out in Section [~~63-75-4~~] 63M-9-201;
83485 (b) monitor, solicit input for policy changes, and provide technical assistance to local
83486 collaborative programs; and
83487 (c) report any formal recommendations to the council.
83488 Section 2009. Section **63M-9-203**, which is renumbered from Section 63-75-5.5 is
83489 renumbered and amended to read:
83490 **[~~63-75-5.5~~]. 63M-9-203. Staffing.**
83491 The Department of Human Services, the Department of Health, the State Office of
83492 Education, and the Office of the Court Administrator shall provide staff for the state council
83493 and steering committee.
83494 Section 2010. Section **63M-9-301**, which is renumbered from Section 63-75-5.7 is
83495 renumbered and amended to read:
83496 **Part 3. Local Councils**
83497 **[~~63-75-5.7~~]. 63M-9-301. Local interagency council -- Composition -- Duties.**
83498 (1) Communities shall establish local interagency councils to improve service delivery
83499 to children and youth at risk, who are experiencing multiple problems and require services
83500 from more than one agency.
83501 (2) Each local interagency council shall consist of representatives from each agency
83502 serving children and youth who are at risk and their families within the community.
83503 (a) At a minimum the council shall consist of a family advocate and a local
83504 representative from the following:
83505 (i) child welfare;
83506 (ii) developmental disabilities;
83507 (iii) education;
83508 (iv) health;
83509 (v) juvenile justice;
83510 (vi) mental health;

83511 (vii) parents;
83512 (viii) substance abuse; and
83513 (ix) youth corrections.
83514 (b) The members of the local interagency council specified in Subsections (a)(i)
83515 through (ix) shall select three parents from the local community to serve on the local
83516 interagency council, representative of families with children.
83517 (3) The local interagency council shall:
83518 (a) provide general staffing for individual at risk cases which require services from
83519 more than one agency;
83520 (b) provide services to meet the needs of individual cases or create new services to fill
83521 gaps in current service continuum;
83522 (c) develop an individualized and coordinated service plan for each child or youth at
83523 risk and [~~his~~] the child or youth's family; and
83524 (d) establish a case management process to implement individualized and coordinated
83525 service plans.
83526 (4) Each local interagency council shall integrate into its operational procedures a
83527 method to involve parents in the staffing and service planning process.
83528 (5) (a) Each local interagency council shall operate in accordance with a written
83529 agreement entered into by the participating agencies.
83530 (b) The agreement shall include a provision that the participating agencies agree to
83531 implement the service recommendations in the individualized and coordinated service plan
83532 when not inconsistent with federal law.
83533 Section 2011. Section **63M-9-401**, which is renumbered from Section 63-75-6 is
83534 renumbered and amended to read:
83535 **Part 4. Service Programs**
83536 **[~~63-75-6~~]. 63M-9-401. Prevention and early intervention programs --**
83537 **Applicants -- Selection process.**
83538 (1) Within appropriations from the Legislature, the council shall implement prevention
83539 and early intervention programs for children and youth at risk.
83540 (2) The council shall select a limited number of participants for programs described in
83541 Subsection (1) through applications submitted by local entities.

83542 (3) (a) (i) The written consent of a parent or guardian is necessary for a child or youth
83543 at risk to participate in a program operated under Subsection (1).
83544 (ii) Programs for children who are enrolled in public schools shall also be subject to the
83545 disclosure and written consent provisions of Section 53A-13-301 and Section 53A-13-302.
83546 (iii) A parent or guardian may withdraw consent at any time.
83547 (b) Notwithstanding Subsection (3)(a), a court may order a child's participation in a
83548 prevention and early intervention program.
83549 (4) The prevention and early intervention services provided under this section shall:
83550 (a) be comprehensive and collaborative;
83551 (b) seek to strengthen and preserve families;
83552 (c) be culturally sensitive, family focused, and community based;
83553 (d) protect children and youth at risk;
83554 (e) prevent abuse and neglect;
83555 (f) provide access to health care; and
83556 (g) prevent academic failure as defined in Subsection 78-3a-316(2)(a).
83557 (5) (a) A case management team shall be established at each participating site.
83558 (b) The case management team shall include at least the following:
83559 (i) parents who represent a community perspective on children and youth at risk;
83560 (ii) an educator at the school if the child receiving services is enrolled in a public
83561 school;
83562 (iii) the principal if the child receiving services is enrolled in a public school;
83563 (iv) a public health nurse;
83564 (v) a representative of the local mental health authority;
83565 (vi) a representative from the Division of Child and Family Services within the
83566 Department of Human Services;
83567 (vii) a representative from the Employment Development Division; and
83568 (viii) other persons considered appropriate by those persons specified in Subsections
83569 (5)(b)(i) through (vii), based on the needs of the child or youth and [~~his~~] the child or youth's
83570 family.
83571 (6) (a) Nothing in this chapter shall be construed to waive the civil, constitutional, or
83572 parental rights of any child, youth, parent, or guardian.

83573 (b) The case management team shall recommend that children or youth be evaluated
83574 for at risk intervention.
83575 Section 2012. Section **63M-9-402**, which is renumbered from Section 63-75-6.5 is
83576 renumbered and amended to read:
83577 **[~~63-75-6.5~~]. 63M-9-402. Plans for collaborative service delivery systems.**
83578 (1) The council shall provide incentives for communities to develop collaborative
83579 service delivery systems. If a community desires to enter into a contract with the council under
83580 this section, it shall submit to the council a plan for a collaborative service delivery system.
83581 That plan shall be in a form prescribed by the council and shall include at least the following:
83582 (a) the community's designation of a state agency, school district, political subdivision,
83583 or private entity that will act as fiscal agent for the plan;
83584 (b) an assurance that the plan was developed through an inclusive process involving,
83585 when available, parents of children and youth at risk, representatives of state agencies and local
83586 governments, educators, school districts, child and family advocacy groups, religious and
83587 service organizations, and parent-teacher associations;
83588 (c) a description of how the collaborative service delivery system will be administered,
83589 including the membership, powers, and duties of any board, commission, or council that will
83590 direct the service delivery system;
83591 (d) a budget for the proposed collaborative service delivery system, including funds
83592 requested from the council;
83593 (e) a description of a performance monitoring system to be used by the community,
83594 including the community's performance goals and performance indicators; and
83595 (f) any waivers to the rules of the State Board of Education, Department of Human
83596 Services, Department of Health, or rule of judicial administration necessary to carry out the
83597 community initiative.
83598 (2) In awarding an application under this section, the council shall consider the extent
83599 to which the proposed community initiative:
83600 (a) promotes early intervention and prevention;
83601 (b) employs a collaborative method of delivering services;
83602 (c) is endorsed by all public and private service delivery agencies that are anticipated to
83603 provide services to at-risk children and youth under the proposed collaborative service delivery

83604 system;
83605 (d) is accountable for results;
83606 (e) utilizes private community resources, including resources provided by religious and
83607 service organizations;
83608 (f) utilizes the resources of the at risk child's immediate and extended family;
83609 (g) leverages county, municipal and school district funding sources to enhance the
83610 scope, extent, and availability of services;
83611 (h) leverages private funding sources within the community to enhance the scope,
83612 extent, and availability of services;
83613 (i) employs individualized and coordinated service plans;
83614 (j) establishes a single point of entry for children, youth, and their families who require
83615 services;
83616 (k) provides comprehensive services for children and youth at risk through grade 12
83617 and appropriate prenatal care; and
83618 (l) exhibits innovation in delivering services or addressing needs.
83619 (3) (a) On or before July 1, 1996, the council shall adopt a prospectus to solicit
83620 proposals for the submission of plans.
83621 (b) From among the proposals for plans received under Subsection (a), the council may
83622 award grants to communities to partially or fully pay for the development of plans.
83623 (c) From the plans received under Subsection (b), the council may contract with the
83624 fiscal agent designated in the plan. That contract shall contain at least the following
83625 provisions:
83626 (i) a description of the scope of work and program narrative;
83627 (ii) a description of the community's performance monitoring system which shall
83628 coordinate with existing performance monitoring systems, including the community's
83629 performance goals and performance indicators;
83630 (iii) an enumeration of the dollar amount that will be provided by the council to the
83631 fiscal agent; and
83632 (iv) a waiver to an administrative rule, if any, granted by the agency that adopted the
83633 rule.
83634 (d) For fiscal year 1996-97, a contract under Subsection (c) is for the period of time

83635 between April 1, 1997, and June 30, 1997. For each fiscal year thereafter, a contract may not
83636 exceed the period of the fiscal year.
83637 Section 2013. Section **63M-9-501**, which is renumbered from Section 63-75-7 is
83638 renumbered and amended to read:
83639 **Part 5. Evaluations and Reports**
83640 **[~~63-75-7~~]. 63M-9-501. Evaluation of programs -- Report to legislative interim**
83641 **committee.**
83642 (1) At the end of each fiscal year, a final report shall be submitted to the council
83643 summarizing the outcome of each project under this chapter.
83644 (2) (a) The council may conduct an independent evaluation of any or all of the projects
83645 to assess the status of services provided and identified outcomes.
83646 (b) The council shall prepare and deliver a report on the program to the Legislature's
83647 Education, Health and Human Services, and Judiciary Interim Committees before October 1,
83648 2005.
83649 (c) The report shall include a recommendation by the council as to whether the
83650 program should be terminated, continued, or expanded.
83651 Section 2014. Section **63M-10-101**, which is renumbered from Section 63-92-1 is
83652 renumbered and amended to read:
83653 **CHAPTER 10. SERIOUS HABITUAL OFFENDER**
83654 **COMPREHENSIVE ACTION PROGRAM (SHOCAP) ACT**
83655 **Part 1. General Provisions**
83656 **[~~63-92-1~~]. 63M-10-101. Title.**
83657 This chapter is known as the "Serious Habitual Offender Comprehensive Action
83658 Program (SHOCAP) Act."
83659 Section 2015. Section **63M-10-201**, which is renumbered from Section 63-92-2 is
83660 renumbered and amended to read:
83661 **Part 2. Serious Habitual Offender Comprehensive Action Program**
83662 **[~~63-92-2~~]. 63M-10-201. Creation -- Purpose -- Administration -- Access.**
83663 (1) There is created the Serious Habitual Offender Comprehensive Action Program
83664 (SHOCAP) to establish a SHOCAP Database to identify and track youthful offenders in order
83665 to assist agencies in providing collaborative and comprehensive services to them.

83666 (2) The database shall be administered by the Administrative Office of the Courts with
83667 information contributed by the following agencies:
83668 (a) the State Office of Education, including all school districts;
83669 (b) the Department of Health;
83670 (c) the Department of Human Services, including all county mental health agencies;
83671 (d) the Department of Public Safety;
83672 (e) all county and municipal law enforcement agencies; and
83673 (f) all county and district attorney offices.
83674 (3) The database shall be maintained in accordance with guidelines established by the
83675 Administrative Office of the Courts so that the agencies listed in Subsection (2) can efficiently
83676 access the database.
83677 (4) Information provided by schools in compliance with the provisions of this chapter
83678 is authorized under the Family Educational Rights and Privacy Act Regulations, 34 CFR Part
83679 99.
83680 (5) Information in the database provided by an agency to the database is considered to
83681 be the property of the agency providing the information and retains any classification given it
83682 under [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records Access and
83683 Management Act.
83684 (6) Any person who knowingly releases or discloses information from the database for
83685 a purpose other than authorized by this chapter or to a person who is not entitled to it is guilty
83686 of a class B misdemeanor.
83687 (7) Neither the state nor the courts are liable to any person for gathering, managing, or
83688 using the information in the database as provided in this chapter.
83689 Section 2016. Section **63M-10-202**, which is renumbered from Section 63-92-3 is
83690 renumbered and amended to read:
83691 **[~~63-92-3~~]. 63M-10-202. Establishment of local oversight committees --**
83692 **Interagency information sharing.**
83693 (1) The Commission on Criminal and Juvenile Justice shall administer the statewide
83694 SHOCAP oversight committee and provide periodic review of the programs.
83695 (2) Counties or municipalities implementing SHOCAP shall form a local oversight
83696 committee composed of the following persons, or their designees:

83697 (a) the district juvenile court administrator;
83698 (b) the superintendent of the local school district;
83699 (c) the local county attorney;
83700 (d) a member of the local county or municipal legislative body;
83701 (e) the local county sheriff;
83702 (f) a local chief of police;
83703 (g) the local chief of probation for the Juvenile Court;
83704 (h) the regional director of the Division of Juvenile Justice Services;
83705 (i) the regional director of the Division of Child and Family Services;
83706 (j) a representative of a local public mental health provider; and
83707 (k) any additional members considered appropriate by the local oversight committee.
83708 (3) The local oversight committee shall develop, implement, and periodically review
83709 the following:
83710 (a) standardized criteria as developed by the statewide SHOCAP oversight committee
83711 for determining who is a serious habitual offender (SHO);
83712 (b) what information is needed on each offender for inclusion in the program;
83713 (c) who will have access to the database;
83714 (d) who will maintain the database and manage the information in the program;
83715 (e) what the information in the database is to be used for; and
83716 (f) penalties for improper use of the information in the database.
83717 (4) The local oversight committee shall develop a written interagency information
83718 sharing agreement to be signed by the chief executive officer of each of the agencies
83719 represented on the oversight committee. The sharing agreement shall include the provisions
83720 requiring that:
83721 (a) all records pertaining to a SHO be kept confidential;
83722 (b) when a SHO is included in the SHOCAP program for the purposes of tracking and
83723 providing coordinated services, the local law enforcement agency or an agency designated by
83724 the interagency agreement shall as soon as reasonably possible notify the SHO and the parent
83725 or guardian of the SHO;
83726 (c) the disclosure of information to other staff members of signatory agencies be made
83727 only to those staff members who provide direct services or supervision to the SHO; and

83728 (d) all staff members of signatory agencies receiving confidential information
83729 concerning a SHO be subject to the confidentiality requirements of this chapter.
83730 (5) Notwithstanding any other statutory provision, staff members of signatory agencies
83731 who provide direct services or supervision to SHOCAP youth may distribute photographs of
83732 SHOCAP youth to other staff members of signatory agencies who provide direct services or
83733 supervision to SHOCAP youth.
83734 (6) The local oversight committee shall develop a program capable of maintaining the
83735 information determined to be necessary under Subsection (3).
83736 Section 2017. Section **63M-11-101**, which is renumbered from Section 63-99-101 is
83737 renumbered and amended to read:

83738 **CHAPTER 11. UTAH COMMISSION ON AGING**

83739 **Part 1. General Provisions**

83740 **[~~63-99-101~~]. 63M-11-101. Title.**
83741 This chapter is known as "Utah Commission on Aging."
83742 Section 2018. Section **63M-11-102**, which is renumbered from Section 63-99-103 is
83743 renumbered and amended to read:
83744 **[~~63-99-103~~]. 63M-11-102. Creation -- Purpose.**
83745 (1) In accordance with this chapter, there is created within the governor's office the
83746 Utah Commission on Aging.
83747 (2) The commission's purpose is to:
83748 (a) increase public and government understanding of the current and future needs of the
83749 state's aging population and how those needs may be most effectively and efficiently met;
83750 (b) study, evaluate, and report on the projected impact that the state's increasing aging
83751 population will have on:
83752 (i) government services;
83753 (ii) health services;
83754 (iii) social services;
83755 (iv) the economy; and
83756 (v) society in general;
83757 (c) identify and recommend implementation of specific policies, procedures, and
83758 programs to respond to the needs and impact of the aging population relating to:

83759 (i) government services;
83760 (ii) health services;
83761 (iii) social services;
83762 (iv) the economy; and
83763 (v) society in general;
83764 (d) facilitate coordination of the functions of public and private entities concerned with
83765 the aging population; and
83766 (e) accomplish the duties enumerated in Section [~~63-99-106~~] 63M-11-203.
83767 Section 2019. Section **63M-11-103**, which is renumbered from Section 63-99-102 is
83768 renumbered and amended to read:
83769 **[~~63-99-102~~]. 63M-11-103. Definitions.**
83770 As used in this chapter:
83771 (1) "Aging" and "aged" are as defined in Section 62A-3-101.
83772 (2) "Center on Aging" means the Center on Aging within the University of Utah.
83773 (3) "Commission" means the Utah Commission on Aging, created in Section
83774 [~~63-99-103~~] 63M-11-102.
83775 Section 2020. Section **63M-11-201**, which is renumbered from Section 63-99-104 is
83776 renumbered and amended to read:
83777 **Part 2. Commission**
83778 **[~~63-99-104~~]. 63M-11-201. Composition -- Appointments -- Terms --**
83779 **Removal.**
83780 (1) The commission shall be composed of 21 voting members as follows:
83781 (a) one senator, appointed by the president of the Senate;
83782 (b) one representative, appointed by the speaker of the House of Representatives;
83783 (c) the executive director of the Department of Health;
83784 (d) the executive director of the Department of Human Services;
83785 (e) the executive director of the Governor's Office of Economic Development;
83786 (f) the executive director of the Department of Workforce Services; and
83787 (g) 15 voting members, appointed by the governor, representing each of the following:
83788 (i) the Utah Association of Area Agencies on Aging;
83789 (ii) higher education in Utah;

83790 (iii) the business community;
83791 (iv) the Utah Association of Counties;
83792 (v) the Utah League of Cities and Towns;
83793 (vi) charitable organizations;
83794 (vii) the health care provider industry;
83795 (viii) financial institutions;
83796 (ix) the legal profession;
83797 (x) the public safety sector;
83798 (xi) public transportation;
83799 (xii) ethnic minorities;
83800 (xiii) the industry that provides long-term care for the elderly;
83801 (xiv) organizations or associations that advocate for the aging population; and
83802 (xv) the general public.
83803 (2) (a) A member appointed under Subsection (1)(g) shall serve a two-year term.
83804 (b) Notwithstanding the term requirements of Subsection (2)(a), the governor may
83805 adjust the length of the initial commission members' terms to ensure that the terms are
83806 staggered so that approximately 1/2 of the members appointed under Subsection (1)(g) are
83807 appointed each year.
83808 (c) When, for any reason, a vacancy occurs in a position appointed by the governor
83809 under Subsection (1)(g), the governor shall appoint a person to fill the vacancy for the
83810 unexpired term of the commission member being replaced.
83811 (d) Members appointed under Subsection (1)(g) may be removed by the governor for
83812 cause.
83813 (e) A member appointed under Subsection (1)(g) shall be removed from the
83814 commission and replaced by the governor if the member is absent for three consecutive
83815 meetings of the commission without being excused by the chair of the commission.
83816 (3) In appointing the members under Subsection (1)(g), the governor shall:
83817 (a) take into account the geographical makeup of the commission; and
83818 (b) strive to appoint members who are knowledgeable or have an interest in issues
83819 relating to the aging population.
83820 Section 2021. Section **63M-11-202**, which is renumbered from Section 63-99-105 is

83821 renumbered and amended to read:
83822 **[~~63-99-105~~]. 63M-11-202. Executive director -- Qualifications --**
83823 **Appointment -- Functions.**
83824 (1) (a) Subject to Subsections (1)(b) and (c), the executive director of the Center on
83825 Aging shall appoint an executive director of the commission.
83826 (b) The executive director appointed under Subsection (1)(a) shall be a person
83827 knowledgeable and experienced in matters relating to:
83828 (i) management; and
83829 (ii) the aging population.
83830 (c) The appointment described in Subsection (1)(a) is not effective until ratified by the
83831 governor.
83832 (2) The executive director of the commission, under the direction of the commission
83833 and the executive director of the Center on Aging, shall administer the duties of the
83834 commission.
83835 Section 2022. Section **63M-11-203**, which is renumbered from Section 63-99-106 is
83836 renumbered and amended to read:
83837 **[~~63-99-106~~]. 63M-11-203. Duties and powers of commission.**
83838 (1) The commission shall:
83839 (a) fulfill the commission's purposes as listed in Section [~~63-99-103~~] 63M-11-102;
83840 (b) facilitate the communication and coordination of public and private entities that
83841 provide services to the aging population;
83842 (c) study, evaluate, and report on the status and effectiveness of policies, procedures,
83843 and programs that provide services to the aging population;
83844 (d) study and evaluate the policies, procedures, and programs implemented by other
83845 states that address the needs of the aging population;
83846 (e) facilitate and conduct the research and study of issues related to aging;
83847 (f) provide a forum for public comment on issues related to aging;
83848 (g) provide public information on the aging population and the services available to the
83849 aging population;
83850 (h) facilitate the provision of services to the aging population from the public and
83851 private sectors; and

83852 (i) encourage state and local governments to analyze, plan, and prepare for the impacts
83853 of the aging population on services and operations.
83854 (2) To accomplish its duties, the commission may:
83855 (a) request and receive from any state or local governmental agency or institution,
83856 summary information relating to the aging population, including:
83857 (i) reports;
83858 (ii) audits;
83859 (iii) projections; and
83860 (iv) statistics;
83861 (b) apply for and accept grants or donations for uses consistent with the duties of the
83862 commission from public or private sources; and
83863 (c) appoint special committees to advise and assist the commission.
83864 (3) All funds received under Subsection (2)(b) shall be:
83865 (a) accounted for and expended in compliance with the requirements of federal and
83866 state law; and
83867 (b) continuously available to the commission to carry out the commission's duties.
83868 (4) (a) Members of a special committee described in Subsection (2)(c):
83869 (i) shall be appointed by the commission;
83870 (ii) may be:
83871 (A) members of the commission; or
83872 (B) individuals from the private or public sector; and
83873 (iii) notwithstanding Section [~~63-99-109~~] 63M-11-206, shall not receive any
83874 reimbursement or pay for any work done in relation to the special committee.
83875 (b) A special committee described in Subsection (2)(c) shall report to the commission
83876 on the progress of the special committee.
83877 (5) This chapter does not diminish the planning authority conferred on state, regional,
83878 and local governments by existing law.
83879 Section 2023. Section **63M-11-204**, which is renumbered from Section 63-99-107 is
83880 renumbered and amended to read:
83881 **[~~63-99-107~~]. 63M-11-204. Annual report by the commission.**
83882 (1) The commission shall annually prepare and publish a report directed to the:

83883 (a) governor; and
83884 (b) Executive Appropriations Committee of the Legislature.
83885 (2) The report described in Subsection (1) shall:
83886 (a) describe how the commission fulfilled its statutory purposes and duties during the
83887 year; and
83888 (b) contain recommendations on how the state should act to address issues relating to
83889 the aging population.
83890 Section 2024. Section **63M-11-205**, which is renumbered from Section 63-99-108 is
83891 renumbered and amended to read:
83892 **[~~63-99-108~~]. 63M-11-205. Appointment of chair -- Meetings.**
83893 (1) The governor shall appoint a member of the commission to serve as chair.
83894 (2) (a) Subject to the other provisions of this Subsection (2), the chair is responsible for
83895 the call and conduct of meetings.
83896 (b) The chair shall call and hold meetings of the commission at least bimonthly.
83897 (c) One of the bimonthly meetings described in Subsection (2)(b) shall be held while
83898 the Legislature is convened in its annual session.
83899 (d) One or more additional meetings may be called upon request by a majority of the
83900 commission's members.
83901 (3) (a) A majority of the members of the commission constitute a quorum.
83902 (b) The action of a majority of a quorum constitutes the action of the commission.
83903 Section 2025. Section **63M-11-206**, which is renumbered from Section 63-99-109 is
83904 renumbered and amended to read:
83905 **[~~63-99-109~~]. 63M-11-206. Members serve without pay -- Reimbursement**
83906 **for expenses.**
83907 (1) A member of the commission who is not a government employee shall receive no
83908 compensation or benefits for the member's services, but may:
83909 (a) receive per diem and expenses incurred in the performance of the member's official
83910 duties at the rates established by the Division of Finance under Sections 63A-3-106 and
83911 63A-3-107; or
83912 (b) decline to receive per diem and expenses for the member's service.
83913 (2) A member of the commission who is a state government officer or employee and

83914 who does not receive salary, per diem, or expenses from the member's agency for the member's
83915 service may:
83916 (a) receive per diem and expenses incurred in the performance of the member's official
83917 duties from the commission at the rates established by the Division of Finance under Sections
83918 63A-3-106 and 63A-3-107; or
83919 (b) decline to receive per diem and expenses for the member's service.
83920 (3) A legislator on the commission shall receive compensation and expenses as
83921 provided by law and legislative rule.
83922 Section 2026. Section **63M-11-207**, which is renumbered from Section 63-99-110 is
83923 renumbered and amended to read:
83924 **[~~63-99-110~~]. 63M-11-207. Oversight -- Executive director salary -- Staff**
83925 **support -- Use of funds.**
83926 (1) The Center on Aging shall:
83927 (a) pay the salary, and oversee the performance of, the executive director of the
83928 commission;
83929 (b) provide staff support for the executive director of the commission and the
83930 commission; and
83931 (c) provide office space, furnishings, and supplies to the commission, the executive
83932 director of the commission, and support staff.
83933 (2) The funds appropriated by the Legislature for the commission may only be used for
83934 the purposes described in this chapter.
83935 Section 2027. Section **64-9b-6** is amended to read:
83936 **64-9b-6. Rules.**
83937 The department is authorized to promulgate rules in accordance with [~~Title 63, Chapter~~
83938 ~~46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to carry out the
83939 purposes of this chapter.
83940 Section 2028. Section **64-13-10** is amended to read:
83941 **64-13-10. Department duties -- Rulemaking authority.**
83942 (1) The department shall provide probation supervision programs, parole supervision
83943 programs, correctional facilities, community correctional centers, and other programs or
83944 facilities as necessary and as required to accomplish its purposes.

83945 (2) The department may make rules in accordance with [~~Title 63, Chapter 46a~~] Title
83946 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this
83947 chapter.
83948 Section 2029. Section **64-13-14.7** is amended to read:
83949 **64-13-14.7. Victim notification of offender's release.**
83950 (1) As used in this section:
83951 (a) "Offender" means a person who committed an act of criminally injurious conduct
83952 against the victim and has been sentenced to incarceration in the custody of the department.
83953 (b) "Victim" means a person against whom an offender committed criminally injurious
83954 conduct as defined in Section [~~63-25a-402~~] 63M-7-502, and who is entitled to notice of
83955 hearings regarding the offender's parole under Section 77-27-9.5. "Victim" includes the legal
83956 guardian of a victim, or the representative of the family of a victim who is deceased.
83957 (2) (a) A victim shall be notified of an offender's release under Sections 64-13-14.5 and
83958 64-13-14.7, or any other release to or from a half-way house, to a program outside of the prison
83959 such as a rehabilitation program, state hospital, community center other than a release on
83960 parole, commutation or termination for which notice is provided under Sections 77-27-9.5 and
83961 77-27-9.7, transfer of the offender to an out-of-state facility, or an offender's escape, upon
83962 submitting a signed written request of notification to the Department of Corrections. The
83963 request shall include a current mailing address and may include current telephone numbers if
83964 the victim chooses.
83965 (b) The department shall advise the victim of an offender's release or escape under
83966 Subsection (2)(a), in writing. However, if written notice is not feasible because the release is
83967 immediate or the offender escapes, the department shall make a reasonable attempt to notify
83968 the victim by telephone if the victim has provided a telephone number under Subsection (2)(a)
83969 and shall follow up with a written notice.
83970 (3) Notice of victim rights under this section shall be provided to the victim in the
83971 notice of hearings regarding parole under Section 77-27-9.5. The department shall coordinate
83972 with the Board of Pardons and Parole to ensure the notice is implemented.
83973 (4) A victim's request for notification under this section and any notification to a victim
83974 under this section is private information that the department may not release:
83975 (a) to the offender under any circumstances; or

83976 (b) to any other party without the written consent of the victim.
83977 (5) The department may make rules as necessary to implement this section.
83978 (6) The department or its employees acting within the scope of their employment are
83979 not civilly or criminally liable for failure to provide notice or improper notice under this section
83980 unless the failure or impropriety is willful or grossly negligent.
83981 Section 2030. Section **64-13-17** is amended to read:
83982 **64-13-17. Visitors to correctional facilities -- Correspondence.**
83983 (1) (a) The following persons may visit correctional facilities without the consent of
83984 the department:
83985 (i) the governor;
83986 (ii) the attorney general;
83987 (iii) a justice or judge of the courts of record;
83988 (iv) members of the Board of Pardons and Parole;
83989 (v) members of the Legislature;
83990 (vi) the sheriff, district attorney, and county attorney for the county in which the
83991 correctional facility is located; and
83992 (vii) any other persons authorized under rules prescribed by the department or court
83993 order.
83994 (b) Any person acting under a court order may visit or correspond with any inmate
83995 without the consent of the department provided the department has received notice of, and is
83996 permitted to respond to, the court order. The court shall consider department policy when
83997 making its order.
83998 (c) The department may limit access to correctional facilities when the department or
83999 governor declares an emergency or when there is a riot or other disturbance.
84000 (2) (a) A person may not visit with any offender at any correctional facility, other than
84001 under Subsection (1), without the consent of the department.
84002 (b) Offenders and all visitors, including those listed in Subsection (1), may be required
84003 to submit to a search or inspection of their persons and properties as a condition of visitation.
84004 (3) The department shall make rules under [~~Title 63, Chapter 46a~~] Title 63G, Chapter
84005 3, Utah Administrative Rulemaking Act, establishing guidelines for providing written notice to
84006 visitors regarding prohibited items and regarding the fact that under state law all visitors may

84007 be required to submit to a search of their persons and properties as a condition of visitation.
84008 (4) Offenders housed at any correctional facility may send and receive correspondence,
84009 subject to the rules of the department. All correspondence is subject to search, consistent with
84010 department rules.
84011 Section 2031. Section **64-13-20** is amended to read:
84012 **64-13-20. Investigative services -- Presentence investigations and diagnostic**
84013 **evaluations.**
84014 (1) The department shall:
84015 (a) provide investigative and diagnostic services and prepare reports to:
84016 (i) assist the courts in sentencing;
84017 (ii) assist the Board of Pardons and Parole in its decisionmaking responsibilities
84018 regarding offenders;
84019 (iii) assist the department in managing offenders; and
84020 (iv) assure the professional and accountable management of the department;
84021 (b) establish standards for providing investigative and diagnostic services based on
84022 available resources, giving priority to felony cases;
84023 (c) employ staff for the purpose of conducting:
84024 (i) thorough presentence investigations of the social, physical, and mental conditions
84025 and backgrounds of offenders;
84026 (ii) examinations when required by the court or the Board of Pardons and Parole; and
84027 (iii) thorough diagnostic evaluations of offenders as the court finds necessary to
84028 supplement the presentence investigation report under Section 76-3-404.
84029 (2) The department may provide recommendations concerning appropriate measures to
84030 be taken regarding offenders.
84031 (3) (a) The presentence diagnostic evaluation and investigation reports prepared by the
84032 department are protected as defined in Section [~~63-2-304~~] 63G-2-305 and after sentencing may
84033 not be released except by express court order or by rules made by the Department of
84034 Corrections.
84035 (b) The reports are intended only for use by:
84036 (i) the court in the sentencing process;
84037 (ii) the Board of Pardons and Parole in its decisionmaking responsibilities; and

84038 (iii) the department in the supervision, confinement, and treatment of the offender.
84039 (4) Presentence diagnostic evaluation and investigation reports shall be made available
84040 upon request to other correctional programs within the state if the offender who is the subject
84041 of the report has been committed or is being evaluated for commitment to the facility for
84042 treatment as a condition of probation or parole.
84043 (5) (a) The presentence investigation reports shall include a victim impact statement in
84044 all felony cases and in misdemeanor cases if the defendant caused bodily harm or death to the
84045 victim.
84046 (b) Victim impact statements shall:
84047 (i) identify the victim of the offense;
84048 (ii) itemize any economic loss suffered by the victim as a result of the offense;
84049 (iii) identify any physical, mental, or emotional injuries suffered by the victim as a
84050 result of the offense, and the seriousness and permanence;
84051 (iv) describe any change in the victim's personal welfare or familial relationships as a
84052 result of the offense;
84053 (v) identify any request for mental health services initiated by the victim or the victim's
84054 family as a result of the offense; and
84055 (vi) contain any other information related to the impact of the offense upon the victim
84056 or the victim's family that the court requires.
84057 (6) If the victim is deceased; under a mental, physical, or legal disability; or otherwise
84058 unable to provide the information required under this section, the information may be obtained
84059 from the personal representative, guardian, or family members, as necessary.
84060 (7) The department shall employ staff necessary to pursue investigations of complaints
84061 from the public, staff, or offenders regarding the management of corrections programs.
84062 Section 2032. Section **64-13-21** is amended to read:
84063 **64-13-21. Supervision of sentenced offenders placed in community -- Rulemaking**
84064 **-- POST certified parole or probation officers and peace officers -- Duties -- Supervision**
84065 **fee.**
84066 (1) (a) The department, except as otherwise provided by law, shall supervise sentenced
84067 offenders placed in the community on probation by the courts, on parole by the Board of
84068 Pardons and Parole, or upon acceptance for supervision under the terms of the Interstate

84069 Compact for the Supervision of Parolees and Probationers.
84070 (b) Standards for the supervision of offenders shall be established by the department in
84071 accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
84072 Rulemaking Act, giving priority, based on available resources, to felony offenders.
84073 (2) Employees of the department who are POST certified as law enforcement officers
84074 or correctional officers and who are designated as parole and probation officers by the
84075 executive director have the following duties:
84076 (a) monitoring, investigating, and supervising a parolee's or probationer's compliance
84077 with the conditions of the parole or probation agreement;
84078 (b) investigating or apprehending any offender who has escaped from the custody of
84079 the department or absconded from supervision;
84080 (c) providing investigative services for the courts, the department, or the Board of
84081 Pardons and Parole;
84082 (d) supervising any offender during transportation; or
84083 (e) collecting DNA specimens when the specimens are required under Section
84084 53-10-404.
84085 (3) (a) A monthly supervision fee of $30 shall be collected from each offender on
84086 probation or parole. The fee may be suspended or waived by the department upon a showing
84087 by the offender that imposition would create a substantial hardship or if the offender owes
84088 restitution to a victim.
84089 (b) (i) The department shall make rules in accordance with [~~Title 63, Chapter 46a~~] Title
84090 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying the criteria for suspension or
84091 waiver of the supervision fee and the circumstances under which an offender may request a
84092 hearing.
84093 (ii) In determining whether the imposition of the supervision fee would constitute a
84094 substantial hardship, the department shall consider the financial resources of the offender and
84095 the burden that the fee would impose, with regard to the offender's other obligations.
84096 Section 2033. Section **64-13-25** is amended to read:
84097 **64-13-25. Standards for programs -- Audits.**
84098 (1) To promote accountability and to ensure safe and professional operation of
84099 correctional programs, the department shall establish minimum standards for the organization

84100 and operation of its programs.
84101 (a) The standards shall be promulgated according to state rulemaking provisions.
84102 Those standards that apply to offenders are exempt from the provisions of [~~Title 63, Chapter~~
84103 ~~46a~~] Title 63G, Chapter 3, the Utah Administrative Rulemaking Act. Offenders are not a class
84104 of persons under that act.
84105 (b) Standards shall provide for inquiring into and processing offender complaints.
84106 (2) There shall be an audit for compliance with standards according to policies and
84107 procedures established by the department, for continued operation of correctional programs.
84108 (a) At least every three years, the department shall internally audit all programs for
84109 compliance with established standards.
84110 (b) All financial statements and accounts of the department shall be reviewed during
84111 the audit. Written review shall be provided to the managers of the programs and the executive
84112 director of the department.
84113 (c) The reports shall be classified as confidential internal working papers and access is
84114 available at the discretion of the executive director or the governor, or upon court order.
84115 Section 2034. Section **64-13-38** is amended to read:
84116 **64-13-38. Emergency release due to overcrowding.**
84117 (1) When the executive director of the department finds that the inmate population of
84118 the Utah State Prison has exceeded physical capacity for at least 45 calendar days, [~~he~~] the
84119 executive director may:
84120 (a) notify the governor that an overcrowding emergency exists and provide him with
84121 information relevant to that determination; and
84122 (b) notify the Board of Pardons and Parole of the existence of the overcrowding
84123 emergency so that the board may commence emergency releases pursuant to Subsection (2).
84124 (2) Upon the governor's receipt of notification of the existence of an emergency
84125 release, the department shall:
84126 (a) notify the board of the number of inmates who need to be released in order to
84127 eliminate the overcrowding emergency;
84128 (b) in cooperation and consultation with the board, compile a list of inmates by
84129 chronological order according to their existing parole release dates, sufficient to eliminate the
84130 overcrowding emergency; and

84131 (c) for each inmate listed in accordance with Subsection (2)(b), notify the board if the
84132 department has any reason to believe that the inmate has violated a disciplinary rule or for
84133 some other reason recommends that the inmate's existing parole date be rescinded.
84134 (3) Unless the board has identified a reason to believe that the inmate's existing parole
84135 date should be rescinded, the parole release date of each inmate identified in Subsection (2)(b)
84136 may be advanced a sufficient number of days to allow for release.
84137 (4) When the process described in Subsections (2) and (3) has been completed, the
84138 board may order the release of the eligible inmates.
84139 (5) The department shall:
84140 (a) send to the Commission on Criminal and Juvenile Justice a list of names of the
84141 inmates released under this section; and
84142 (b) provide the name and address of each inmate to the local law enforcement agency
84143 for the political subdivision in which the inmate intends to reside.
84144 (6) The department shall inform the governor when the emergency release has been
84145 completed.
84146 (7) The board shall make rules in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
84147 Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this section.
84148 Section 2035. Section **64-13-39.5** is amended to read:
84149 **64-13-39.5. Definitions -- Health care for chronically or terminally ill offenders --**
84150 **Notice to health care facility.**
84151 (1) As used in this section:
84152 (a) "Department or agency" means the Utah Department of Corrections or a department
84153 of corrections or government entity responsible for placing an offender in a facility located in
84154 Utah.
84155 (b) "Chronically ill" has the same meaning as in Section 31A-36-102.
84156 (c) "Facility" means an assisted living facility as defined in Subsection 26-21-2(5) and a
84157 nursing care facility as defined in Subsection 26-21-2(17), except that transitional care units
84158 and other long term care beds owned or operated on the premises of acute care hospitals or
84159 critical care hospitals are not facilities for the purpose of this section.
84160 (d) "Offender" means an inmate whom the department or agency has given an early
84161 release, pardon, or parole due to a chronic or terminal illness.

84162 (e) "Terminally ill" has the same meaning as in Subsection 31A-36-102(11).
84163 (2) If an offender from Utah or any other state is admitted as a resident of a facility due
84164 to the chronic or terminal illness, the department or agency placing the offender shall:
84165 (a) provide written notice to the administrator of the facility no later than 15 days prior
84166 to the offender's admission as a resident of a facility, stating:
84167 (i) the offense for which the offender was convicted and a description of the actual
84168 offense;
84169 (ii) the offender's status with the department or agency;
84170 (iii) that the information provided by the department or agency regarding the offender
84171 shall be provided to employees of the facility no later than ten days prior to the offender's
84172 admission to the facility; and
84173 (iv) the contact information for:
84174 (A) the offender's parole officer and also a point of contact within the department or
84175 agency, if the offender is on parole; and
84176 (B) a point of contact within the department or agency, if the offender is not under
84177 parole supervision but was given an early release or pardon due to a chronic or terminal illness;
84178 (b) make available to the public on the Utah Department of Corrections' website and
84179 upon request:
84180 (i) the name and address of the facility where the offender resides; and
84181 (ii) the date the offender was placed at the facility; and
84182 (c) provide a training program for employees who work in a facility where offenders
84183 reside, and if the offender is placed at the facility by:
84184 (i) the Utah Department of Corrections, the department shall provide the training
84185 program for the employees; and
84186 (ii) by a department or agency from another state, that state's department or agency
84187 shall arrange with the Utah Department of Corrections to provide the training required by this
84188 Subsection (2), if training has not already been provided by the Utah Department of
84189 Corrections, and shall provide to the Utah Department of Corrections any necessary
84190 compensation for this service.
84191 (3) The administrator of the facility shall:
84192 (a) provide residents of the facility or their guardians notice that a convicted felon is

84193 being admitted to the facility no later than ten days prior to the offender's admission to the
84194 facility;
84195 (b) advise potential residents or their guardians of persons under Subsection (2) who
84196 are current residents of the facility; and
84197 (c) provide training, offered by the Utah Department of Corrections, in the safe
84198 management of offenders for all employees.
84199 (4) The Utah Department of Corrections shall make rules under [~~Title 63, Chapter 46a~~]
84200 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing:
84201 (a) a consistent format and procedure for providing notification to facilities and
84202 information to the public in compliance with Subsection (2); and
84203 (b) a training program, in compliance with Subsection (3) for employees, who work at
84204 facilities where offenders reside to ensure the safety of facility residents and employees.
84205 Section 2036. Section **64-13-41** is amended to read:
84206 **64-13-41. Limitations on offender access to sexually explicit material.**
84207 (1) As used in this section:
84208 (a) (i) "Commercially published information or material" means any book, booklet,
84209 pamphlet, magazine, periodical, newsletter, or similar document, including stationery and
84210 greeting cards, and video and audio tapes, disks, or other recording, that is distributed or made
84211 available through any means or media for a commercial purpose.
84212 (ii) "Commercially published information or material" includes an extraction,
84213 photocopy, clipping, or electronically created copy made from any of the items under
84214 Subsection (1)(a)(i).
84215 (b) (i) "Features nudity" means the information or material:
84216 (A) that, in the case of a one-time publication or issue, promotes itself based upon
84217 depictions of nudity or sexually explicit conduct; or
84218 (B) that, in the case of information or material other than under Subsection
84219 (1)(b)(i)(A), contains depictions of nudity or sexually explicit conduct on a routine or regular
84220 basis.
84221 (ii) The department may by rule, pursuant to [~~Title 63, Chapter 46a~~] Title 63G, Chapter
84222 3, Utah Administrative Rulemaking Act, exclude from the definition in Subsection (1)(b)(i)
84223 information or material containing nudity that is illustrative of medical, educational, or

84224 anthropological content.
84225 (c) "Nudity" means a pictorial depiction where genitalia or female breasts are exposed.
84226 (d) "Offender" means any person who has been convicted of a crime and is housed in a
84227 prison, jail, youth detention facility, or community correctional center.
84228 (e) "Sexually explicit" means a pictorial depiction of actual or simulated sexual acts,
84229 including sexual intercourse, sodomy, or masturbation.
84230 (f) "State funds" means state or local funding provided to the department, and includes
84231 legislative appropriations to the department, dedicated credits, grants, and monies for jail
84232 reimbursement to county correctional facilities under Title 64, Chapter 13, Department of
84233 Corrections - State Prison, private providers, and contractors.
84234 (2) State funds may not be used to distribute or make available any commercially
84235 published information or material to an offender when the state employee, contractor, or
84236 private provider who has the authority to expend the funds knows that the commercially
84237 published information or material is sexually explicit or features nudity.
84238 (3) (a) When the department rejects commercially published information or material
84239 for distribution to an offender under this section, the department shall advise the publisher or
84240 sender that it may request reconsideration by the department of the decision to reject the
84241 material. However, the department need advise the publisher or sender only once in the case of
84242 information or material that on a routine or regular basis either depicts sexually explicit
84243 material or features nudity.
84244 (b) The department shall make rules pursuant to [~~Title 63, Chapter 46a~~] Title 63G,
84245 Chapter 3, Utah Administrative Rulemaking Act, to establish an administrative reconsideration
84246 process.
84247 (c) For purposes of extraordinary relief under Rule 65B, Utah Rules of Civil
84248 Procedure, this administrative reconsideration process is a plain, speedy, and adequate legal
84249 remedy that must be exhausted before extraordinary relief is available.
84250 (d) There is no right to judicial review of the department's decision under this section
84251 to reject material for distribution.
84252 (4) This section does not apply to sexually explicit material used under Section
84253 76-10-1207.5 for the assessment or treatment of an offender.
84254 Section 2037. Section **64-13a-13** is amended to read:

84255 **64-13a-13. Purchases of material -- Exemption.**
84256 (1) The Division of Correctional Industries is exempt from the provisions of [~~Title 63,~~
84257 ~~Chapter 56~~] Title 63G, Chapter 6, Utah Procurement Code, in respect to goods or services
84258 purchased by or sold to the department.
84259 (2) The purchase of raw materials for use by the division in manufacturing or
84260 processing products for resale is exempt from the powers and duties of the state purchasing
84261 agent.
84262 Section 2038. Section **65A-1-4** is amended to read:
84263 **65A-1-4. Division of Forestry, Fire and State Lands -- Creation -- Power and**
84264 **authority.**
84265 (1) (a) The Division of Forestry, Fire and State Lands is created within the Department
84266 of Natural Resources under the administration and general supervision of the executive director
84267 of the department.
84268 (b) The division is the executive authority for the management of sovereign lands, and
84269 the state's mineral estates on lands other than school and institutional trust lands, and shall
84270 provide for forestry and fire control activities as required in Section 65A-8-101.
84271 (2) The division shall adopt rules under [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
84272 Utah Administrative Rulemaking Act, necessary to fulfill the purposes of this title.
84273 (3) The director of the Division of Forestry, Fire and State Lands is the executive and
84274 administrative head of the division and shall be a person experienced in administration and
84275 management of natural resources.
84276 (4) The director shall inform the council:
84277 (a) in an annual meeting of the division's plans, policies, and budget; and
84278 (b) of policy changes and developing conflicts.
84279 (5) The director shall give the council an opportunity to advise on the changes and
84280 conflicts.
84281 (6) (a) An aggrieved party to a final action by the director may appeal that action to the
84282 executive director of the Department of Natural Resources within 20 days after the action.
84283 (b) The executive director shall rule on the director's action within 20 days after receipt
84284 of the appeal.
84285 Section 2039. Section **65A-8-105** is amended to read:

84286 **65A-8-105. Urban and community forestry program.**
84287 (1) An urban and community forestry program is created within the division.
84288 (2) The purpose of the program is to encourage the planting and maintenance of trees
84289 within municipalities and unincorporated communities.
84290 (3) The division may:
84291 (a) advise and assist municipalities, counties, and other public and private entities in
84292 developing and coordinating policies, programs, and activities promoting urban and
84293 community forestry;
84294 (b) receive, by following the procedures and requirements of [~~Title 63, Chapter 38e~~]
84295 Title 63J, Chapter 5, Federal Funds Procedures, federal funds for the urban and community
84296 forestry program; and
84297 (c) provide grants to municipalities and counties for urban and community forestry
84298 programs and cooperative projects.
84299 (4) The division shall:
84300 (a) develop a public education program to inform tree care professionals and citizens of
84301 the hazards involved with the planting of new trees and the maintenance of existing trees near
84302 overhead power lines and highways; and
84303 (b) develop and implement a program of public awareness to inform citizens about the
84304 benefits of planting trees in urban areas and how to maintain trees.
84305 Section 2040. Section **65A-8-207** is amended to read:
84306 **65A-8-207. Division to administer Wildland Fire Suppression Fund --**
84307 **Rulemaking -- Procedures.**
84308 (1) By following the procedures and requirements of [~~Title 63, Chapter 46a~~] Title 63G,
84309 Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules to administer
84310 the Wildland Fire Suppression Fund, including rules:
84311 (a) requiring documentation for:
84312 (i) the number of acres of privately or county-owned land in the unincorporated area of
84313 a participating county; and
84314 (ii) an acre or real property exempt in Subsection 65A-8-205(2)(b);
84315 (b) describing the method or formula for determining:
84316 (i) normal fire suppression costs; and

84317 (ii) equity payments required by Section 65A-8-205; and
84318 (c) specifying fire suppression and presuppression costs that may be paid with
84319 disbursements from the fund.
84320 (2) By following the procedures and requirements of [~~Title 63, Chapter 46b~~] Title 63G,
84321 Chapter 4, Administrative Procedures Act, the division shall determine whether an acre or real
84322 property is eligible for the exemption provided in Subsection 65A-8-205(2)(b).
84323 Section 2041. Section **65A-8a-103** is amended to read:
84324 **65A-8a-103. Registration of operators.**
84325 (1) An operator intending to conduct forest practices in Utah, except a landowner
84326 conducting forest practices on [~~his or her~~] the landowner's own land, shall register with the
84327 division.
84328 (2) The operator shall submit the following information to the division:
84329 (a) the name of the company;
84330 (b) the name of the state where the company is incorporated; and
84331 (c) the name, telephone number, and address of a company officer and an
84332 on-the-ground supervisor.
84333 (3) In consultation with industry representatives, the division may establish, by rule,
84334 minimum requirements for registration of operators in accordance with [~~Title 63, Chapter 46a~~]
84335 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
84336 (4) The division shall make available to landowners a list of registered operators.
84337 Section 2042. Section **67-1-2** is amended to read:
84338 **67-1-2. Sending list of gubernatorial nominees to Senate and to Office of**
84339 **Legislative Research and General Counsel.**
84340 (1) Unless waived by a majority of the president of the Senate, the Senate majority
84341 leader, and the Senate minority leader, 15 days before any Senate session to confirm any
84342 gubernatorial nominee, except a judicial appointment, the governor shall send to each member
84343 of the Senate and to the Office of Legislative Research and General Counsel:
84344 (a) a list of each nominee for an office or position made by the governor in accordance
84345 with the Utah Constitution and state law; and
84346 (b) any information that may support or provide biographical information about the
84347 nominee, including resumes and curriculum vitae.

84348 (2) When the governor makes a judicial appointment, the governor shall immediately
84349 provide to the president of the Senate and the Office of Legislative Research and General
84350 Counsel:
84351 (a) the name of the judicial appointee; and
84352 (b) the judicial appointee's:
84353 (i) resume;
84354 (ii) complete file of all the application materials the governor received from the
84355 Judicial Nominating Commission; and
84356 (iii) any other related documents, including any letters received by the governor about
84357 the appointee, unless the letter specifically directs that it may not be shared.
84358 (3) The governor shall inform the president of the Senate and the Office of Legislative
84359 Research and General Counsel of the number of letters withheld pursuant to Subsection
84360 (2)(b)(iii).
84361 (4) (a) Letters of inquiry submitted by any judge at the request of any judicial
84362 nominating commission shall be classified as private in accordance with Section [~~63-2-302~~]
84363 63G-2-302.
84364 (b) All other records received from the governor pursuant to this Subsection (4) may be
84365 classified as private in accordance with Section [~~63-2-302~~] 63G-2-302.
84366 (5) The Senate shall consent or refuse to give its consent to the nomination or judicial
84367 appointment.
84368 Section 2043. Section **67-1a-2.5** is amended to read:
84369 **67-1a-2.5. Fees of lieutenant governor.**
84370 In addition to the fees prescribed by Title 16, Chapter 6a, Utah Revised Nonprofit
84371 Corporation Act, and Title 16, Chapter 10a, Utah Revised Business Corporation Act, the
84372 lieutenant governor shall receive and determine fees pursuant to Section [~~63-38-3.2~~] 63J-1-303
84373 for the following:
84374 (1) for a copy of any law, resolution, record, or other document or paper on file in the
84375 lieutenant governor's office, other than documents or papers filed under Title 16, Chapter 6a,
84376 Utah Revised Nonprofit Corporation Act, and Title 16, Chapter 10a, Utah Revised Business
84377 Corporation Act;
84378 (2) for affixing certificate and the Great Seal of the state, except on documents filed

84379 under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, and Title 16, Chapter
84380 10a, Utah Revised Business Corporation Act;
84381 (3) for each commission signed by the governor, except that no charge may be made
84382 for commissions to public officers serving without compensation;
84383 (4) for each warrant of arrest issued by the governor and attested by the lieutenant
84384 governor upon the requisition of any other state or territory;
84385 (5) for recording miscellaneous papers or documents;
84386 (6) for filing any paper or document not otherwise provided for; and
84387 (7) for searching records and archives of the state, except that no member of the
84388 Legislature or other state or county officer may be charged for any search relative to matters
84389 appertaining to the duties of [~~his~~] the member or officer's office or for a certified copy of any
84390 law or resolution relative to [~~his~~] the member or officer's official duties passed by the
84391 Legislature.
84392 Section 2044. Section **67-3-1** is amended to read:
84393 **67-3-1. Functions and duties.**
84394 (1) (a) The state auditor is the auditor of public accounts and is independent of any
84395 executive or administrative officers of the state.
84396 (b) The state auditor is not limited in the selection of personnel or in the determination
84397 of the reasonable and necessary expenses of [~~his~~] the state auditor's office.
84398 (2) The state auditor shall examine and certify annually in respect to each fiscal year,
84399 financial statements showing:
84400 (a) the condition of the state's finances;
84401 (b) the revenues received or accrued;
84402 (c) expenditures paid or accrued;
84403 (d) the amount of unexpended or unencumbered balances of the appropriations to the
84404 agencies, departments, divisions, commissions, and institutions; and
84405 (e) the cash balances of the funds in the custody of the state treasurer.
84406 (3) (a) The state auditor shall:
84407 (i) audit each permanent fund, each special fund, the General Fund, and the accounts of
84408 any department of state government or any independent agency or public corporation as the law
84409 requires, as the auditor determines is necessary, or upon request of the governor or the

84410 Legislature;
84411 (ii) perform the audits in accordance with generally accepted auditing standards and
84412 other auditing procedures as promulgated by recognized authoritative bodies;
84413 (iii) as the auditor determines is necessary, conduct the audits to determine:
84414 (A) honesty and integrity in fiscal affairs;
84415 (B) accuracy and reliability of financial statements;
84416 (C) effectiveness and adequacy of financial controls; and
84417 (D) compliance with the law.
84418 (b) If any state entity receives federal funding, the state auditor shall ensure that the
84419 audit is performed in accordance with federal audit requirements.
84420 (c) (i) The costs of the federal compliance portion of the audit may be paid from an
84421 appropriation to the state auditor from the General Fund.
84422 (ii) If an appropriation is not provided, or if the federal government does not
84423 specifically provide for payment of audit costs, the costs of the federal compliance portions of
84424 the audit shall be allocated on the basis of the percentage that each state entity's federal funding
84425 bears to the total federal funds received by the state.
84426 (iii) The allocation shall be adjusted to reflect any reduced audit time required to audit
84427 funds passed through the state to local governments and to reflect any reduction in audit time
84428 obtained through the use of internal auditors working under the direction of the state auditor.
84429 (4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to
84430 financial audits, and as the auditor determines is necessary, conduct performance and special
84431 purpose audits, examinations, and reviews of any entity that receives public funds, including a
84432 determination of any or all of the following:
84433 (i) the honesty and integrity of all its fiscal affairs;
84434 (ii) whether or not its administrators have faithfully complied with legislative intent;
84435 (iii) whether or not its operations have been conducted in an efficient, effective, and
84436 cost-efficient manner;
84437 (iv) whether or not its programs have been effective in accomplishing the intended
84438 objectives; and
84439 (v) whether or not its management, control, and information systems are adequate and
84440 effective.

84441 (b) The auditor may not conduct performance and special purpose audits,
84442 examinations, and reviews of any entity that receives public funds if the entity:
84443 (i) has an elected auditor; and
84444 (ii) has, within the entity's last budget year, had its financial statements or performance
84445 formally reviewed by another outside auditor.
84446 (5) The state auditor shall administer any oath or affirmation necessary to the
84447 performance of the duties of the auditor's office, and may subpoena witnesses and documents,
84448 whether electronic or otherwise, and examine into any matter that the auditor considers
84449 necessary.
84450 (6) The state auditor may require all persons who have had the disposition or
84451 management of any property of this state or its political subdivisions to submit statements
84452 regarding it at the time and in the form that the auditor requires.
84453 (7) The state auditor shall:
84454 (a) except where otherwise provided by law, institute suits in Salt Lake County in
84455 relation to the assessment, collection, and payment of its revenues against:
84456 (i) persons who by any means have become entrusted with public monies or property
84457 and have failed to pay over or deliver those monies or property; and
84458 (ii) all debtors of the state;
84459 (b) collect and pay into the state treasury all fees received by the state auditor;
84460 (c) perform the duties of a member of all boards of which the state auditor is a member
84461 by the constitution or laws of the state, and any other duties that are prescribed by the
84462 constitution and by law;
84463 (d) stop the payment of the salary of any state official or state employee who:
84464 (i) refuses to settle accounts or provide required statements about the custody and
84465 disposition of public funds or other state property;
84466 (ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling
84467 board or department head with respect to the manner of keeping prescribed accounts or funds;
84468 or
84469 (iii) fails to correct any delinquencies, improper procedures, and errors brought to the
84470 official's or employee's attention;
84471 (e) establish accounting systems, methods, and forms for public accounts in all taxing

84472 or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;
84473 (f) superintend the contractual auditing of all state accounts;
84474 (g) subject to Subsection (8), withhold state allocated funds or the disbursement of
84475 property taxes from any state taxing or fee-assessing unit, if necessary, to ensure that officials
84476 and employees in those taxing units of the state comply with state laws and procedures in the
84477 budgeting, expenditures, and financial reporting of public funds; and
84478 (h) subject to Subsection (9), withhold the disbursement of tax monies from any
84479 county, if necessary, to ensure that officials and employees in the county comply with Section
84480 59-2-303.1.
84481 (8) Except as otherwise provided by law, the state auditor may not withhold funds
84482 under Subsection (7)(g) until a taxing or fee-assessing unit has received formal written notice
84483 of noncompliance from the auditor and has been given 60 days to make the specified
84484 corrections.
84485 (9) The state auditor may not withhold funds under Subsection (7)(h) until a county has
84486 received formal written notice of noncompliance from the auditor and has been given 60 days
84487 to make the specified corrections.
84488 (10) The state auditor shall:
84489 (a) establish audit guidelines and procedures for audits of local mental health and
84490 substance abuse authorities and their contract providers, conducted pursuant to Title 17,
84491 Chapter 43, Parts 2, Local Substance Abuse Authorities and 3, Local Mental Health
84492 Authorities, Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal
84493 Organizations, and Other Local Entities Act, and Title 62A, Chapter 15, Substance Abuse and
84494 Mental Health Act; and
84495 (b) ensure that those guidelines and procedures provide assurances to the state that:
84496 (i) state and federal funds appropriated to local mental health authorities are used for
84497 mental health purposes;
84498 (ii) a private provider under an annual or otherwise ongoing contract to provide
84499 comprehensive mental health programs or services for a local mental health authority is in
84500 compliance with state and local contract requirements, and state and federal law;
84501 (iii) state and federal funds appropriated to local substance abuse authorities are used
84502 for substance abuse programs and services; and

84503 (iv) a private provider under an annual or otherwise ongoing contract to provide
84504 comprehensive substance abuse programs or services for a local substance abuse authority is in
84505 compliance with state and local contract requirements, and state and federal law.
84506 (11) The state auditor may, in accordance with the auditor's responsibilities for political
84507 subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from Political
84508 Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or
84509 investigations of any political subdivision that are necessary to determine honesty and integrity
84510 in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of
84511 financial controls and compliance with the law.
84512 (12) (a) The state auditor may not audit work that the state auditor performed before
84513 becoming state auditor.
84514 (b) If the state auditor has previously been a responsible official in state government
84515 whose work has not yet been audited, the Legislature shall:
84516 (i) designate how that work shall be audited; and
84517 (ii) provide additional funding for those audits, if necessary.
84518 (13) The state auditor shall:
84519 (a) with the assistance, advice, and recommendations of an advisory committee
84520 appointed by the state auditor from among local district boards of trustees, officers, and
84521 employees and special service district boards, officers, and employees:
84522 (i) prepare a Uniform Accounting Manual for Local Districts that:
84523 (A) prescribes a uniform system of accounting and uniform budgeting and reporting
84524 procedures for local districts under Title 17B, Limited Purpose Local Government Entities -
84525 Local Districts, and special service districts under Title 17A, Chapter 2, Part 13, Utah Special
84526 Service District Act;
84527 (B) conforms with generally accepted accounting principles; and
84528 (C) prescribes reasonable exceptions and modifications for smaller districts to the
84529 uniform system of accounting, budgeting, and reporting;
84530 (ii) maintain the manual under Subsection (13)(a) so that it continues to reflect
84531 generally accepted accounting principles;
84532 (iii) conduct a continuing review and modification of procedures in order to improve
84533 them;

84534 (iv) prepare and supply each district with suitable budget and reporting forms; and
84535 (v) prepare instructional materials, conduct training programs, and render other
84536 services considered necessary to assist local districts and special service districts in
84537 implementing the uniform accounting, budgeting, and reporting procedures; and
84538 (b) continually analyze and evaluate the accounting, budgeting, and reporting practices
84539 and experiences of specific local districts and special service districts selected by the state
84540 auditor and make the information available to all districts.
84541 (14) (a) The following records in the custody or control of the state auditor are
84542 protected records under [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records
84543 Access and Management Act:
84544 (i) records that would disclose information relating to allegations of personal
84545 misconduct, gross mismanagement, or illegal activity of a past or present governmental
84546 employee if the information or allegation cannot be corroborated by the state auditor through
84547 other documents or evidence, and the records relating to the allegation are not relied upon by
84548 the state auditor in preparing a final audit report;
84549 (ii) records and audit workpapers to the extent they would disclose the identity of a
84550 person who during the course of an audit, communicated the existence of any waste of public
84551 funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation
84552 adopted under the laws of this state, a political subdivision of the state, or any recognized entity
84553 of the United States, if the information was disclosed on the condition that the identity of the
84554 person be protected;
84555 (iii) before an audit is completed and the final audit report is released, records or drafts
84556 circulated to a person who is not an employee or head of a governmental entity for their
84557 response or information;
84558 (iv) records that would disclose an outline or part of any audit survey plans or audit
84559 program; and
84560 (v) requests for audits, if disclosure would risk circumvention of an audit.
84561 (b) The provisions of Subsections (14)(a)(i), (ii), and (iii) do not prohibit the disclosure
84562 of records or information that relate to a violation of the law by a governmental entity or
84563 employee to a government prosecutor or peace officer.
84564 (c) The provisions of this Subsection (14) do not limit the authority otherwise given to

84565 the state auditor to classify a document as public, private, controlled, or protected under [~~Title~~
84566 ~~63, Chapter 2~~] Title 63G, Chapter 2, Government Records Access and Management Act.
84567 Section 2045. Section **67-4a-703** is amended to read:
84568 **67-4a-703. Interest and penalties.**
84569 (1) A person who fails to pay or deliver property within the time required by this
84570 chapter shall pay interest to the administrator at the rate of 12% per annum on the property or
84571 value of the property from the date the property should have been paid or delivered.
84572 (2) (a) A person who willfully fails to file any report, or perform a duty required by this
84573 chapter, or to pay or deliver property to the administrator as required by this chapter shall pay a
84574 civil penalty equal to 20% of the value of the property that should have been paid or delivered.
84575 (b) The administrator shall comply with the procedures and requirements of [~~Title 63,~~
84576 ~~Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, in imposing civil penalties
84577 under this section.
84578 (3) (a) It is unlawful for any person to willfully refuse to pay or deliver property to the
84579 administrator after written demand by the administrator as required by this chapter.
84580 (b) Any person who violates this Subsection (3) is guilty of a class B misdemeanor.
84581 (4) The administrator may, in appropriate circumstances:
84582 (a) waive the payment of civil penalties;
84583 (b) waive the payment of interest; or
84584 (c) reduce the amount of the interest.
84585 Section 2046. Section **67-5-15** is amended to read:
84586 **67-5-15. Records of the attorney general.**
84587 (1) A record provided to the Office of the Attorney General by a client governmental
84588 entity shall be considered a record of the client governmental entity for purposes of [~~Title 63,~~
84589 ~~Chapter 2~~] Title 63G, Chapter 2, Government Records Access and Management Act, if the
84590 client governmental entity retains a copy of the record.
84591 (2) Notwithstanding Subsection [~~63-2-201~~] 63G-2-201(5), records may be exchanged
84592 between the Office of the Attorney General and a client governmental entity, without meeting
84593 the requirements of Section [~~63-2-206~~] 63G-2-206 provided that they are used only for the
84594 purpose of representing the client governmental entity.
84595 Section 2047. Section **67-5-18** is amended to read:

84596 **67-5-18. Obscenity and Pornography Complaints Ombudsman -- Powers.**
84597 (1) As used in this section, "pornography" means material or a performance that meets
84598 the requirements of Subsection 76-10-1203(1).
84599 (2) (a) There is created an Obscenity and Pornography Complaints Ombudsman in the
84600 Office of the Attorney General.
84601 (b) The attorney general shall hire an attorney licensed to practice law in Utah who has
84602 knowledge of obscenity and pornography law and, if possible, who has a background or
84603 expertise in investigating and prosecuting obscenity and pornography law violations to fill the
84604 position.
84605 (c) The person hired to fill the position is an exempt employee.
84606 (d) The attorney general may hire clerks, interns, or other personnel to assist the
84607 pornography complaints ombudsman.
84608 (3) The Obscenity and Pornography Complaints Ombudsman shall:
84609 (a) develop and maintain expertise in and understanding of laws designed to control or
84610 eliminate obscenity and pornography and the legal standards governing the regulation or
84611 elimination of obscenity and pornography;
84612 (b) advise citizens and local governments about remedies to address instances of
84613 obscenity and pornography in their communities;
84614 (c) advise local governments about ways to strengthen local laws and ordinances
84615 addressing obscenity and pornography;
84616 (d) advise local governments about strategies to restrict, suppress, or eliminate
84617 obscenity and pornography in their communities;
84618 (e) at the request of the attorney general or a local government, assist a local
84619 government in investigating and prosecuting state and local laws and ordinances addressing
84620 obscenity or pornography;
84621 (f) before beginning an investigation:
84622 (i) contact the county, district, or city attorney within whose jurisdiction an
84623 investigation by the Obscenity and Pornography Complaints Ombudsman will take place and
84624 inform that county, district, or city attorney of the investigation; and
84625 (ii) coordinate efforts and share records, in accordance with Section [~~63-2-206~~]
84626 63G-2-206, with the county, district, or city's attorney referred to in Subsection (3)(f)(i)

84627 throughout the investigation;
84628 (g) advise citizens about their options to address specific complaints about obscenity or
84629 pornography in their communities;
84630 (h) when requested by a citizen or local government official, arbitrate between citizens
84631 and businesses to resolve complaints about obscenity or pornography;
84632 (i) provide information to private citizens, civic groups, government entities, and other
84633 interested parties about the dangers of obscenity and pornography, the current laws to restrict,
84634 suppress, or eliminate pornography, and their rights and responsibilities under those laws;
84635 (j) draft model ordinances that contain:
84636 (i) various degrees of regulation of sexually-oriented businesses; and
84637 (ii) options for local communities that can be used to regulate pornography and
84638 obscenity;
84639 (k) assist political subdivisions in:
84640 (i) drafting model rules, regulations, and policies; and
84641 (ii) providing recommendations for enforcing those rules, regulations, and policies;
84642 (l) in conjunction with Utah's county and municipal prosecuting attorneys:
84643 (i) review Utah's and Idaho's moral nuisance law;
84644 (ii) draft a comprehensive moral nuisance law for Utah and a model ordinance for
84645 municipalities and counties to provide an effective mechanism to abate and discourage
84646 obscenity and pornography; and
84647 (iii) present the draft to the Legislature's Judiciary Interim Committee before October
84648 25, 2001; and
84649 (m) establish a program to combat Internet pornography and to assist parents in
84650 protecting their children from Internet pornography.
84651 Section 2048. Section **67-5a-8** is amended to read:
84652 **67-5a-8. Administration.**
84653 (1) (a) The administration costs of this chapter, including council staff compensation,
84654 shall be funded from appropriations made by the Legislature to the Office of the Attorney
84655 General for the support of the council from the Public Safety Support Account established in
84656 Section [~~63-63a-4~~] 51-9-404.
84657 (b) Funds available from other sources may also be appropriated by the Legislature to

84658 the Office of the Attorney General for the administration of this chapter.
84659 (2) In exercising its duties, the council shall minimize costs of administration and
84660 utilize existing training facilities and resources where possible so the greatest portion of the
84661 funds available are expended for training prosecuting attorneys.
84662 (3) The council may reimburse council staff for travel and per diem expenses from the
84663 appropriations made from the Public Safety Support Account to the Office of the Attorney
84664 General for the support of the council, in an amount not to exceed the amounts approved by the
84665 director of the Division of Finance.
84666 Section 2049. Section **67-5b-107** is amended to read:
84667 **67-5b-107. Immunity -- Limited liability.**
84668 (1) Officers and employees performing services for two or more public agencies
84669 pursuant to contracts executed under the provisions of this part are considered to be officers
84670 and employees of the public agency employing their services, even though performing those
84671 functions outside of the territorial limits of any one of the contracting public agencies, and are
84672 considered to be officers and employees of public agencies in accordance with [~~Title 63,~~
84673 ~~Chapter 30d~~] Title 63G, Chapter 7, Governmental Immunity Act of Utah.
84674 (2) The officers and employees of the center, while acting within the scope of their
84675 authority, are not subject to any personal or civil liability resulting from carrying out any of the
84676 purposes of a center under the provisions of [~~Title 63, Chapter 30d~~] Title 63G, Chapter 7,
84677 Governmental Immunity Act of Utah.
84678 (3) A volunteer is considered a government employee in accordance with Section
84679 67-20-3 and entitled to immunity under the provisions of [~~Title 63, Chapter 30d~~] Title 63G,
84680 Chapter 7, Governmental Immunity Act of Utah.
84681 (4) A volunteer, other than one considered a government employee in accordance with
84682 Section 67-20-3, may not incur any personal financial liability for any tort claim or other action
84683 seeking damage for an injury arising from any act or omission of the volunteer while providing
84684 services for the nonprofit organization if:
84685 (a) the individual was acting in good faith and reasonably believed he was acting
84686 within the scope of [~~his~~] the individual's official functions and duties with the center; and
84687 (b) the damage or injury was not caused by an intentional or knowing act by the
84688 volunteer which constitutes illegal or wanton misconduct.

84689 (5) The center is not liable for the acts or omissions of its volunteers in any
84690 circumstance where the acts of its volunteers are not as described in Subsection (4) unless:
84691 (a) the center had, or reasonably should have had, reasonable notice of the volunteer's
84692 unfitness to provide services to the center under circumstances that make the center's use of the
84693 volunteer reckless or wanton in light of that notice; or
84694 (b) a business employer would be liable under the laws of this state if the act or
84695 omission were the act or omission of one of its employees.
84696 Section 2050. Section **67-16-3** is amended to read:
84697 **67-16-3. Definitions.**
84698 As used in this chapter:
84699 (1) "Agency" means any department, division, agency, commission, board, council,
84700 committee, authority, or any other institution of the state or any of its political subdivisions.
84701 (2) "Agency head" means the chief executive or administrative officer of any agency.
84702 (3) "Assist" means to act, or offer or agree to act, in such a way as to help, represent,
84703 aid, advise, furnish information to, or otherwise provide assistance to a person or business
84704 entity, believing that such action is of help, aid, advice, or assistance to such person or business
84705 entity and with the intent to assist such person or business entity.
84706 (4) "Business entity" means a sole proprietorship, partnership, association, joint
84707 venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on
84708 a business.
84709 (5) "Compensation" means anything of economic value, however designated, which is
84710 paid, loaned, granted, given, donated, or transferred to any person or business entity by anyone
84711 other than the governmental employer for or in consideration of personal services, materials,
84712 property, or any other thing whatsoever.
84713 (6) "Controlled, private, or protected information" means information classified as
84714 controlled, private, or protected in [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government
84715 Records Access and Management Act, or other applicable provision of law.
84716 (7) "Governmental action" means any action on the part of the state, a political
84717 subdivision, or an agency, including:
84718 (a) any decision, determination, finding, ruling, or order; and
84719 (b) any grant, payment, award, license, contract, subcontract, transaction, decision,

84720 sanction, or approval, or the denial thereof, or the failure to act in respect to.
84721 (8) "Improper disclosure" means disclosure of controlled, private, or protected
84722 information to any person who does not have the right to receive the information.
84723 (9) "Legislative employee" means any officer or employee of the Legislature, or any
84724 committee of the Legislature, who is appointed or employed to serve, either with or without
84725 compensation, for an aggregate of less than 800 hours during any period of 365 days.
84726 "Legislative employee" does not include legislators.
84727 (10) "Legislator" means a member or member-elect of either house of the Legislature
84728 of the state of Utah.
84729 (11) "Political subdivision" means a district, county, school district, or any other
84730 political subdivision of the state that is not an agency, but does not include municipalities.
84731 (12) "Public employee" means a person who is not a public officer who is employed on
84732 a full-time, part-time, or contract basis by the state or any of its political subdivisions. "Public
84733 employee" does not include legislators or legislative employees.
84734 (13) "Public officer" means all elected or appointed officers of the state or any of its
84735 political subdivisions who occupy policymaking posts. "Public officer" does not include
84736 legislators or legislative employees.
84737 (14) "State" means the state of Utah.
84738 (15) "Substantial interest" means the ownership, either legally or equitably, by an
84739 individual, [~~his~~] the individual's spouse, or [~~his~~] the individual's minor children, of at least 10%
84740 of the outstanding capital stock of a corporation or a 10% interest in any other business entity.
84741 Section 2051. Section **67-16-4** is amended to read:
84742 **67-16-4. Improperly disclosing or using private, controlled, or protected**
84743 **information -- Using position to secure privileges or exemptions -- Accepting employment**
84744 **which would impair independence of judgment or ethical performance -- Exceptions.**
84745 (1) Except as provided in Subsection (3), it is an offense for a public officer, public
84746 employee, or legislator, under circumstances not amounting to a violation of Section
84747 [~~63-56-1001~~] 63G-6-1001 or 76-8-105, to:
84748 (a) accept employment or engage in any business or professional activity that he might
84749 reasonably expect would require or induce him to improperly disclose controlled information
84750 that he has gained by reason of his official position;

84751 (b) disclose or improperly use controlled, private, or protected information acquired by
84752 reason of his official position or in the course of official duties in order to further substantially
84753 the officer's or employee's personal economic interest or to secure special privileges or
84754 exemptions for himself or others;
84755 (c) use or attempt to use his official position to:
84756 (i) further substantially the officer's or employee's personal economic interest; or
84757 (ii) secure special privileges or exemptions for himself or others;
84758 (d) accept other employment that he might expect would impair his independence of
84759 judgment in the performance of his public duties; or
84760 (e) accept other employment that he might expect would interfere with the ethical
84761 performance of his public duties.
84762 (2) (a) Subsection (1) does not apply to the provision of education-related services to
84763 public school students by public education employees acting outside their regular employment.
84764 (b) The conduct referred to in Subsection (2)(a) is subject to Section 53A-1-402.5.
84765 (3) A county legislative body member who does not participate in the process of
84766 selecting a mental health or substance abuse service provider does not commit an offense under
84767 Subsection (1)(a) or (b) by:
84768 (a) serving also as a member of the governing board of the provider of mental health or
84769 substance abuse services under contract with the county; or
84770 (b) discharging, in good faith, the duties and responsibilities of each position.
84771 Section 2052. Section **67-16-5** is amended to read:
84772 **67-16-5. Accepting gift, compensation, or loan -- When prohibited.**
84773 (1) As used in this section, "economic benefit tantamount to a gift" includes:
84774 (a) a loan at an interest rate that is substantially lower than the commercial rate then
84775 currently prevalent for similar loans; and
84776 (b) compensation received for private services rendered at a rate substantially
84777 exceeding the fair market value of the services.
84778 (2) It is an offense for a public officer or public employee, under circumstances not
84779 amounting to a violation of Section [~~63-56-1001~~] 63G-6-1001 or 76-8-105, to knowingly
84780 receive, accept, take, seek, or solicit, directly or indirectly for himself or another a gift of
84781 substantial value or a substantial economic benefit tantamount to a gift:

84782 (a) that would tend improperly to influence a reasonable person in the person's position
84783 to depart from the faithful and impartial discharge of the person's public duties;
84784 (b) that the [~~person~~] public officer or public employee knows or that a reasonable
84785 person in that position should know under the circumstances is primarily for the purpose of
84786 rewarding the [~~person~~] public officer or public employee for official action taken; or
84787 (c) if [~~he~~] the public officer or public employee recently has been, is now, or in the near
84788 future may be involved in any governmental action directly affecting the donor or lender,
84789 unless a disclosure of the gift, compensation, or loan and other relevant information has been
84790 made in the manner provided in Section 67-16-6.
84791 (3) Subsection (2) does not apply to:
84792 (a) an occasional nonpecuniary gift, having a value of not in excess of $50;
84793 (b) an award publicly presented in recognition of public services;
84794 (c) any bona fide loan made in the ordinary course of business; or
84795 (d) a political campaign contribution.
84796 Section 2053. Section **67-16-5.3** is amended to read:
84797 **67-16-5.3. Requiring donation, payment, or service to government agency in**
84798 **exchange for approval -- When prohibited.**
84799 (1) It is an offense for a public officer, public employee, or legislator, under
84800 circumstances not amounting to a violation of Section [~~63-56-1001~~] 63G-6-1001 or 76-8-105,
84801 to demand from any person as a condition of granting any application or request for a permit,
84802 approval, or other authorization, that the person donate personal property, money, or services to
84803 any agency.
84804 (2) (a) Subsection (1) does not apply to any donation of property, funds, or services to
84805 an agency that is:
84806 (i) expressly required by statute, ordinance, or agency rule;
84807 (ii) mutually agreed to between the applicant and the entity issuing the permit,
84808 approval, or other authorization;
84809 (iii) made voluntarily by the applicant; or
84810 (iv) a condition of a consent decree, settlement agreement, or other binding instrument
84811 entered into to resolve, in whole or in part, an actual or threatened agency enforcement action.
84812 (b) If a person donates property, funds, or services to an agency, the agency shall, as

84813 part of the permit or other written authorization:
84814 (i) identify that a donation has been made;
84815 (ii) describe the donation;
84816 (iii) certify, in writing, that the donation was voluntary; and
84817 (iv) place that information in its files.
84818 Section 2054. Section **67-16-6** is amended to read:
84819 **67-16-6. Receiving compensation for assistance in transaction involving an**
84820 **agency -- Filing sworn statement.**
84821 (1) It is an offense for a public officer or public employee, under circumstances not
84822 amounting to a violation of Section [~~63-56-1001~~] 63G-6-1001 or 76-8-105, to receive or agree
84823 to receive compensation for assisting any person or business entity in any transaction involving
84824 an agency unless the public officer or public employee files a sworn, written statement
84825 containing the information required by Subsection (2) with:
84826 (a) the head of [~~his~~] the officer or employee's own agency;
84827 (b) the agency head of the agency with which the transaction is being conducted; and
84828 (c) the state attorney general.
84829 (2) The statement shall contain:
84830 (a) the name and address of the public officer or public employee involved;
84831 (b) the name of the public officer's or public employee's agency;
84832 (c) the name and address of the person or business entity being or to be assisted; and
84833 (d) a brief description of:
84834 (i) the transaction as to which service is rendered or is to be rendered; and
84835 (ii) the nature of the service performed or to be performed.
84836 (3) The statement required to be filed under Subsection (1) shall be filed within ten
84837 days after the date of any agreement between the public officer or public employee and the
84838 person or business entity being assisted or the receipt of compensation, whichever is earlier.
84839 (4) The statement is public information and shall be available for examination by the
84840 public.
84841 Section 2055. Section **67-18-5** is amended to read:
84842 **67-18-5. Confidential, private, or protected documents excepted.**
84843 The right to examine and copy documents in an employee's personnel file is subject to

84844 access provisions in [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records Access
84845 and Management Act.
84846 Section 2056. Section **67-19-5** is amended to read:
84847 **67-19-5. Department of Human Resource Management created -- Executive**
84848 **director -- Compensation -- Staff.**
84849 (1) There is created the Department of Human Resource Management.
84850 (2) (a) The department shall be administered by an executive director appointed by the
84851 governor with the consent of the Senate.
84852 (b) The executive director shall be a person with experience in human resource
84853 management and shall be accountable to the governor for the executive director's performance
84854 in office.
84855 (3) The executive director may:
84856 (a) appoint a personal secretary and a deputy director, both of whom shall be exempt
84857 from career service; and
84858 (b) appoint division directors and program managers who may be career service
84859 exempt.
84860 (4) (a) The executive director shall have full responsibility and accountability for the
84861 administration of the statewide human resource management system.
84862 (b) Except as provided in Section 67-19-6.1, an agency may not perform human
84863 resource functions without the consent of the executive director.
84864 (5) Statewide human resource management rules adopted by the Department of Human
84865 Resource Management in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
84866 Administrative Rulemaking Act, shall take precedence if there is a conflict with agency rules,
84867 policies, or practices.
84868 (6) The department may operate as an internal service fund agency in accordance with
84869 Section [~~63-38-3.5~~] 63J-1-306 for the human resource functions the department provides.
84870 Section 2057. Section **67-19-6** is amended to read:
84871 **67-19-6. Responsibilities of the executive director.**
84872 (1) The executive director shall:
84873 (a) develop, implement, and administer a statewide program of human resource
84874 management that will:

84875 (i) aid in the efficient execution of public policy;
84876 (ii) foster careers in public service for qualified employees; and
84877 (iii) render assistance to state agencies in performing their missions;
84878 (b) design and administer the state pay plan;
84879 (c) design and administer the state classification system and procedures for determining
84880 schedule assignments;
84881 (d) design and administer the state recruitment and selection system;
84882 (e) administer agency human resource practices and ensure compliance with federal
84883 law, state law, and state human resource rules, including equal employment opportunity;
84884 (f) consult with agencies on decisions concerning employee corrective action and
84885 discipline;
84886 (g) maintain central personnel records;
84887 (h) perform those functions necessary to implement this chapter unless otherwise
84888 assigned or prohibited;
84889 (i) perform duties assigned by the governor or statute;
84890 (j) adopt rules for human resource management according to the procedures of [~~Title~~
84891 ~~63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
84892 (k) establish and maintain a management information system that will furnish the
84893 governor, the Legislature, and agencies with current information on authorized positions,
84894 payroll, and related matters concerning state human resources;
84895 (l) conduct research and planning activities to:
84896 (i) determine and prepare for future state human resource needs;
84897 (ii) develop methods for improving public human resource management; and
84898 (iii) propose needed policy changes to the governor;
84899 (m) study the character, causes, and extent of discrimination in state employment and
84900 develop plans for its elimination through programs consistent with federal and state laws
84901 governing equal employment opportunity in employment;
84902 (n) when requested by counties, municipalities, and other political subdivisions of the
84903 state, provide technical service and advice on human resource management at a charge
84904 determined by the executive director;
84905 (o) establish compensation policies and procedures for early voluntary retirement;

84906 (p) confer with the heads of other agencies about human resource policies and
84907 procedures;
84908 (q) submit an annual report to the governor and the Legislature; and
84909 (r) (i) develop a procedure by which each agency will:
84910 (A) identify funded vacant positions; and
84911 (B) report those funded vacant positions to the department;
84912 (ii) identify all funded employee positions in each agency that have been vacant for
84913 more than 180 consecutive days during the 18-month period prior to July 1 of each year; and
84914 (iii) by no later than September 1 of each year, provide a report of all funded employee
84915 positions in each agency identified in Subsections (1)(r)(i) and (ii) to:
84916 (A) the Governor's Office of Planning and Budget; and
84917 (B) the Office of the Legislative Fiscal Analyst.
84918 (2) (a) After consultation with the governor and the heads of other agencies, the
84919 executive director shall establish and coordinate statewide training programs.
84920 (b) The programs developed under this Subsection (2) shall have application to more
84921 than one agency.
84922 (c) The department may not establish training programs that train employees to
84923 perform highly specialized or technical jobs and tasks.
84924 (3) (a) (i) The department may collect fees for training as authorized by this Subsection
84925 (3).
84926 (ii) Training funded from General Fund appropriations shall be treated as a separate
84927 program within the department budget.
84928 (iii) All money received from fees under this section will be accounted for by the
84929 department as a separate user driven training program.
84930 (iv) The user training program includes the costs of developing, procuring, and
84931 presenting training and development programs, and other associated costs for these programs.
84932 (b) (i) Funds remaining at the end of the fiscal year in the user training program are
84933 nonlapsing.
84934 (ii) Each year, as part of the appropriations process, the Legislature shall review the
84935 amount of nonlapsing funds remaining at the end of the fiscal year and may, by statute, require
84936 the department to lapse a portion of the funds.

84937 Section 2058. Section **67-19-6.7** is amended to read:
84938 **67-19-6.7. Overtime policies for state employees.**
84939 (1) As used in this section:
84940 (a) "Accrued overtime hours" means:
84941 (i) for nonexempt employees, overtime hours earned during a fiscal year that, at the end
84942 of the fiscal year, have not been paid and have not been taken as time off by the nonexempt
84943 state employee who accrued them; and
84944 (ii) for exempt employees, overtime hours earned during an overtime year.
84945 (b) "Appointed official" means:
84946 (i) each department executive director and deputy director, each division director, and
84947 each member of a board or commission; and
84948 (ii) any other person employed by a department who is appointed by, or whose
84949 appointment is required by law to be approved by, the governor and who:
84950 (A) is paid a salary by the state; and
84951 (B) who exercises managerial, policy-making, or advisory responsibility.
84952 (c) "Department" means the Department of Administrative Services, the Department of
84953 Corrections, the Department of Financial Institutions, the Department of Alcoholic Beverage
84954 Control, the Insurance Department, the Public Service Commission, the Labor Commission,
84955 the Department of Agriculture and Food, the Department of Human Services, the State Board
84956 of Education, the Department of Natural Resources, the Department of Technology Services,
84957 the Department of Transportation, the Department of Commerce, the Department of Workforce
84958 Services, the State Tax Commission, the Department of Community and Culture, the
84959 Department of Health, the National Guard, the Department of Environmental Quality, the
84960 Department of Public Safety, the Department of Human Resource Management, the
84961 Commission on Criminal and Juvenile Justice, all merit employees except attorneys in the
84962 Office of the Attorney General, merit employees in the Office of the State Treasurer, and merit
84963 employees in the Office of the State Auditor.
84964 (d) "Elected official" means any person who is an employee of the state because [~~he~~]
84965 the person was elected by the registered voters of Utah to a position in state government.
84966 (e) "Exempt employee" means a state employee who is exempt as defined by the Fair
84967 Labor Standards Act of 1978, 29 U.S.C. Section 201 et seq.

84968 (f) "FLSA" means the Fair Labor Standards Act of 1978, 29 U.S.C. Section 201 et seq.
84969 (g) "FLSA agreement" means the agreement authorized by the Fair Labor Standards
84970 Act of 1978, 29 U.S.C. Section 201 et seq., by which a nonexempt employee elects the form of
84971 compensation [~~he~~] the nonexempt employee will receive for overtime.
84972 (h) "Nonexempt employee" means a state employee who is nonexempt as defined by
84973 the Department of Human Resource Management applying FLSA requirements.
84974 (i) "Overtime" means actual time worked in excess of the employee's defined work
84975 period.
84976 (j) "Overtime year" means the year determined by a department under Subsection
84977 (4)(b) at the end of which an exempt employee's accrued overtime lapses.
84978 (k) (i) "State employee" means every person employed by a department who is not an
84979 appointed official or an elected official.
84980 (ii) "State employee" does not mean:
84981 (A) certificated employees of the State Board of Education; and
84982 (B) employees of the Department of Community and Culture or the Governor's Office
84983 of Economic Development, whose positions are designated as schedule AM exempt employees
84984 under Section 67-19-15.
84985 (l) "Uniform annual date" means the date when an exempt employee's accrued
84986 overtime lapses.
84987 (m) "Work period" means:
84988 (i) for all nonexempt employees, except law enforcement and hospital employees, a
84989 consecutive seven day 24 hour work period of 40 hours;
84990 (ii) for all exempt employees, a 14 day, 80 hour payroll cycle; and
84991 (iii) for nonexempt law enforcement and hospital employees, the period established by
84992 each department by rule for those employees according to the requirements of the Fair Labor
84993 Standards Act of 1978, 29 U.S.C. Section 201 et seq.
84994 (2) Each department shall compensate each state employee who works overtime by
84995 complying with the requirements of this section.
84996 (3) (a) Each department shall negotiate and obtain a signed FLSA agreement from each
84997 nonexempt employee.
84998 (b) In the FLSA agreement, the nonexempt employee shall elect either to be

84999 compensated for overtime by:
85000 (i) taking time off work at the rate of one and one-half hour off for each overtime hour
85001 worked; or
85002 (ii) being paid for the overtime worked at the rate of one and one-half times the rate per
85003 hour that the state employee receives for nonovertime work.
85004 (c) Any nonexempt employee who elects to take time off under this Subsection (3)
85005 shall be paid for any overtime worked in excess of the cap established by the Department of
85006 Human Resource Management.
85007 (d) Before working any overtime, each nonexempt employee shall obtain authorization
85008 to work overtime from the employee's immediate supervisor.
85009 (e) Each department shall:
85010 (i) for employees who elect to be compensated with time off for overtime, allow
85011 overtime earned during a fiscal year to be accumulated; and
85012 (ii) for employees who elect to be paid for overtime worked, pay them for overtime
85013 worked in the paycheck for the pay period in which the employee worked the overtime.
85014 (f) If the department pays a nonexempt employee for overtime, the department shall
85015 charge that payment to the department's budget.
85016 (g) At the end of each fiscal year, the Division of Finance shall total all the accrued
85017 overtime hours for nonexempt employees and charge that total against the appropriate fund or
85018 subfund.
85019 (4) (a) (i) Except as provided in Subsection (4)(a)(ii), each department shall
85020 compensate exempt employees who work overtime by granting them time off at the rate of one
85021 hour off for each hour of overtime worked.
85022 (ii) The executive director of the Department of Human Resource Management may
85023 grant limited exceptions to this requirement, where work circumstances dictate, by authorizing
85024 a department to pay employees for overtime worked at the rate per hour that the employee
85025 receives for nonovertime work, if the department has funds available.
85026 (b) (i) Each department shall:
85027 (A) establish in its written human resource policies a uniform annual date for each
85028 division that is at the end of any pay period; and
85029 (B) communicate the uniform annual date to its employees.

85030 (ii) If any department fails to establish a uniform annual date as required by this
85031 Subsection (4), the executive director of the Department of Human Resource Management, in
85032 conjunction with the director of the Division of Finance, shall establish the date for that
85033 department.
85034 (c) (i) Any overtime earned under this Subsection (4) is not an entitlement, is not a
85035 benefit, and is not a vested right.
85036 (ii) A court may not construe the overtime for exempt employees authorized by this
85037 Subsection (4) as an entitlement, a benefit, or as a vested right.
85038 (d) At the end of the overtime year, upon transfer to another department at any time,
85039 and upon termination, retirement, or other situations where the employee will not return to
85040 work before the end of the overtime year:
85041 (i) any of an exempt employee's overtime that is more than the maximum established
85042 by the Department of Human Resource Management rule lapses; and
85043 (ii) unless authorized by the executive director of the Department of Human Resource
85044 Management under Subsection (4)(a)(ii), a department may not compensate the exempt
85045 employee for that lapsed overtime by paying the employee for the overtime or by granting the
85046 employee time off for the lapsed overtime.
85047 (e) Before working any overtime, each exempt employee shall obtain authorization to
85048 work overtime from the exempt employee's immediate supervisor.
85049 (f) If the department pays an exempt employee for overtime under authorization from
85050 the executive director of the Department of Human Resource Management, the department
85051 shall charge that payment to the department's budget in the pay period earned.
85052 (5) The Department of Human Resource Management shall:
85053 (a) ensure that the provisions of the FLSA and this section are implemented throughout
85054 state government;
85055 (b) determine, for each state employee, whether that employee is exempt, nonexempt,
85056 law enforcement, or has some other status under the FLSA;
85057 (c) in coordination with modifications to the systems operated by the Division of
85058 Finance, make rules:
85059 (i) establishing procedures for recording overtime worked that comply with FLSA
85060 requirements;

85061 (ii) establishing requirements governing overtime worked while traveling and
85062 procedures for recording that overtime that comply with FLSA requirements;
85063 (iii) establishing requirements governing overtime worked if the employee is "on call"
85064 and procedures for recording that overtime that comply with FLSA requirements;
85065 (iv) establishing requirements governing overtime worked while an employee is being
85066 trained and procedures for recording that overtime that comply with FLSA requirements;
85067 (v) subject to the FLSA, establishing the maximum number of hours that a nonexempt
85068 employee may accrue before a department is required to pay the employee for the overtime
85069 worked;
85070 (vi) subject to the FLSA, establishing the maximum number of overtime hours for an
85071 exempt employee that do not lapse; and
85072 (vii) establishing procedures for adjudicating appeals of any FLSA determinations
85073 made by the Department of Human Resource Management as required by this section;
85074 (d) monitor departments for compliance with the FLSA; and
85075 (e) recommend to the Legislature and the governor any statutory changes necessary
85076 because of federal government action.
85077 (6) In coordination with the procedures for recording overtime worked established in
85078 rule by the Department of Human Resource Management, the Division of Finance shall modify
85079 its payroll and human resource systems to accommodate those procedures.
85080 (a) Notwithstanding the procedures and requirements of [~~Title 63, Chapter 46b~~] Title
85081 63G, Chapter 4, Administrative Procedures Act, Section 67-19-31, and Section 67-19a-301,
85082 any employee who is aggrieved by the FLSA designation made by the Department of Human
85083 Resource Management as required by this section may appeal that determination to the
85084 executive director of the Department of Human Resource Management by following the
85085 procedures and requirements established in Department of Human Resource Management rule.
85086 (b) Upon receipt of an appeal under this section, the executive director shall notify the
85087 executive director of the employee's department that the appeal has been filed.
85088 (c) If the employee is aggrieved by the decision of the executive director of the
85089 Department of Human Resource Management, [~~he~~] the employee shall appeal that
85090 determination to the Department of Labor, Wage and Hour Division, according to the
85091 procedures and requirements of federal law.

85092 Section 2059. Section **67-19-11** is amended to read:
85093 **67-19-11. Use of department facilities -- Field office facilities cost allocation --**
85094 **Funding for department.**
85095 (1) (a) All officers and employees of the state and its political subdivisions shall allow
85096 the department to use public buildings under their control, and furnish heat, light, and furniture,
85097 for any examination, hearing, or investigation authorized by this chapter.
85098 (b) The cost of the department's use of facilities shall be paid by the agency housing a
85099 field office staff.
85100 (2) The executive director shall:
85101 (a) prepare an annual budget request for the department;
85102 (b) submit the budget request to the governor and the Legislature; and
85103 (c) except for fiscal year 2007, before charging a fee for services provided by the
85104 department's internal service fund to an executive branch agency, the executive director shall:
85105 (i) submit the proposed rates, fees, and cost analysis to the Rate Committee established
85106 under Subsection (3); and
85107 (ii) obtain the approval of the Legislature as required under Section [~~63-38-3.5~~]
85108 63J-1-306.
85109 (3) (a) There is created a Rate Committee which shall consist of:
85110 (i) the director of the Governor's Office of Planning and Budget, or a designee;
85111 (ii) the executive directors of three state agencies that use services and pay rates to one
85112 of the department internal service funds, or their designee, appointed by the governor for a
85113 two-year term;
85114 (iii) the director of the Division of Finance, or a designee; and
85115 (iv) the executive director of the Department of Human Resource Management, or a
85116 designee.
85117 (b) (i) The committee shall elect a chair from its members.
85118 (ii) Members of the committee who are state government employees and who do not
85119 receive salary, per diem, or expenses from their agency for their service on the committee shall
85120 receive no compensation, benefits, per diem, or expenses for the members' service on the
85121 committee.
85122 (c) The Department of Human Resource Management shall provide staff services to the

85123 committee.
85124 (4) (a) The department shall submit to the committee a proposed rate and fee schedule
85125 for services rendered.
85126 (b) The committee shall:
85127 (i) conduct meetings in accordance with Title 52, Chapter 4, Open and Public Meetings
85128 Act;
85129 (ii) review the proposed rate and fee schedules and may approve, increase, or decrease
85130 the rate and fee;
85131 (iii) recommend a proposed rate and fee schedule for the internal service fund to:
85132 (A) the Governor's Office of Planning and Budget; and
85133 (B) the legislative appropriations subcommittees that, in accordance with Section
85134 [~~63-38-3.5~~] 63J-1-306, approve the internal service fund rates, fees, and budget; and
85135 (iv) review and approve, increase or decrease an interim rate, fee, or amount when the
85136 department begins a new service or introduces a new product between annual general sessions
85137 of the Legislature.
85138 (c) The committee may in accordance with Subsection [~~63-38-3.5~~] 63J-1-306(4)
85139 decrease a rate, fee, or amount that has been approved by the Legislature.
85140 Section 2060. Section **67-19-12.5** is amended to read:
85141 **67-19-12.5. Creation of Flexible Benefit Program -- Rulemaking power granted to**
85142 **establish program.**
85143 (1) The department shall establish for calendar year 1990 and thereafter a Flexible
85144 Benefit Program under Section 125 of the Internal Revenue Code of 1986.
85145 (2) The department shall establish accounts for all employees eligible for benefits
85146 which meet the nondiscrimination requirements of the Internal Revenue Code of 1986.
85147 (3) (a) Each account established under this section shall include employee paid
85148 premiums for health and dental services.
85149 (b) The account may also include, at the option of the employee, out-of-pocket
85150 employee medical and dependent care expenses.
85151 (c) Accounts may also include other expenses allowed under the Internal Revenue
85152 Code of 1986.
85153 (4) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah

85154 Administrative Rulemaking Act, the department may make rules to implement the program
85155 established under this section.
85156 Section 2061. Section **67-19-14** is amended to read:
85157 **67-19-14. Sick leave -- Definitions -- Unused sick days retirement programs --**
85158 **Rulemaking.**
85159 (1) As used in Sections 67-19-14 through 67-19-14.4:
85160 (a) "Continuing medical and life insurance benefits" means the state provided policy of
85161 medical insurance and the state provided portion of a policy of life insurance, each offered at
85162 the same:
85163 (i) benefit level and the same proportion of state/member participation in the total
85164 premium costs as an active member as defined in Section 49-11-102; and
85165 (ii) coverage level for a member, two person, or family policy as provided to the
85166 member at the time of retirement.
85167 (b) "Converted sick leave" means leave that has been converted from unused sick leave
85168 in accordance with Section 67-19-14.1 which may be used by an employee in the same manner
85169 as:
85170 (i) annual leave;
85171 (ii) sick leave; or
85172 (iii) unused accumulated sick leave after the employee's retirement for the purchase of
85173 continuing medical and life insurance benefits under Sections 67-19-14.2, 67-19-14.3, and
85174 67-19-14.4.
85175 (2) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
85176 Administrative Rulemaking Act, the executive director shall make rules for the procedures to
85177 implement the provisions of Sections 67-19-14 through 67-19-14.4.
85178 (3) For purposes of Sections 67-19-14 through 67-19-14.4 the most recently earned
85179 converted sick leave or sick leave hours shall be used first when an employee uses converted
85180 sick leave or sick leave hours.
85181 (4) The Division of Finance shall develop and maintain a system of accounting for
85182 employee sick leave and converted sick leave as necessary to implement the provisions of
85183 Sections 67-19-14 through 67-19-14.4.
85184 Section 2062. Section **67-19-30** is amended to read:

85185 **67-19-30. Grievance resolution -- Jurisdiction.**
85186 (1) Employees shall comply with the procedural and jurisdictional requirements of this
85187 section, [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, and Title
85188 67, Chapter 19a, Grievance and Appeal Procedures, in seeking resolution of grievances.
85189 (2) All grievances based upon a claim or charge of injustice or oppression, including
85190 dismissal from employment, resulting from an act, occurrence, commission, or condition shall
85191 be governed by Title 67, Chapter 19a, Grievance and Appeal Procedures, and [~~Title 63,~~
85192 ~~Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
85193 (3) All grievances involving classification shall be governed by Section 67-19-31 and
85194 are designated as informal adjudicative proceedings as defined by [~~Title 63, Chapter 46b~~] Title
85195 63G, Chapter 4, Administrative Procedures Act.
85196 (4) All grievances by applicants for positions in state government involving an alleged
85197 discriminatory or prohibited employment practice shall be governed by Section 67-19-32 and
85198 [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
85199 (5) A "grievance" under this chapter is a request for agency action for purposes of
85200 [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
85201 Section 2063. Section **67-19-31** is amended to read:
85202 **67-19-31. Position classification grievances -- Scope -- Procedure.**
85203 (1) (a) For the purpose of position classification grievances, the process that culminates
85204 in assigning a career service position to an appropriate class specification is a matter of position
85205 classification and may be grieved.
85206 (b) The process that culminates in assigning a salary range to the class specification is
85207 not a position classification and may not be grieved as a classification grievance.
85208 (2) (a) Upon receipt of a position classification grievance, the executive director shall
85209 refer the grievance to a classification panel of three or more impartial persons trained in state
85210 classification procedures.
85211 (b) The classification panel shall determine whether or not the classification
85212 assignment for career service positions was appropriate by applying the statutes, rules, and
85213 procedures adopted by the department that were in effect at the time of the classification
85214 change.
85215 (c) The classification panel may:

85216 (i) obtain access to previous audits, classification decisions, and reports;
85217 (ii) request new or additional audits by human resource analysts; and
85218 (iii) consider new or additional information.
85219 (d) The classification panel may sustain or modify the original decision and, if
85220 applicable, recommend a new classification.
85221 (e) The classification panel shall report its recommendation to the executive director,
85222 who shall make the classification decision and notify the grievant.
85223 (3) (a) Either party may appeal the executive director's decision to an impartial hearing
85224 officer trained in state classification procedures selected through a public bid process by a
85225 panel consisting of the following members:
85226 (i) the executive director of the Department of Human Resource Management;
85227 (ii) two department executive directors;
85228 (iii) a private sector human resources executive appointed by the governor; and
85229 (iv) a representative of the Utah Public Employees Association.
85230 (b) The successful bid shall serve under contract for no more than three years. At the
85231 end of that time, the Department of Human Resource Management shall reissue the bid.
85232 (c) The hearing officer shall review the classification and make the final decision. The
85233 final decision is subject to judicial review pursuant to the provisions of Section [~~63-46b-15~~]
85234 63G-4-402.
85235 Section 2064. Section **67-19-34** is amended to read:
85236 **67-19-34. Rulemaking power to executive director.**
85237 In accordance with this chapter and [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
85238 Administrative Rulemaking Act, the executive director shall make rules regulating:
85239 (1) disciplinary actions for employees subject to discipline under Section 67-19-37;
85240 (2) the testing of employees for the use of controlled substances or alcohol as provided
85241 in Section 67-19-36;
85242 (3) the confidentiality of drug testing and test results performed under Section
85243 67-19-36 in accordance with [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records
85244 Access and Management Act; and
85245 (4) minimum blood levels of alcohol or drug content for work effectiveness of an
85246 employee.

85247 Section 2065. Section **67-19a-202** is amended to read:
85248 **67-19a-202. Powers -- Jurisdiction.**
85249 (1) (a) The board shall serve as the final administrative body to review appeals from
85250 career service employees and agencies of decisions about promotions, dismissals, demotions,
85251 suspensions, written reprimands, wages, salary, violations of personnel rules, issues concerning
85252 the equitable administration of benefits, reductions in force, and disputes concerning
85253 abandonment of position that have not been resolved at an earlier stage in the grievance
85254 procedure.
85255 (b) The board has no jurisdiction to review or decide any other personnel matters.
85256 (2) The time limits established in this chapter supersede the procedural time limits
85257 established in [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
85258 (3) In conjunction with any inquiry, investigation, hearing, or other proceeding, any
85259 member of the board may:
85260 (a) administer oaths;
85261 (b) certify official acts;
85262 (c) subpoena witnesses, documents, and other evidence; and
85263 (d) grant continuances pursuant to board rule.
85264 Section 2066. Section **67-19a-203** is amended to read:
85265 **67-19a-203. Rulemaking authority.**
85266 The board may make rules governing:
85267 (1) definitions of terms, phrases, and words used in the grievance process established
85268 by this chapter;
85269 (2) what matters constitute excusable neglect for purposes of the waiver of time limits
85270 established by this chapter;
85271 (3) the application for and service of subpoenas, the service and filing of pleadings, and
85272 the issuance of rulings, orders, determinations, summary judgments, transcripts, and other legal
85273 documents necessary in grievance proceedings;
85274 (4) the use, calling, attendance, participation, and fees of witnesses in grievance
85275 proceedings;
85276 (5) continuances of grievance proceedings;
85277 (6) procedures in jurisdictional and evidentiary hearings, unless governed by [~~Title 63,~~

85278 ~~Chapter 46b, the~~] Title 63G, Chapter 4, Administrative Procedures Act;
85279 (7) the presence of media representatives at grievance proceedings; and
85280 (8) procedures for sealing files or making data pertaining to a grievance unavailable to
85281 the public.
85282 Section 2067. Section **69-2-5.6** is amended to read:
85283 **69-2-5.6. Emergency services telephone charge to fund statewide unified E-911**
85284 **emergency service.**
85285 (1) Subject to Subsection 69-2-5(3)(g), there is imposed a statewide unified E-911
85286 emergency service charge on each local exchange service switched access line and each
85287 revenue producing radio communications access line that is subject to an emergency services
85288 telephone charge levied by a county, city, or town under Section 69-2-5 or 69-2-5.5 at:
85289 (a) 13 cents per month until June 30, 2007; and
85290 (b) 8 cents per month on and after July 1, 2007.
85291 (2) The emergency services telephone charge imposed under this section shall be:
85292 (a) subject to Subsection 69-2-5(3)(g);
85293 (b) billed and collected by the person that provides:
85294 (i) local exchange service switched access line services;
85295 (ii) radio communications access line services; or
85296 (iii) service described in Subsection 69-2-5(3)(a)(iii).
85297 (c) except for costs retained under Subsection (3), remitted to the State Tax
85298 Commission at the same time as the person remits to the State Tax Commission monies
85299 collected by the person under Title 59, Chapter 12, Sales and Use Tax Act; and
85300 (d) deposited into the Statewide Unified E-911 Emergency Service Fund restricted
85301 account in the General Fund created by Section 53-10-603.
85302 (3) The person that bills and collects the charges levied by this section pursuant to
85303 Subsections (2)(b) and (c) may:
85304 (a) bill the charge imposed by this section in combination with the charge levied under
85305 Section 69-2-5 as one line item charge; and
85306 (b) retain an amount not to exceed 1.5% of the charges collected under this section as
85307 reimbursement for the cost of billing, collecting, and remitting the levy.
85308 (4) The State Tax Commission shall collect, enforce, and administer the charges

85309 imposed under Subsection (1) using the same procedures used in the administration, collection,
85310 and enforcement of the emergency services telephone charge to fund the Poison Control Center
85311 under Section 69-2-5.5.
85312 (5) This section sunsets in accordance with Section [~~63-55-269~~] 63I-1-269.
85313 Section 2068. Section **70-3a-201** is amended to read:
85314 **70-3a-201. Rulemaking authority of division.**
85315 In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
85316 Rulemaking Act, the division may by rule:
85317 (1) pursuant to Subsection 70-3a-302(1), establish the filing requirements for an
85318 application for a registration of a mark;
85319 (2) pursuant to Subsection 70-3a-303(2), establish what information in addition to the
85320 information contained in the application shall be submitted by an applicant for registration
85321 under Section 70-3a-302;
85322 (3) pursuant to Subsection 70-3a-303(3), establish the requirements for an applicant or
85323 registrant to disclaim an unregistrable component of a mark that is otherwise registrable;
85324 (4) pursuant to Section 70-3a-305, establish the filing requirements for an application
85325 to renew a registration of a mark; and
85326 (5) establish the filing requirements for a filing under Section 70-3a-306.
85327 Section 2069. Section **70-3a-203** is amended to read:
85328 **70-3a-203. Fees.**
85329 (1) (a) A regulatory fee, as defined in Section [~~63-38-3.2~~] 63J-1-303, shall be
85330 determined by the division in accordance with Section [~~63-38-3.2~~] 63J-1-303, but may not
85331 exceed $250 annually for registration of an electronic registration mark in a single class.
85332 (b) A person who pays the annual regulatory fee for the registration of an electronic
85333 registration mark may register additional classes for the same mark for an additional fee not to
85334 exceed $25 annually.
85335 (2) (a) For a fee authorized by this chapter that is not a regulatory fee, the division may
85336 adopt a schedule of fees provided that each fee in the schedule of fees is:
85337 (i) reasonable and fair; and
85338 (ii) submitted to the Legislature as part of the Department of Commerce's annual
85339 appropriations request.

85340 (b) When a fee schedule described in Subsection (2)(a) is submitted as part of the
85341 annual appropriations request, the Legislature, in a manner substantially similar to Section
85342 [~~63-38-3.2~~] 63J-1-303, may for any fee in the fee schedule:
85343 (i) approve the fee;
85344 (ii) (A) increase or decrease the fee; and
85345 (B) approve the fee as changed by the Legislature; or
85346 (iii) reject the fee.
85347 (c) A fee approved by the Legislature pursuant to this section shall be deposited in a
85348 restricted account within the General Fund known as the Commerce Service Fund.
85349 Section 2070. Section **70-3a-303** is amended to read:
85350 **70-3a-303. Filing of applications.**
85351 (1) The division may examine an application to determine whether the application
85352 conforms with this chapter if:
85353 (a) the application for registration is filed under Section 70-3a-302; and
85354 (b) the regulatory fee required by Section 70-3a-203 is paid.
85355 (2) If reasonably requested by the division or considered by the applicant to be
85356 advisable to respond to any rejection or objection, the applicant:
85357 (a) shall provide any additional information requested by rule by the division, including
85358 a description of a design mark; and
85359 (b) may make, or authorize the division to make, amendments to the application.
85360 (3) (a) The division may require the applicant to disclaim an unregistrable component
85361 of a mark otherwise registrable.
85362 (b) An applicant may voluntarily disclaim a component of a mark for which the
85363 applicant has filed a registration application.
85364 (c) A disclaimer under this Subsection (3) may not prejudice or affect the applicant's or
85365 registrant's rights:
85366 (i) in the disclaimed matter:
85367 (A) existing at the time of the disclaimer; or
85368 (B) arising after the disclaimer; or
85369 (ii) of registration on another application if the disclaimed matter is or has become
85370 distinctive of the applicant's or registrant's goods or services.

85371 (d) The division may make rules consistent with this Subsection (3) to establish the
85372 requirements for an applicant to disclaim an unregistrable component of a mark that is
85373 otherwise registrable.
85374 (4) The division may:
85375 (a) amend an application filed by the applicant if the applicant agrees in writing to the
85376 amendment; or
85377 (b) require the applicant to file a new application.
85378 (5) (a) If the division determines that the applicant is not qualified to register a mark,
85379 the division shall notify the applicant of:
85380 (i) the refusal; and
85381 (ii) the reasons for the refusal.
85382 (b) The applicant shall have a reasonable period of time specified by the division, but
85383 not more than 60 days from the date of the notice under this Subsection (5) to:
85384 (i) reply to the refusal; or
85385 (ii) amend the application for reexamination.
85386 (c) The procedure described in Subsections (5)(a) and (b) may be repeated until:
85387 (i) the division finally refuses registration of the mark; or
85388 (ii) the applicant fails to reply or amend within the time period specified under
85389 Subsection (5)(b).
85390 (d) If the applicant fails to reply or to amend within the time period specified under
85391 Subsection (5)(b), the application is considered abandoned.
85392 (6) If the division finally refuses registration of the mark, the refusal shall:
85393 (a) be in writing; and
85394 (b) notify the applicant of the applicant's right to a review of the agency action in
85395 accordance with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
85396 (7) (a) An applicant may file an action to compel registration by obtaining judicial
85397 review of the final agency action in accordance with [~~Title 63, Chapter 46b~~] Title 63G, Chapter
85398 4, Administrative Procedures Act.
85399 (b) The division is not liable for damages in an action to compel registration.
85400 (c) An action to compel registration shall only be granted on proof that:
85401 (i) all the statements in the application for registration are true; and

85402 (ii) the mark is otherwise entitled to registration.
85403 (8) (a) If more than one application is concurrently being processed by the division
85404 seeking registration of the same or confusingly similar marks for the same or related goods or
85405 services, the division shall grant priority to the applications in order of filing.
85406 (b) If a prior-filed application is granted a registration, the division shall refuse an
85407 application filed after the prior-filed application.
85408 (c) An applicant refused under this Subsection (8) may bring an action for cancellation
85409 of the registration upon grounds of prior or superior rights to the mark.
85410 Section 2071. Section **70A-9a-526** is amended to read:
85411 **70A-9a-526. Filing-office rules.**
85412 (1) The Division of Corporations and Commercial Code shall adopt and publish rules
85413 to implement this chapter that apply to a filing office described in Subsection
85414 70A-9a-501(1)(b). The filing-office rules must be:
85415 (a) consistent with this chapter; and
85416 (b) adopted and published in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
85417 Chapter 3, Utah Administrative Rulemaking Act.
85418 (2) To keep the filing-office rules and practices of the filing office in harmony with the
85419 rules and practices of filing offices in other jurisdictions that enact substantially this part, and
85420 to keep the technology used by the filing office compatible with the technology used by filing
85421 offices in other jurisdictions that enact substantially this part, the Division of Corporations and
85422 Commercial Code, so far as is consistent with the purposes, policies, and provisions of this
85423 chapter, in adopting, amending, and repealing filing-office rules, shall:
85424 (a) consult with filing offices in other jurisdictions that enact substantially this part;
85425 (b) consult the most recent version of the Model Rules promulgated by the
85426 International Association of Corporate Administrators or any successor organization; and
85427 (c) take into consideration the rules and practices of, and the technology used by, filing
85428 offices in other jurisdictions that enact substantially this part.
85429 Section 2072. Section **70C-8-104** is amended to read:
85430 **70C-8-104. Enforcement proceedings.**
85431 (1) (a) The department may take an action described in Subsection (1)(b) if the
85432 department determines that any party engaging in activities subject to this title is violating or

85433 has violated or the department has reasonable cause to believe is about to violate:
85434 (i) any applicable provision of this title;
85435 (ii) any rule or order under this title;
85436 (iii) any condition imposed in writing in connection with the granting of any
85437 application or other request by the party; or
85438 (iv) any federal statute or regulation pertaining to consumer credit in effect at the time
85439 of the determination described in Subsection (1)(a).
85440 (b) If the department makes a determination described in Subsection (1)(a), the
85441 department may:
85442 (i) order the party to cease and desist from committing any further violations; and
85443 (ii) in the most serious instances, prohibit a party from making further extensions of
85444 credit to consumers.
85445 (c) The department shall by rule, made in accordance with [~~Title 63, Chapter 46a~~] Title
85446 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this chapter,
85447 designate which one or more federal statutes or regulations are federal statutes or regulations
85448 pertaining to consumer credit for purposes of this Subsection (1).
85449 (2) The department shall afford an opportunity for hearing upon request of any party
85450 described in Subsection (1)(a) if the request is filed with the department within 30 days after
85451 the party requesting the hearing first receives notice of the allegations.
85452 (3) (a) If the department determines that a practice that it has alleged is unlawful
85453 should be enjoined during the pendency of any proceedings incident to that allegation, the
85454 department may issue a temporary order:
85455 (i) at the commencement of the proceedings; or
85456 (ii) at any time after commencement of the proceeding.
85457 (b) The temporary order described in this Subsection (3) is fully binding on the party to
85458 whom the temporary order is directed until:
85459 (i) the proceedings are concluded; or
85460 (ii) the temporary order is modified or dissolved by the department.
85461 (c) Any party to whom a temporary order is directed may request a hearing concerning
85462 the order, which shall be held:
85463 (i) at the earliest mutually convenient time, but in no event more than ten days, after

85464 the party's request is received by the department; or
85465 (ii) at any other time the parties may mutually agree upon.
85466 (d) Every temporary order shall include findings and conclusions in support of the
85467 order.
85468 (e) A temporary order may not be issued unless the department finds from specific
85469 facts supported by sworn statement or the records of a party subject to the order that consumers
85470 are otherwise likely to suffer immediate and irreparable injury, loss, or damage before
85471 proceedings, incident to a final order, can be completed.
85472 (4) The department may not award damages or penalties against a creditor.
85473 (5) (a) Any order issued by the department under authority of this title shall:
85474 (i) be in writing;
85475 (ii) be delivered to or served upon the party affected; and
85476 (iii) specify its effective date, which may be immediate or at a later date.
85477 (b) An order described in Subsection (5)(a) shall remain in effect until:
85478 (i) withdrawn by the department; or
85479 (ii) terminated by a court order.
85480 (c) (i) An order of the department, upon application made on or after the effective date
85481 of the order by the department to a court of general jurisdiction in the county in which an office
85482 or the residence of the party is located, may be enforced ex parte and without notice by an order
85483 to comply entered by the court.
85484 (ii) If the proceeding involves more than one party and each of the parties do not have
85485 an office or residence in one county, the department may file its application in any county of
85486 this state where one of the parties has an office or residence.
85487 (iii) If no party to the proceeding has an office or residence in the state, the
85488 department's application shall be filed in the Third District Court.
85489 Section 2073. Section **70D-1-14** is amended to read:
85490 **70D-1-14. Enforcement by department -- Rulemaking -- Federal loan.**
85491 (1) The department has the power, within the limitations provided by [~~Title 63, Chapter~~
85492 ~~46b~~] Title 63G, Chapter 4, Administrative Procedures Act, to:
85493 (a) (i) receive and act on complaints;
85494 (ii) take action designed to obtain voluntary compliance with this chapter; or

85495 (iii) commence proceedings on its own initiative to enforce compliance with this
85496 chapter;
85497 (b) counsel persons and groups on their rights and duties under this chapter;
85498 (c) adopt, amend, and repeal rules to:
85499 (i) restrict or prohibit lending or servicing practices which are misleading, unfair, or
85500 abusive;
85501 (ii) promote or assure fair and full disclosure of the terms and conditions of agreements
85502 and communications between mortgage lenders or servicers and borrowers; or
85503 (iii) promote or assure uniform application of or to resolve ambiguities in applicable
85504 state or federal laws or federal regulations; and
85505 (d) employ hearing examiners, clerks, and other employees and agents as necessary to
85506 perform its duties under this chapter.
85507 (2) A rule or any part of a rule adopted by the department pursuant to this chapter may
85508 not be determined by any judicial or other authority to be invalid in whole or in part unless the
85509 judicial or other authority expressly finds that the rule or a part of it:
85510 (a) is arbitrary, capricious, constitutes an abuse of discretion;
85511 (b) exceeds the authority granted to the department by this chapter; or
85512 (c) is otherwise unlawful.
85513 (3) (a) A person subject to this chapter violates this chapter if the person violates a
85514 federal law:
85515 (i) that is applicable to the person because of the activities that make the person subject
85516 to this chapter; and
85517 (ii) pursuant to the terms of the federal law in effect on the day the person violates the
85518 federal law.
85519 (b) The department shall by rule, made in accordance with [~~Title 63, Chapter 46a~~] Title
85520 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this chapter,
85521 designate which one or more federal laws are applicable to a person described in Subsection
85522 (3)(a).
85523 (c) (i) Notwithstanding the other provisions of this chapter, only the department may
85524 enforce or bring an action under this chapter for a violation described in this Subsection (3).
85525 (ii) The department may bring an action under this Subsection (3) in state court.

85526 Section 2074. Section **70D-1-16** is amended to read:
85527 **70D-1-16. Department orders.**
85528 (1) If the department determines that any person engaging in business as a mortgage
85529 lender, broker, or servicer is violating, has violated, or the department has reasonable cause to
85530 believe is about to violate any provision of this chapter or any rule of the department made
85531 under this chapter, the department may order the person to cease and desist from committing
85532 any further violations, and in the most serious instances may prohibit the person from
85533 continuing to engage in business as a mortgage lender, broker, or servicer.
85534 (2) The department shall afford an opportunity for hearing upon request of any person
85535 alleged to have violated this chapter if the request is filed with the department within 30 days
85536 after the person requesting the hearing first receives notice of the allegations.
85537 (3) (a) If the department determines that a practice which it has alleged is unlawful
85538 should be enjoined during the pendency of any proceedings incident to that allegation, it may
85539 issue a temporary order at the commencement of the proceedings or at any time thereafter
85540 which is fully binding on the person to whom the temporary order is directed until the
85541 proceedings are concluded or the temporary order is modified or dissolved by the department.
85542 (b) Any person to whom a temporary order is directed may request a hearing
85543 concerning the order, which shall be held at the earliest mutually convenient time, but in no
85544 event more that ten days after the person's request is received by the department unless the
85545 department and the person requesting the hearing mutually agree to a later time.
85546 (c) Every temporary order shall include findings and conclusions in support of it.
85547 (d) For purposes of Section [~~63-46b-20~~] 63G-4-502, an immediate and significant
85548 danger to the public health, safety, or welfare exists if the department finds from specific facts
85549 supported by sworn statement or the records of a person subject to the order that loan
85550 applicants or mortgagors are otherwise likely to suffer immediate and irreparable injury, loss,
85551 or damage before proceedings incident to a final order can be completed.
85552 (4) The department may not award damages or penalties against a mortgage lender,
85553 broker, or servicer.
85554 (5) (a) Any order issued by the department under authority of this chapter shall be in
85555 writing, be delivered to or served upon the person affected, and specify its effective date, which
85556 may be immediate or at a later date.

85557 (b) Orders shall remain in effect until withdrawn by the department or until terminated
85558 by a court order. The order of the department, upon application made on or after its effective
85559 date to the Third District Court, or in any other district court, may be enforced ex parte and
85560 without notice by an order to comply entered by the court.
85561 Section 2075. Section **70D-1-17** is amended to read:
85562 **70D-1-17. Relief from department order.**
85563 Any person aggrieved by any rule, order, temporary order, decision, ruling, or other act
85564 or failure to act by the department under this chapter is entitled to judicial review as provided
85565 under [~~Title 63, Chapter 46b, the~~] Title 63G, Chapter 4, Administrative Procedures Act.
85566 Section 2076. Section **71-7-3** is amended to read:
85567 **71-7-3. Development, operation, and maintenance of Utah Veterans' Cemetery**
85568 **and Memorial Park -- Responsibilities of Department of Veterans' Affairs -- Costs --**
85569 **Definition.**
85570 (1) The Department of Veterans' Affairs, in consultation with the Veterans' Memorial
85571 Park Board, shall develop, operate, and maintain a veterans' cemetery and memorial park.
85572 (2) To help pay the costs of developing, constructing, operating, and maintaining a
85573 veterans' cemetery and memorial park, the Department of Veterans' Affairs may:
85574 (a) by following the procedures and requirements of [~~Title 63, Chapter 38c~~] Title 63J,
85575 Chapter 5, Federal Funds Procedures, receive federal funds, and may receive state funds,
85576 contributions from veterans' organizations, and other private donations; and
85577 (b) charge fees for at least the cost of the burial of veterans' spouses and other persons,
85578 whom the department and the Veterans' Memorial Park Board determines are eligible to be
85579 buried in a veterans' cemetery established by the state.
85580 (3) As used in this chapter, "veteran" has the same meaning as in Section 71-8-1.
85581 Section 2077. Section **71-8-2** is amended to read:
85582 **71-8-2. Department of Veterans' Affairs created -- Appointment of executive**
85583 **director -- Department responsibilities.**
85584 (1) There is created the Department of Veterans' Affairs.
85585 (2) The governor shall appoint an executive director for the department, subject to
85586 Senate confirmation, from a list of qualified veterans provided by the Veterans' Advisory
85587 Council. Any veteran or veteran's group may submit names to the council for consideration.

85588 (3) The department shall:
85589 (a) conduct and supervise all veteran activities as provided in this title; and
85590 (b) adopt rules in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
85591 Administrative Rulemaking Act, to carry out the provisions of this title.
85592 Section 2078. Section **71-11-5** is amended to read:
85593 **71-11-5. Operation of homes -- Rulemaking authority -- Selection of**
85594 **administrator.**
85595 (1) The department shall, subject to the approval of the executive director:
85596 (a) establish appropriate criteria for the admission and discharge of residents for each
85597 home, subject to the requirements in Section 71-11-6 and criteria set by the U.S. Department of
85598 Veterans' Affairs;
85599 (b) establish a schedule of charges for each home in cases where residents have
85600 available resources;
85601 (c) establish standards for the operation of the homes not inconsistent with standards
85602 set by the United States Department of Veterans Affairs;
85603 (d) make rules to implement this chapter in accordance with [~~Title 63, Chapter 46a~~]
85604 Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
85605 (e) ensure that the homes are licensed in accordance with Title 26, Chapter 21, Health
85606 Care Facility Licensing and Inspection Act, and 38 U.S.C. Sec. 1742(a).
85607 (2) The department shall, after reviewing recommendations of the board, appoint an
85608 administrator for each home.
85609 Section 2079. Section **72-1-201** is amended to read:
85610 **72-1-201. Creation of Department of Transportation -- Functions, powers, duties,**
85611 **rights, and responsibilities.**
85612 There is created the Department of Transportation which shall:
85613 (1) have the general responsibility for planning, research, design, construction,
85614 maintenance, security, and safety of state transportation systems;
85615 (2) provide administration for state transportation systems and programs;
85616 (3) implement the transportation policies of the state;
85617 (4) plan, develop, construct, and maintain state transportation systems that are safe,
85618 reliable, environmentally sensitive, and serve the needs of the traveling public, commerce, and

85619 industry;
85620 (5) establish standards and procedures regarding the technical details of administration
85621 of the state transportation systems as established by statute and administrative rule;
85622 (6) advise the governor and the Legislature about state transportation systems needs;
85623 (7) coordinate with utility companies for the reasonable, efficient, and cost-effective
85624 installation, maintenance, operation, relocation, and upgrade of utilities within state highway
85625 rights-of-way; and
85626 (8) in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
85627 Administrative Rulemaking Act, make policy and rules for the administration of the
85628 department, state transportation systems, and programs.
85629 Section 2080. Section **72-1-211** is amended to read:
85630 **72-1-211. Department to develop strategic initiatives -- Report -- Rulemaking.**
85631 (1) The executive director shall develop strategic initiatives for the department.
85632 (2) The strategic initiatives developed under Subsection (1) shall include consideration
85633 of the following factors:
85634 (a) corridor preservation;
85635 (b) development of new transportation capacity projects;
85636 (c) long-term maintenance and operations of the transportation system;
85637 (d) safety;
85638 (e) incident management; and
85639 (f) homeland security.
85640 (3) (a) The executive director or the executive director's designee shall report the
85641 strategic initiatives of the department developed under Subsection (1) to the Transportation
85642 Commission.
85643 (b) The report required under Subsection (3)(a) shall include the measure that will be
85644 used to determine whether the strategic initiatives have been achieved.
85645 (4) After compliance with Subsection (3) and in accordance with [~~Title 63, Chapter~~
85646 ~~46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make
85647 rules establishing the strategic initiatives developed under this part.
85648 Section 2081. Section **72-1-303** is amended to read:
85649 **72-1-303. Duties of commission.**

85650 The commission has the following duties:
85651 (1) determining priorities and funding levels of projects in the state transportation
85652 systems for each fiscal year based on project lists compiled by the department;
85653 (2) determining additions and deletions to state highways under Chapter 4, Designation
85654 of State Highways Act;
85655 (3) holding public hearings and otherwise providing for public input in transportation
85656 matters;
85657 (4) making policies and rules in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
85658 Chapter 3, Utah Administrative Rulemaking Act, necessary to perform the commission's duties
85659 described under this section;
85660 (5) in accordance with Section [~~63-46b-12~~] 63G-4-301, reviewing orders issued by the
85661 executive director in adjudicative proceedings held in accordance with [~~Title 63, Chapter 46b~~]
85662 Title 63G, Chapter 4, Administrative Procedures Act;
85663 (6) advising the department in state transportation systems policy;
85664 (7) approving settlement agreements of condemnation cases subject to Section
85665 [~~63-38b-401~~] 63G-10-401;
85666 (8) in accordance with Section 17B-2a-807, appointing a commissioner to serve as a
85667 nonvoting, ex officio member on the board of trustees of a public transit district;
85668 (9) in accordance with Section 17B-2a-808, reviewing, at least annually, the short-term
85669 and long-range public transit plans; and
85670 (10) reviewing administrative rules made, amended, or repealed by the department.
85671 Section 2082. Section **72-1-304** is amended to read:
85672 **72-1-304. Written project prioritization process for new transportation capacity**
85673 **projects -- Rulemaking.**
85674 (1) The Transportation Commission, in consultation with the department and the
85675 metropolitan planning organizations as defined in Section 72-1-208.5, shall develop a written
85676 prioritization process for the prioritization of new transportation capacity projects that are or
85677 will be part of the state highway system under Chapter 4, Part 1, State Highways.
85678 (2) The following shall be included in the written prioritization process under
85679 Subsection (1):
85680 (a) a description of how the strategic initiatives of the department adopted under

85681 Section 72-1-211 are advanced by the written prioritization process;
85682 (b) a definition of the type of projects to which the written prioritization process
85683 applies;
85684 (c) specification of a weighted criteria system that is used to rank proposed projects
85685 and how it will be used to determine which projects will be prioritized;
85686 (d) specification of the data that is necessary to apply the weighted ranking criteria; and
85687 (e) any other provisions the commission considers appropriate.
85688 (3) In developing the written prioritization process, the commission:
85689 (a) shall seek and consider public comment by holding public meetings at locations
85690 throughout the state; and
85691 (b) may not consider local matching dollars as provided under Section 72-2-123 unless
85692 the state provides an equal opportunity to raise local matching dollars for state highway
85693 improvements within each county.
85694 (4) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
85695 Administrative Rulemaking Act, the Transportation Commission, in consultation with the
85696 department, shall make rules establishing the written prioritization process under Subsection
85697 (1).
85698 (5) The commission shall submit the proposed rules under this section to a committee
85699 or task force designated by the Legislative Management Committee for review prior to taking
85700 final action on the proposed rules or any proposed amendment to the rules described in
85701 Subsection (4).
85702 Section 2083. Section **72-2-109** is amended to read:
85703 **72-2-109. Rules for uniform accounting -- Apportionment and use of class B and**
85704 **class C road funds -- Compliance with federal-aid provisions -- Duties of department.**
85705 (1) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
85706 Administrative Rulemaking Act, the department shall make rules providing for uniform
85707 accounting of funds to be expended upon class B and C roads as required by the federal
85708 government under Title 23, United States Code Annotated, relating to federal aid for highway
85709 purposes together with all amendatory acts.
85710 (2) The department shall cooperate with the county governing bodies and the
85711 governing officials of the cities and towns in the apportionment and use of class B and C road

85712 funds.
85713 Section 2084. Section **72-2-111** is amended to read:
85714 **72-2-111. Assent to federal acts on federal aid for highway purposes --**
85715 **Department to represent state -- Pledge of funds -- Rulemaking authority -- Contracts for**
85716 **energy conservation.**
85717 (1) (a) The Legislature assents to all the provisions of Title 23, Highways, U.S.C.,
85718 relating to federal aid for highway purposes, and all amendatory acts.
85719 (b) The department may:
85720 (i) enter into a contract or agreement with the United States government relating to the
85721 survey, construction, and maintenance of highways under a federal act;
85722 (ii) submit a scheme or program of construction and maintenance required by a federal
85723 agency; and
85724 (iii) do any other thing necessary to fully carry out the cooperation contemplated and
85725 provided for by a federal act.
85726 (c) The good faith of the state is pledged to make available sufficient funds to match the
85727 sums apportioned to the state by the United States government:
85728 (i) for the construction of federal-aid highways; and
85729 (ii) to provide adequate maintenance for federal-aid highways.
85730 (2) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
85731 Administrative Rulemaking Act, the department may make rules to encourage car pools and
85732 van pools in order to save energy.
85733 (3) The department may contract with individuals, associations, or corporations to
85734 accomplish energy conservation and encouragement of car and van pooling.
85735 Section 2085. Section **72-2-113** is amended to read:
85736 **72-2-113. Rulemaking for cost limitations on contracts -- Auditing for**
85737 **compliance -- Federal accounting and audit standards.**
85738 (1) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
85739 Administrative Rulemaking Act, the department may make rules for determining the
85740 allowability of costs included in contracts entered into by the department for engineering and
85741 design services. The rules shall comply with the provisions of 23 U.S.C. Section 112.
85742 (2) The department may require a provider of engineering or design services to submit

85743 annual audits or to submit to audits to determine compliance with the rules made under
85744 Subsection (1). The audits may not be duplicative of federal audits under the Federal
85745 Acquisition Regulations System, 48 C.F.R. Part 31.
85746 (3) All engineering and design contracts and subcontracts entered into by the
85747 department shall be accounted for and audited in compliance with the Federal Acquisition
85748 Regulations System, 48 C.F.R. Part 31.
85749 Section 2086. Section **72-2-117** is amended to read:
85750 **72-2-117. Transportation Corridor Preservation Revolving Loan Fund --**
85751 **Distribution -- Repayment -- Rulemaking.**
85752 (1) There is created the Transportation Corridor Preservation Revolving Loan Fund
85753 within the Transportation Fund.
85754 (2) The fund shall be funded from the following sources:
85755 (a) motor vehicle rental tax imposed under Section 59-12-1201;
85756 (b) appropriations made to the fund by the Legislature;
85757 (c) contributions from other public and private sources for deposit into the fund;
85758 (d) interest earnings on cash balances;
85759 (e) all monies collected for repayments and interest on fund monies;
85760 (f) all monies collected from rents and sales of real property acquired with fund
85761 monies; and
85762 (g) proceeds from general obligation bonds, revenue bonds, or other obligations as
85763 authorized by Title 63B, Bonds.
85764 (3) All monies appropriated to the Transportation Corridor Preservation Revolving
85765 Loan Fund are nonlapsing.
85766 (4) (a) The commission shall authorize the expenditure of fund monies to allow the
85767 department to acquire real property or any interests in real property for state, county, and
85768 municipal transportation corridors subject to:
85769 (i) monies available in the fund;
85770 (ii) rules made under Subsection (7); and
85771 (iii) Subsection (9).
85772 (b) Fund monies may be used to pay interest on debts incurred in accordance with this
85773 section.

85774 (5) Administrative costs for transportation corridor preservation shall be paid from the
85775 fund.
85776 (6) The department:
85777 (a) may apply to the commission under this section for monies from the Transportation
85778 Corridor Preservation Revolving Loan Fund for a specified transportation corridor project,
85779 including for county and municipal projects; and
85780 (b) shall repay the fund monies authorized for the project to the fund as required under
85781 Subsection (7).
85782 (7) The commission shall:
85783 (a) administer the Transportation Corridor Preservation Revolving Loan Fund to:
85784 (i) preserve transportation corridors;
85785 (ii) promote long-term statewide transportation planning;
85786 (iii) save on acquisition costs; and
85787 (iv) promote the best interests of the state in a manner which minimizes impact on
85788 prime agricultural land;
85789 (b) prioritize fund monies based on considerations, including:
85790 (i) areas with rapidly expanding population;
85791 (ii) the willingness of local governments to complete studies and impact statements
85792 that meet department standards;
85793 (iii) the preservation of corridors by the use of local planning and zoning processes;
85794 (iv) the availability of other public and private matching funds for a project; and
85795 (v) the cost-effectiveness of the preservation projects;
85796 (c) designate high priority corridor preservation projects in cooperation with a
85797 metropolitan planning organization;
85798 (d) administer the program for the purposes provided in this section;
85799 (e) prioritize fund monies in accordance with this section; and
85800 (f) make rules in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
85801 Administrative Rulemaking Act, establishing:
85802 (i) the procedures for the awarding of fund monies;
85803 (ii) the procedures for the department to apply for transportation corridor preservation
85804 monies for projects; and

85805 (iii) repayment conditions of the monies to the fund from the specified project funds.
85806 (8) (a) The proceeds from any bonds or other obligations secured by revenues of the
85807 Transportation Corridor Preservation Revolving Loan Fund shall be used for:
85808 (i) the acquisition of real property in hardship cases; and
85809 (ii) any of the purposes authorized for funds in the Transportation Corridor
85810 Preservation Revolving Loan Fund under this section.
85811 (b) The commission shall pledge the necessary part of the revenues of the
85812 Transportation Corridor Preservation Revolving Loan Fund to the payment of principal of and
85813 interest on the bonds or other obligations.
85814 (9) (a) The department may not apply for monies under this section unless the highway
85815 authority has an access management policy or ordinance in effect that meets the requirements
85816 under Subsection (9)(b).
85817 (b) The access management policy or ordinance shall:
85818 (i) be for the purpose of balancing the need for reasonable access to land uses with the
85819 need to preserve the smooth flow of traffic on the highway system in terms of safety, capacity,
85820 and speed; and
85821 (ii) include provisions:
85822 (A) limiting the number of conflict points at driveway locations;
85823 (B) separating conflict areas;
85824 (C) reducing the interference of through traffic;
85825 (D) spacing at-grade signalized intersections; and
85826 (E) providing for adequate on-site circulation and storage.
85827 (c) The department shall develop a model access management policy or ordinance that
85828 meets the requirements of this Subsection (9) for the benefit of a county or municipality under
85829 this section.
85830 (10) (a) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
85831 Administrative Rulemaking Act, the commission shall make rules establishing a corridor
85832 preservation advisory council.
85833 (b) The corridor preservation advisory council shall:
85834 (i) assist with and help coordinate the corridor preservation efforts of the department
85835 and local governments;

85836 (ii) provide recommendations and priorities concerning corridor preservation and the
85837 use of fund monies to the department and to the commission; and
85838 (iii) include members designated by each metropolitan planning organization in the
85839 state to represent local governments that are involved with corridor preservation through
85840 official maps and planning.
85841 Section 2087. Section **72-2-122** is amended to read:
85842 **72-2-122. Aeronautics Construction Revolving Loan Fund -- Distribution --**
85843 **Repayment -- Rulemaking.**
85844 (1) There is created the Aeronautics Construction Revolving Loan Fund within the
85845 Transportation Fund.
85846 (2) The fund shall include monies from the following sources:
85847 (a) appropriations made to the fund by the Legislature;
85848 (b) contributions from other public and private sources for deposit into the fund;
85849 (c) interest earnings on cash balances;
85850 (d) all monies collected for repayments and interest on fund monies; and
85851 (e) proceeds from revenue bonds or other obligations issued in accordance with [~~Title~~
85852 ~~63, Chapter 9a, State Building Ownership Act~~] Title 63B, Chapter 1, Part 3, State Building
85853 Ownership Authority Act, and Title 63B, Bonds.
85854 (3) All monies appropriated to the Aeronautics Construction Revolving Loan Fund are
85855 nonlapsing.
85856 (4) (a) The commission shall authorize the expenditure of fund monies for
85857 construction, major reconstruction, major renovation, or property acquisition of airports and
85858 airport runways for state, county, and municipal airports subject to:
85859 (i) monies available in the fund; and
85860 (ii) rules made under Subsection (7).
85861 (b) Fund monies may be used to pay interest on debts incurred in accordance with this
85862 section.
85863 (5) Administrative costs of the Aeronautics Construction Revolving Loan Fund shall
85864 be paid from the fund.
85865 (6) The Operations Division:
85866 (a) may apply to the commission under this section for monies from the Aeronautics

85867 Construction Revolving Loan Fund for a specified aeronautics project, including for county
85868 and municipal projects; and
85869 (b) shall repay the fund monies authorized for the project to the fund as required under
85870 Subsection (7).
85871 (7) The commission shall:
85872 (a) administer the Aeronautics Construction Revolving Loan Fund to promote
85873 long-term statewide aeronautics transportation;
85874 (b) prioritize fund monies based on considerations, including:
85875 (i) areas with rapidly expanding population;
85876 (ii) the willingness of local governments to:
85877 (A) complete studies and impact statements that meet department standards; and
85878 (B) preserve long-term airport operations by the use of local planning and zoning
85879 processes;
85880 (iii) the availability of other public and private matching funds for a project; and
85881 (iv) the cost-effectiveness of the projects; and
85882 (c) make rules in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
85883 Administrative Rulemaking Act, establishing:
85884 (i) the procedures for the awarding of fund monies;
85885 (ii) the procedures for the Operations Division to apply for Aeronautics Construction
85886 Revolving Loan Fund monies for projects; and
85887 (iii) repayment schedules and conditions of replacing the monies back into the fund.
85888 (8) For loans made under this section to a county or municipal airport, the Division of
85889 Finance shall:
85890 (a) collect and account for a loan made in accordance with this section; and
85891 (b) have custody of all loan documents evidencing indebtedness of the Aeronautics
85892 Construction Revolving Loan Fund, including all:
85893 (i) notes; and
85894 (ii) contracts.
85895 (9) (a) The proceeds from the revenue bonds or other obligations issued on revenues of
85896 the Aeronautics Construction Revolving Loan Fund shall be used for the purposes authorized
85897 for funds under this section.

85898 (b) The commission shall pledge the necessary part of the revenues of the Aeronautics
85899 Construction Revolving Loan Fund to the payment of principal of and interest on the revenue
85900 bonds or other obligations.
85901 Section 2088. Section **72-2-123** is amended to read:
85902 **72-2-123. Rules adopting guidelines -- Partnering to finance state highway**
85903 **capacity improvements -- Partnering proposals.**
85904 (1) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
85905 Administrative Rulemaking Act, the commission, in consultation with representatives of local
85906 government, shall make rules adopting guidelines for partnering with counties and
85907 municipalities for their help to finance state highway improvement projects through:
85908 (a) local matching dollars; or
85909 (b) other local participation methods.
85910 (2) The guidelines shall encourage partnering to help finance state highway
85911 improvement projects and provide for:
85912 (a) consideration of factors relevant to a decision to make a program adjustment
85913 including the potential to:
85914 (i) extend department resources to other needed projects;
85915 (ii) alleviate significant existing or future congestion or hazards to the traveling public;
85916 and
85917 (iii) address a need that is widely recognized by the public, elected officials, and
85918 transportation planners;
85919 (b) a process for submitting, evaluating, and hearing partnering proposals; and
85920 (c) keeping a public record of each proposal from initial submission to final
85921 disposition.
85922 (3) The commission shall submit the proposed rules under this section to a committee
85923 or task force designated by the Legislative Management Committee for review prior to taking
85924 final action on the proposed rules or any proposed amendment to the rules.
85925 Section 2089. Section **72-2-202** is amended to read:
85926 **72-2-202. Transportation Infrastructure Loan Fund -- Creation -- Use of monies.**
85927 (1) There is created a revolving loan fund entitled the Transportation Infrastructure
85928 Loan Fund.

85929 (2) The fund consists of monies generated from the following revenue sources:
85930 (a) appropriations made to the fund by the Legislature;
85931 (b) federal monies and grants that are deposited in the fund;
85932 (c) monies transferred to the fund by the commission from other monies available to
85933 the department;
85934 (d) state grants that are deposited in the fund;
85935 (e) contributions or grants from any other private or public sources for deposit into the
85936 fund; and
85937 (f) all monies collected from repayments of fund monies used for infrastructure loans
85938 or infrastructure assistance.
85939 (3) (a) The fund shall earn interest.
85940 (b) All interest earned on fund monies shall be deposited into the fund.
85941 (4) Monies in the fund shall be used by the department, as prioritized by the
85942 commission, only to:
85943 (a) provide infrastructure loans or infrastructure assistance; and
85944 (b) pay the department for the costs of administering the fund, providing infrastructure
85945 loans or infrastructure assistance, monitoring transportation projects, and obtaining repayments
85946 of infrastructure loans or infrastructure assistance.
85947 (5) (a) The department may establish separate accounts in the fund for infrastructure
85948 loans, infrastructure assistance, administrative and operating expenses, or any other purpose to
85949 implement this part.
85950 (b) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
85951 Administrative Rulemaking Act, the department may make rules governing how the fund and
85952 its accounts may be held by an escrow agent.
85953 (6) Fund monies shall be invested by the state treasurer as provided in Title 51, Chapter
85954 7, State Money Management Act, and the earnings from the investments shall be credited to the
85955 fund.
85956 Section 2090. Section **72-2-203** is amended to read:
85957 **72-2-203. Loans and assistance -- Authority -- Rulemaking.**
85958 (1) Monies in the fund may be used by the department, as prioritized by the
85959 commission, to make infrastructure loans or to provide infrastructure assistance to any public

85960 entity for any purpose consistent with any applicable constitutional limitation.
85961 (2) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
85962 Administrative Rulemaking Act, the commission shall make rules providing procedures and
85963 standards for making infrastructure loans and providing infrastructure assistance.
85964 Section 2091. Section **72-2-204** is amended to read:
85965 **72-2-204. Loan program procedures -- Repayment.**
85966 (1) A public entity may obtain an infrastructure loan from the department, upon
85967 approval by the commission, by entering into a loan contract with the department secured by
85968 legally issued bonds, notes, or other evidence of indebtedness validly issued under state law,
85969 including pledging all or any portion of a revenue source to the repayment of the loan.
85970 (2) The public entity shall repay the infrastructure loan in accordance with the loan
85971 contract from any of the following sources:
85972 (a) transportation project revenues, including special assessment revenues;
85973 (b) general funds of the public entity;
85974 (c) monies withheld under Subsection (5); or
85975 (d) any other legally available revenues.
85976 (3) An infrastructure loan contract with a public entity may provide that a portion of
85977 the proceeds of the loan may be applied to fund a reserve fund to secure the repayment of the
85978 loan.
85979 (4) Before obtaining an infrastructure loan, a county or municipality shall:
85980 (a) publish its intention to obtain an infrastructure loan at least once in accordance with
85981 the publication of notice requirements under Section 11-14-316; and
85982 (b) adopt an ordinance or resolution authorizing the infrastructure loan.
85983 (5) (a) If a public entity fails to comply with the terms of its infrastructure loan
85984 contract, the department may seek any legal or equitable remedy to obtain compliance or
85985 payment of damages.
85986 (b) If a public entity fails to make infrastructure loan payments when due, the state
85987 shall, at the request of the department, withhold an amount of monies due to the public entity
85988 and deposit the withheld monies in the fund to pay the amounts due under the contract.
85989 (c) The department may elect when to request the withholding of monies under this
85990 Subsection (5).

85991 (6) All loan contracts, bonds, notes, or other evidence of indebtedness securing the
85992 loan contracts shall be held, collected, and accounted for in accordance with Section [~~63-65-4~~]
85993 63B-1b-202.
85994 Section 2092. Section **72-3-109** is amended to read:
85995 **72-3-109. Division of responsibility with respect to state highways in cities and**
85996 **towns.**
85997 (1) Except as provided in Subsection (3), the jurisdiction and responsibility of the
85998 department and the municipalities for state highways within municipalities is as follows:
85999 (a) The department has jurisdiction over and is responsible for the construction and
86000 maintenance of:
86001 (i) the portion of the state highway located between the back of the curb on either side
86002 of the state highway; or
86003 (ii) if there is no curb, the traveled way, its contiguous shoulders, and appurtenances.
86004 (b) The department may widen or improve state highways within municipalities.
86005 (c) (i) A municipality has jurisdiction over all other portions of the right-of-way and is
86006 responsible for construction and maintenance of the right-of-way.
86007 (ii) If a municipality grants permission for the installation of any pole, pipeline,
86008 conduit, sewer, ditch, culvert, billboard, advertising sign, or any other structure or object of any
86009 kind or character within the portion of the right-of-way under its jurisdiction:
86010 (A) the permission shall contain the condition that any installation will be removed
86011 from the right-of-way at the request of the municipality; and
86012 (B) the municipality shall cause any installation to be removed at the request of the
86013 department when the department finds the removal necessary:
86014 (I) to eliminate a hazard to traffic safety;
86015 (II) for the construction and maintenance of the state highway; or
86016 (III) to meet the requirements of federal regulations.
86017 (d) If it is necessary that a utility, as defined in Section 72-6-116, be relocated,
86018 reimbursement shall be made for the relocation as provided for in Section 72-6-116.
86019 (e) (i) The department shall construct curbs, gutters, and sidewalks on the state
86020 highways if necessary for the proper control of traffic, driveway entrances, or drainage.
86021 (ii) If a state highway is widened or altered and existing curbs, gutters, or sidewalks are

86022 removed, the department shall replace the curbs, gutters, or sidewalks.
86023 (f) The department may furnish and install street lighting systems for state highways,
86024 but their operation and maintenance is the responsibility of the municipality.
86025 (g) If new storm sewer facilities are necessary in the construction and maintenance of
86026 the state highways, the cost of the storm sewer facilities shall be borne by the state and the
86027 municipality in a proportion mutually agreed upon between the department and the
86028 municipality.
86029 (2) (a) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
86030 Administrative Rulemaking Act, the department shall make rules governing the location and
86031 construction of approach roads and driveways entering the state highway. The rules shall:
86032 (i) include criteria for the design, location, and spacing of approach roads and
86033 driveways based on the functional classification of the adjacent highway, including the urban
86034 or rural nature of the area;
86035 (ii) be consistent with the "Manual on Uniform Traffic Control Devices" and the model
86036 access management policy or ordinance developed by the department under Subsection
86037 72-2-117(9);
86038 (iii) include procedures for:
86039 (A) the application and review of a permit for approach roads and driveways including
86040 review of related site plans that have been recommended according to local ordinances; and
86041 (B) approving, modifying, denying, or appealing the modification or denial of a permit
86042 for approach roads and driveways within 45 days of receipt of the application; and
86043 (iv) require written justifications for modifying or denying a permit.
86044 (b) The department may delegate the administration of the rules to the highway
86045 authorities of a municipality.
86046 (c) In accordance with this section and Section 72-7-104, an approach road or driveway
86047 may not be constructed on a state highway without a permit issued under this section.
86048 (3) The department has jurisdiction and control over the entire right-of-way of
86049 interstate highways within municipalities and is responsible for the construction, maintenance,
86050 and regulation of the interstate highways within municipalities.
86051 Section 2093. Section **72-3-207** is amended to read:
86052 **72-3-207. State Park Access Highways Improvement Program -- Distribution --**

86053 **Rulemaking.**
86054 (1) There is created the State Park Access Highways Improvement Program within the
86055 department.
86056 (2) The program shall be funded from the following revenue sources:
86057 (a) any voluntary contributions received for improvements to state park access
86058 highways; and
86059 (b) appropriations made to the program by the Legislature.
86060 (3) The department may use the program monies as matching grants to a county or
86061 municipality for the improvement of class B or class C roads specified as state park access
86062 highways under this part subject to:
86063 (a) monies available in the program;
86064 (b) prioritization of the program monies by the commission;
86065 (c) a county or municipality providing at least 50% of the cost of each improvement
86066 project in matching funds; and
86067 (d) rules made under Subsection (4).
86068 (4) The department shall make rules in accordance with [~~Title 63, Chapter 46a~~] Title
86069 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to administer the program
86070 and to establish the procedures for a county or municipality to apply for a grant of program
86071 monies.
86072 (5) All appropriations made to the program by the Legislature are nonlapsing.
86073 (6) The department shall commit funds for state park access highway projects for the
86074 amount of funding currently programmed in a funded year in the 2007 Statewide
86075 Transportation Improvement Program.
86076 Section 2094. Section **72-4-102** is amended to read:
86077 **72-4-102. Additions to or deletions from state highway system -- Designation of**
86078 **highways as state highways between sessions.**
86079 (1) (a) The Legislature may add to or delete highways or sections of highways from the
86080 state highway system.
86081 (b) The department shall annually submit to the Legislature a list of highways or
86082 sections of highways the commission recommends for addition to or deletion from the state
86083 highway system.

86084 (c) All recommendations under Subsection (1)(b) shall be based on:
86085 (i) the criteria for state highways under Section 72-4-102.5;
86086 (ii) funding and operational considerations identified under Subsection (3);
86087 (iii) efficiency of highway operations and maintenance; and
86088 (iv) other factors the commission determines are appropriate, in consultation with the
86089 department and the highway authorities involved in the transfer.
86090 (2) Between general sessions of the Legislature, highways may be designated as state
86091 highways or deleted from the state highway system if:
86092 (a) approved by the commission in accordance with:
86093 (i) the criteria for state highways under Section 72-4-102.5;
86094 (ii) funding and operational considerations identified under Subsection (3);
86095 (iii) efficiency of highway operations and maintenance; and
86096 (iv) other factors the commission determines are appropriate, in consultation with the
86097 department and the highway authorities involved in the transfer;
86098 (b) a deletion is agreed upon by all highway authorities involved in the transfer; and
86099 (c) the highways are included in the list of recommendations submitted to the
86100 Legislature in the next year for legislative approval or disapproval.
86101 (3) All highway authorities involved in a highway transfer under this section shall
86102 consider available highway financing levels and operational abilities for the maintenance and
86103 construction of a transferred highway.
86104 (4) (a) The department shall no later than June 30 report to the Transportation Interim
86105 Committee of the Legislature any proposed additions to or deletions from the state highway
86106 system whether proposed by the department or another highway authority.
86107 (b) The commission shall submit to the Transportation Interim Committee of the
86108 Legislature on or before November 1 of each year:
86109 (i) the list of highways recommended for transfer under Subsection (1);
86110 (ii) a list of potential additions to or deletions from the state highway system that are
86111 currently under consideration; and
86112 (iii) a list of additions to or deletions from the state highway system that were proposed
86113 but not agreed to by the affected highway authorities.
86114 (c) The recommendations shall include:

86115 (i) any fiscal and funding recommendations of each highway authority involved in the
86116 transfer of a highway or section of a highway; and
86117 (ii) a cost estimate, fiscal analysis, and funding recommendation, or recommendation
86118 for further study from the Office of the Legislative Fiscal Analyst.
86119 (5) (a) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
86120 Administrative Rulemaking Act, the commission shall make rules, in consultation with the
86121 department and local highway authorities, establishing a process for a highway authority to
86122 propose an addition to or deletion from the state highway system.
86123 (b) The rules established under Subsection (5)(a) shall include provisions for:
86124 (i) notification to highway authorities of the department's intent to:
86125 (A) collect proposed additions to or deletions from the state highway system; and
86126 (B) report the proposals to the Transportation Interim Committee as required under
86127 Subsection (4)(a);
86128 (ii) public comment regarding a proposed addition to or deletion from the state
86129 highway system under this section during a commission meeting held under Section 72-1-302;
86130 (iii) notification to any affected highway authority of an addition to or deletion from
86131 the state highway system under consideration prior to the meeting held under Subsection
86132 (5)(b)(ii); and
86133 (iv) opportunity for a highway authority to initiate consideration of additions to or
86134 deletions from the state highway system by the commission.
86135 Section 2095. Section **72-4-102.5** is amended to read:
86136 **72-4-102.5. Definitions -- Rulemaking -- Criteria for state highways.**
86137 (1) As used in this section:
86138 (a) "arterial highway" has the same meaning as provided under the Federal Highway
86139 Administration Functional Classification Guidelines;
86140 (b) "collector highway," "collector road," or "collector street" has the same meaning as
86141 provided under the Federal Highway Administration Functional Classification Guidelines;
86142 (c) "local street" or "local road" means a highway that is not an arterial highway or a
86143 collector highway and that is under the jurisdiction of a county or municipality;
86144 (d) "major collector highway," "major collector road," or "major collector street" has
86145 the same meaning as provided under the Federal Highway Administration Functional

86146 Classification Guidelines;
86147 (e) "minor collector road" or "minor collector street" has the same meaning as provided
86148 under the Federal Highway Administration Functional Classification Guidelines;
86149 (f) "minor arterial highway" or "minor arterial street" has the same meaning as
86150 provided under the Federal Highway Administration Functional Classification Guidelines;
86151 (g) "principal arterial highway" has the same meaning as provided under the Federal
86152 Highway Administration Functional Classification Guidelines;
86153 (h) "rural area" has the same meaning as provided under the Federal Highway
86154 Administration Functional Classification Guidelines;
86155 (i) "tourist area" means an area of the state frequented by tourists for the purpose of
86156 visiting national parks, national recreation areas, national monuments, or state parks; and
86157 (j) "urban area" has the same meaning as provided under the Federal Highway
86158 Administration Functional Classification Guidelines.
86159 (2) (a) Subject to the provisions of Title 72, Chapter 3, Highway Jurisdiction and
86160 Classification Act, and this chapter, a state highway shall meet the criteria provided under this
86161 section.
86162 (b) The highway authorities of this state or their representatives shall cooperate to
86163 match the criteria provided under this section with the state highways designated under this
86164 title.
86165 (c) The primary function of state highways is to provide for the safe and efficient
86166 movement of traffic, while providing access to property is a secondary function.
86167 (d) The primary function of county and municipal highways is to provide access to
86168 property.
86169 (e) For purposes of this section, if a highway is within ten miles of a location identified
86170 under this section, the location is considered to be served by that highway.
86171 (3) A state highway shall:
86172 (a) serve a statewide purpose by accommodating interstate movement of traffic or
86173 interregion movement of traffic within the state;
86174 (b) primarily move higher traffic volumes over longer distances than highways under
86175 local jurisdiction;
86176 (c) connect major population centers;

86177 (d) be spaced so that:
86178 (i) all developed areas in the state are within a reasonable distance of a state highway;
86179 and
86180 (ii) duplicative state routes are avoided;
86181 (e) provide state highway system continuity and efficiency of state highway system
86182 operation and maintenance activities;
86183 (f) include all interstate routes, all expressways, and all highways on the National
86184 Highway System as designated by the Federal Highway Administration under 23 C.F.R.
86185 Section 470, Subpart A, as of January 1, 2005; and
86186 (g) exclude parking lots, driving ranges, and campus roads.
86187 (4) In addition to the provisions of Subsection (3), in rural areas a state highway shall:
86188 (a) include all minor arterial highways;
86189 (b) include a major collector highway that:
86190 (i) serves a county seat;
86191 (ii) serves a municipality with a population of 1,000 or more;
86192 (iii) serves a major industrial, commercial, or recreation areas that generate traffic
86193 volumes equivalent to a population of 1,000 or more;
86194 (iv) provides continuity for the state highway system by providing major connections
86195 between other state highways;
86196 (v) provides service between two or more counties; or
86197 (vi) serves a compelling statewide public safety interest; and
86198 (c) exclude all minor collector streets and local roads.
86199 (5) In addition to the provisions of Subsection (3), in urban areas a state highway shall:
86200 (a) include all principal arterial highways;
86201 (b) include a minor arterial highway that:
86202 (i) provides continuity for the state highway system by providing major connections
86203 between other state highways;
86204 (ii) is a route that is expected to be a principal arterial highway within ten years; or
86205 (iii) is needed to provide access to state highways; and
86206 (c) exclude all collector highways and local roads.
86207 (6) In addition to the provisions of Subsections (3) and (4), in tourist areas, a state

86208 highway:
86209 (a) shall include a highway that:
86210 (i) serves a national park or a national recreational area; or
86211 (ii) serves a national monument with visitation greater than 100,000 per year; or
86212 (b) may include a highway that:
86213 (i) serves a state park with visitation greater than 100,000 per year; or
86214 (ii) serves a recreation site with visitation greater than 100,000 per year.
86215 (7) (a) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
86216 Administrative Rulemaking Act, the department shall make rules:
86217 (i) establishing and defining a functional classification of highways for the purpose of
86218 implementing this section;
86219 (ii) defining and designating regionally significant arterial highways; and
86220 (iii) establishing an access management policy consistent with the functional
86221 classification of roadways.
86222 (b) The definitions under Subsection (7)(a) shall provide a separate functional
86223 classification system for urban and rural highways recognizing the unique differences in the
86224 character of services provided by urban and rural highways.
86225 (c) The rules under Subsection (7)(a):
86226 (i) shall conform as nearly as practical to the Federal Highway Administration
86227 Functional Classification Guidelines; and
86228 (ii) may incorporate by reference, in whole or in part, the federal guidelines under
86229 Subsection (7)(c)(i).
86230 Section 2096. Section **72-4-303** is amended to read:
86231 **72-4-303. Powers and duties of the Utah State Scenic Byway Committee --**
86232 **Rulemaking authority -- Designation on state maps -- Outdoor advertising.**
86233 (1) The committee shall have the responsibility to:
86234 (a) administer a coordinated scenic byway program within the state that:
86235 (i) preserves and protects the intrinsic qualities described in Subsection (1)(b) unique
86236 to scenic byways;
86237 (ii) enhances recreation; and
86238 (iii) promotes economic development through tourism and education;

86239 (b) ensure that a highway nominated for a scenic byway designation possesses at least
86240 one of the following six intrinsic qualities:
86241 (i) scenic quality;
86242 (ii) natural quality;
86243 (iii) historic quality;
86244 (iv) cultural quality;
86245 (v) archaeological quality; or
86246 (vi) recreational quality;
86247 (c) designate highways as state scenic byways from nominated highways within the
86248 state if the committee determines that the highway possesses the criteria for a state scenic
86249 byway; and
86250 (d) remove the designation of a highway as a scenic byway if the committee determines
86251 that the highway no longer meets the criteria under which it was designated.
86252 (2) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
86253 Administrative Rulemaking Act, the department shall make rules in consultation with the
86254 committee:
86255 (a) for the administration of a scenic byway program;
86256 (b) establishing the criteria that a highway shall possess to be designated as a scenic
86257 byway, including the criteria described in Subsection (1)(b);
86258 (c) establishing the process for nominating a highway to be designated as a state scenic
86259 byway;
86260 (d) specifying the process for hearings to be conducted in the area of proposed
86261 designation prior to the highway being designated as a scenic byway;
86262 (e) identifying the highways within the state designated as scenic byways; and
86263 (f) establishing the process and criteria for removing the designation of a highway as a
86264 scenic byway.
86265 (3) The department shall designate scenic byway routes on future state highway maps.
86266 (4) A highway within the state designated as a scenic byway is subject to federal
86267 outdoor advertising regulations in accordance with 23 U.S.C. Sec. 131.
86268 Section 2097. Section **72-5-203** is amended to read:
86269 **72-5-203. Public easement or right of entry -- Grant -- Application -- Conditions.**

86270 (1) (a) (i) Subject to Section 53C-1-302 and Subsection 53C-1-204(1), a temporary
86271 public easement or right of entry is granted for each highway existing prior to January 1, 1992,
86272 that terminates at or within or traverses any state lands and that has been constructed and
86273 maintained or used by a responsible authority.
86274 (ii) The temporary public easement or right of entry granted under Subsection (1)(a)(i)
86275 is 100 feet wide for each class A and B highway.
86276 (b) Each easement shall remain in effect through June 30, 2004, or until a permanent
86277 easement or right of entry has been established under Subsection (2), whichever is greater.
86278 (2) (a) The School and Institutional Trust Lands Administration and the Division of
86279 Forestry, Fire and State Lands shall make rules in accordance with [~~Title 63, Chapter 46a~~] Title
86280 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing an application process for a
86281 responsible authority to obtain a permanent easement or right of entry over any temporary
86282 public easement granted under Subsection (1), subject to the provisions of Subsections (2)(b),
86283 (c), and (d).
86284 (b) A grant of a permanent easement or right of entry across sovereign lands shall be
86285 made upon a showing to the Division of Forestry, Fire and State Lands that continued use of
86286 the easement will provide a public benefit commensurate with the value of the permanent
86287 easement or right of entry.
86288 (c) A grant of a permanent easement or right of entry across trust lands shall be made
86289 upon a showing to the School and Institutional Trust Lands Administration that the grant is
86290 consistent with the state's fiduciary responsibilities under Section 53C-1-302 and Subsection
86291 53C-1-204(1).
86292 (d) A grant of a permanent easement or right of entry across state lands other than
86293 sovereign and trust lands shall be made upon a showing to the managing unit of state
86294 government that the continued use will provide a public benefit commensurate with the value
86295 of the easement and will not unreasonably interfere with the purposes for which the land was
86296 obtained or is now held.
86297 (3) The grant of the temporary public easement or right of entry under Subsection (1) is
86298 consistent with the trust responsibilities of the state and in the best interest of the state.
86299 (4) A responsible authority that has been granted a permanent easement or right of
86300 entry over state lands may maintain the permanent easement or right of entry for the uses to

86301 which the permanent easement or right of entry was put prior to and including January 1, 1992,
86302 subject to the right of the managing unit of state government or private party to relocate the
86303 permanent easement or right of entry.
86304 (5) The grant of a permanent easement or right of entry under this section is effective
86305 on the date the highway was originally constructed or established for public use.
86306 Section 2098. Section **72-5-306** is amended to read:
86307 **72-5-306. Assumption of risk -- Immunity -- Public safety.**
86308 (1) An R.S. 2477 right-of-way not designated under Section 72-3-102, 72-3-103, or
86309 72-3-104 as a Class A, B, or C road is traveled at the risk of the user.
86310 (2) The state and its political subdivisions do not waive immunity under [~~Title 63,~~
86311 ~~Chapter 30d~~] Title 63G, Chapter 7, Governmental Immunity Act of Utah, for injuries or
86312 damages occurring in or associated with any R.S. 2477 right-of-way.
86313 (3) The state and its political subdivisions assume no liability for injury or damage
86314 resulting from a failure to maintain any:
86315 (a) R.S. 2477 right-of-way for vehicular travel; or
86316 (b) highway sign on an R.S. 2477 right-of-way.
86317 (4) If the state or any political subdivision of the state chooses to maintain an R.S.
86318 2477 right-of-way, the basic governmental objective involved in providing the improvements is
86319 the consistent promotion of public safety.
86320 (5) (a) The state recognizes that there are limited funds available to upgrade all R.S.
86321 2477 rights-of-way to applicable safety standards.
86322 (b) A decision by the state or a political subdivision of the state to allocate funds for
86323 maintaining an R.S. 2477 right-of-way is the result of evaluation and assigning of priorities for
86324 the promotion of public safety.
86325 (c) The state or a political subdivision of the state must use its judgment and expertise
86326 to evaluate which safety feature improvements should be made first. In making this policy
86327 determination the state or a political subdivision of the state may:
86328 (i) perform on-site inspections and weigh all factors relating to safety, including the
86329 physical characteristics and configuration of the R.S. 2477 right-of-way and the volume and
86330 type of traffic on the R.S. 2477 right-of-way; and
86331 (ii) consult with transportation experts who have expertise to make an evaluation of the

86332 relative dangerousness of R.S. 2477 rights-of-way within their jurisdiction.
86333 Section 2099. Section **72-5-309** is amended to read:
86334 **72-5-309. Acceptance of rights-of-way -- Notice of acknowledgment required.**
86335 (1) The governor or the governor's designee may assess whether the grant of the R.S.
86336 2477 has been accepted with regard to any right-of-way so as to vest title of the right-of-way in
86337 the state and the applicable political subdivision as provided for in Section 72-5-103.
86338 (2) If the governor or governor's designee concludes that the grant has been accepted as
86339 to any right-of-way, the governor or a designee shall issue a notice of acknowledgment of the
86340 acceptance of the R.S. 2477 grant as to that right-of-way.
86341 (3) A notice of acknowledgment of the R.S. 2477 grant shall include:
86342 (a) a statement of reasons for the acknowledgment;
86343 (b) a general description of the right-of-way or rights-of-way subject to the notice of
86344 acknowledgment, including the county in which it is located, and notice of where a center-line
86345 description derived from Global Positioning System data may be viewed or obtained;
86346 (c) a statement that the owner of the servient estate in the land over which the
86347 right-of-way or rights-of-way subject to the notice runs or any person with a competing
86348 dominant estate ownership claim may file a petition with the district court for a decision
86349 regarding the correctness or incorrectness of the acknowledgment; and
86350 (d) a statement of the time limit provided in Section 72-5-310 for filing a petition.
86351 (4) (a) (i) A notice of acknowledgment may be recorded in the office of the county
86352 recorder in the county where the right-of-way or rights-of-way exist.
86353 (ii) (A) A notice of acknowledgment recorded in the county recorder's office is not
86354 required to be accompanied by a paper copy of the center-line description.
86355 (B) A paper copy of each center-line description together with the notice of
86356 acknowledgment shall be placed in the state archives created in Section [~~63-2-901~~]
86357 63A-12-101 and made available to the public upon request in accordance with [~~Title 63,~~
86358 ~~Chapter 2~~] Title 63G, Chapter 2, Government Records Access and Management Act.
86359 (C) An electronic copy of the center-line description identified in a notice of
86360 acknowledgment shall be available upon request at:
86361 (I) the county recorder's office; or
86362 (II) the Automated Geographic Reference Center created in Section 63F-1-506.

86363 (b) A notice of acknowledgment recorded in the county recorder's office is conclusive
86364 evidence of acceptance of the R.S. 2477 grant upon:
86365 (i) expiration of the 60-day period for filing a petition under Section 72-5-310 without
86366 the filing of a petition; or
86367 (ii) a final court decision that the notice of acknowledgment was not incorrect.
86368 Section 2100. Section **72-5-405** is amended to read:
86369 **72-5-405. Private owner rights.**
86370 (1) The department, counties, and municipalities shall observe all protections conferred
86371 on private property rights, including [~~Title 63, Chapter 90~~] Title 63L, Chapter 3, Private
86372 Property Protection Act, [~~Title 63, Chapter 90a~~] Title 63L, Chapter 4, Constitutional Taking
86373 Issues, and compensation for takings.
86374 (2) Private property owners from whom less than fee simple rights are obtained for
86375 transportation corridors or transportation corridor preservation have the right to petition the
86376 department, a county, or a municipality to acquire the entire fee simple interest in the affected
86377 property.
86378 (3) (a) A private property owner whose property's development is limited or restricted
86379 by a power granted under this part may petition the county or municipality that adopted the
86380 official map to acquire less than or the entire fee simple interest in the affected property, at the
86381 option of the property owner.
86382 (b) If the county or municipality petitioned under Subsection (3)(a) does not acquire
86383 the interest in the property requested by the property owner, then the county or municipality
86384 may not exercise any of the powers granted under this part to limit or restrict the affected
86385 property's development.
86386 Section 2101. Section **72-5-406** is amended to read:
86387 **72-5-406. Rulemaking.**
86388 In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
86389 Rulemaking Act, the department shall make rules providing for private property owner petition
86390 procedures described in Section 72-5-405.
86391 Section 2102. Section **72-6-107** is amended to read:
86392 **72-6-107. Construction or improvement of highway -- Contracts -- Retainage.**
86393 (1) (a) The department shall make plans, specifications, and estimates prior to the

86394 construction or improvement of any state highway.
86395 (b) Except as provided in Section [~~63-56-502~~] 63G-6-502 and except for construction
86396 or improvements performed with state prison labor, a construction or improvement project with
86397 an estimated cost exceeding the bid limit as defined in Section 72-6-109 for labor and materials
86398 shall be performed under contract awarded to the lowest responsible bidder.
86399 (c) The advertisement for bids shall be published in a newspaper of general circulation
86400 in the county in which the work is to be performed, at least once a week for two consecutive
86401 weeks, with the last publication at least ten days before bids are opened.
86402 (d) The department shall receive sealed bids and open the bids at the time and place
86403 designated in the advertisement. The department may then award the contract but may reject
86404 any and all bids.
86405 (e) If the department's estimates are substantially lower than any responsible bid
86406 received, the department may perform any work by force account.
86407 (2) If any payment on a contract with a private contractor for construction or
86408 improvement of a state highway is retained or withheld, the payment shall be retained or
86409 withheld and released as provided in Section 13-8-5.
86410 (3) If the department performs a construction or improvement project by force account,
86411 the department shall:
86412 (a) provide an accounting of the costs and expenditures of the improvement including
86413 material and labor;
86414 (b) disclose the costs and expenditures to any person upon request and allow the person
86415 to make a copy and pay for the actual cost of the copy; and
86416 (c) perform the work using the same specifications and standards that would apply to a
86417 private contractor.
86418 (4) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
86419 Administrative Rulemaking Act, the department shall establish procedures for:
86420 (a) hearing evidence that a region within the department violated this section; and
86421 (b) administering sanctions against the region if the region is found in violation.
86422 Section 2103. Section **72-6-108** is amended to read:
86423 **72-6-108. Class B and C roads -- Improvement projects -- Contracts -- Retainage.**
86424 (1) A county executive for class B roads and the municipal executive for class C roads

86425 shall cause plans, specifications, and estimates to be made prior to the construction of any
86426 improvement project, as defined in Section 72-6-109, on a class B or C road if the estimated
86427 cost for any one project exceeds the bid limit as defined in Section 72-6-109 for labor,
86428 equipment, and materials.
86429 (2) (a) All projects in excess of the bid limit shall be performed under contract to be let
86430 to the lowest responsible bidder.
86431 (b) If the estimated cost of the improvement project exceeds the bid limit for labor,
86432 equipment, and materials, the project may not be divided to permit the construction in parts,
86433 unless each part is done by contract.
86434 (3) The advertisement on bids shall be published in a newspaper of general circulation
86435 in the county in which the work is to be performed at least once a week for three consecutive
86436 weeks. If there is no newspaper of general circulation, the notice shall be posted for at least 20
86437 days in at least five public places in the county.
86438 (4) The county or municipal executive or their designee shall receive sealed bids and
86439 open the bids at the time and place designated in the advertisement. The county or municipal
86440 executive or their designee may then award the contract but may reject any and all bids.
86441 (5) The person, firm, or corporation that is awarded a contract under this section is
86442 subject to the provisions of [~~Title 63, Chapter 56~~] Title 63G, Chapter 6, Utah Procurement
86443 Code.
86444 (6) If any payment on a contract with a private contractor for construction or
86445 improvement of a class B or C road is retained or withheld, the payment shall be retained or
86446 withheld and released as provided in Section 13-8-5.
86447 Section 2104. Section **72-6-111** is amended to read:
86448 **72-6-111. Construction and maintenance of appurtenances -- Noise abatement**
86449 **measures.**
86450 (1) The department is authorized to construct and maintain appurtenances along the
86451 state highway system necessary for public safety, welfare, and information. Appurtenances
86452 include highway illumination, sidewalks, curbs, gutters, steps, driveways, retaining walls, fire
86453 hydrants, guard rails, noise abatement measures, storm sewers, and rest areas.
86454 (2) A noise abatement measure may only be constructed by the department along a
86455 highway when:

86456 (a) the department is constructing a new state highway or performing major
86457 reconstruction on an existing state highway;
86458 (b) the Legislature provides an appropriation or the federal government provides
86459 funding for construction of retrofit noise abatement along an existing state highway; or
86460 (c) the cost for the noise abatement measure is provided by citizens, adjacent property
86461 owners, developers, or local governments.
86462 (3) In addition to the requirements under Subsection (2), the department may only
86463 construct noise abatement measures within the unincorporated area of a county or within a
86464 municipality that has an ordinance or general plan that requires:
86465 (a) a study to be conducted to determine the noise levels along new development
86466 adjacent to an existing state highway or a dedicated right-of-way; and
86467 (b) the construction of noise abatement measures at the expense of the developer if
86468 required to be constructed under standards established by a rule of the department.
86469 (4) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
86470 Administrative Rulemaking Act, the department shall make rules establishing:
86471 (a) when noise abatement measures are required to be constructed, including standards
86472 for decibel levels of traffic noise;
86473 (b) the decibel level of traffic noise which identifies the projects to be programmed by
86474 the commission for the earliest construction of retrofit noise abatement measures funded under
86475 Subsection (2)(b) based on availability of funding; and
86476 (c) a priority system for the construction of other retrofit noise abatement measures that
86477 meet or exceed the standards established under this section and are funded under Subsection
86478 (2)(b) which includes:
86479 (i) the number of residential dwellings adversely affected by the traffic noise;
86480 (ii) the cost effectiveness of mitigating the traffic noise; and
86481 (iii) the length of time the decibel level of traffic noise has met or exceeded the
86482 standards established under this section.
86483 Section 2105. Section **72-6-116** is amended to read:
86484 **72-6-116. Regulation of utilities -- Relocation of utilities.**
86485 (1) As used in this section:
86486 (a) "Cost of relocation" includes the entire amount paid by the utility company properly

86487 attributable to the relocation of the utility after deducting any increase in the value of the new
86488 utility and any salvage value derived from the old utility.
86489 (b) "Utility" includes telecommunication, gas, electricity, cable television, water,
86490 sewer, data, and video transmission lines, drainage and irrigation systems, and other similar
86491 utilities located in, on, along, across, over, through, or under any state highway.
86492 (c) "Utility company" means a privately, cooperatively, or publicly owned utility,
86493 including utilities owned by political subdivisions.
86494 (2) (a) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
86495 Administrative Rulemaking Act, the department may make rules for the installation,
86496 construction, maintenance, repair, renewal, system upgrade, and relocation of all utilities.
86497 (b) If the department determines under the rules established in this section that it is
86498 necessary that any utilities should be relocated, the utility company owning or operating the
86499 utilities shall relocate the utilities in accordance with this section and the order of the
86500 department.
86501 (3) (a) The department shall pay 100% of the cost of relocation of a utility on a state
86502 highway if the:
86503 (i) utility is owned or operated by a political subdivision of the state; or
86504 (ii) utility company owns the easement or fee title to the right-of-way in which the
86505 utility is located.
86506 (b) Except as provided in Subsection (3)(a) or (c), the department shall pay 50% of the
86507 cost of relocation of a utility on a state highway and the utility company shall pay the remainder
86508 of the cost of relocation.
86509 (c) This Subsection (3) does not affect the provisions of Subsection 72-7-108(5).
86510 (4) If a utility is relocated, the utility company owning or operating the utility, its
86511 successors or assigns, may maintain and operate the utility, with the necessary appurtenances,
86512 in the new location.
86513 (5) In accordance with this section, the cost of relocating a utility in connection with
86514 any project on a highway is a cost of highway construction.
86515 (6) (a) The department shall notify affected utility companies whenever the relocation
86516 of utilities is likely to be necessary because of a reconstruction project.
86517 (b) The notification shall be made during the preliminary design of the project or as

86518 soon as practical in order to minimize the number, costs, and delays of utility relocations.
86519 (c) A utility company notified under this Subsection (6) shall coordinate with the
86520 department and the department's contractor on the utility relocations, including the scheduling
86521 of the utility relocations.
86522 Section 2106. Section **72-6-118** is amended to read:
86523 **72-6-118. Definitions -- Establishment and operation of tollways -- Imposition**
86524 **and collection of tolls -- Amount of tolls -- Rulemaking.**
86525 (1) As used in this section:
86526 (a) "High occupancy toll lane" means a high occupancy vehicle lane designated under
86527 Section 41-6a-702 that may be used by an operator of a vehicle carrying less than the number
86528 of persons specified for the high occupancy vehicle lane if the operator of the vehicle pays a
86529 toll or fee.
86530 (b) "Toll" means any tax, fee, or charge assessed for the specific use of a tollway.
86531 (c) "Toll lane" means a designated new highway or additional lane capacity that is
86532 constructed, operated, or maintained for which a toll is charged for its use.
86533 (d) (i) "Tollway" means a highway, highway lane, bridge, path, tunnel, or right-of-way
86534 designed and used as a transportation route that is constructed, operated, or maintained through
86535 the use of toll revenues.
86536 (ii) "Tollway" includes a high occupancy toll lane and a toll lane.
86537 (e) "Tollway development agreement" has the same meaning as defined in Section
86538 72-6-202.
86539 (2) Subject to the provisions of Subsection (3), the department may:
86540 (a) establish, expand, and operate tollways and related facilities for the purpose of
86541 funding in whole or in part the acquisition of right-of-way and the design, construction,
86542 reconstruction, operation, enforcement, and maintenance of or impacts from a transportation
86543 route for use by the public;
86544 (b) enter into contracts, agreements, licenses, franchises, tollway development
86545 agreements, or other arrangements to implement this section;
86546 (c) impose and collect tolls on any tollway established under this section; and
86547 (d) grant exclusive or nonexclusive rights to a private entity to impose and collect tolls
86548 pursuant to the terms and conditions of a tollway development agreement.

86549 (3) (a) Except as provided under Subsection (3)(d), the department or other entity may
86550 not establish or operate a tollway on an existing state highway, except as approved by the
86551 commission and the Legislature.
86552 (b) Between sessions of the Legislature, a state tollway may be designated or deleted if:
86553 (i) approved by the commission in accordance with the standards made under this
86554 section; and
86555 (ii) the tollways are submitted to the Legislature in the next year for legislative
86556 approval or disapproval.
86557 (c) In conjunction with a proposal submitted under Subsection (3)(b)(ii), the
86558 department shall provide a description of the tollway project, projected traffic, the anticipated
86559 amount of tolls to be charged, and projected toll revenue.
86560 (d) If approved by the commission, the department may:
86561 (i) establish high occupancy toll lanes on existing state highways; and
86562 (ii) establish tollways on new state highways or additional capacity lanes.
86563 (4) (a) Except as provided in Subsection (4)(b), in accordance with [~~Title 63, Chapter~~
86564 ~~46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall:
86565 (i) set the amount of any toll imposed or collected on a tollway on a state highway; and
86566 (ii) for tolls established under Subsection (4)(b), set:
86567 (A) an increase in a toll rate or user fee above an increase specified in a tollway
86568 development agreement; or
86569 (B) an increase in a toll rate or user fee above a maximum toll rate specified in a
86570 tollway development agreement.
86571 (b) A toll or user fee and an increase to a toll or user fee imposed or collected on a
86572 tollway on a state highway that is the subject of a tollway development agreement shall be set
86573 in the tollway development agreement.
86574 (5) (a) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
86575 Administrative Rulemaking Act, the department shall make rules:
86576 (i) necessary to establish and operate tollways on state highways; and
86577 (ii) that establish standards and specifications for automatic tolling systems.
86578 (b) The rules shall:
86579 (i) include minimum criteria for having a tollway; and

86580 (ii) conform to regional and national standards for automatic tolling.
86581 (6) (a) The commission may provide funds for public or private tollway pilot projects
86582 or high occupancy toll lanes from General Fund monies appropriated by the Legislature to the
86583 commission for that purpose.
86584 (b) The commission may determine priorities and funding levels for tollways
86585 designated under this section.
86586 (7) (a) Except as provided in Subsection (7)(b), all revenue generated from a tollway
86587 on a state highway shall be deposited into the Tollway Restricted Special Revenue Fund
86588 created in Section 72-2-120 and used for acquisition of right-of-way and the design,
86589 construction, reconstruction, operation, maintenance, enforcement of transportation facilities,
86590 and other facilities used exclusively for the operation of a tollway facility within the corridor
86591 served by the tollway.
86592 (b) Revenue generated from a tollway that is the subject of a tollway development
86593 agreement shall be deposited into the Tollway Restricted Special Revenue Fund and used in
86594 accordance with Subsection (7)(a) unless:
86595 (i) the revenue is to a private entity through the tollway development agreement; or
86596 (ii) the revenue is identified for a different purpose under the tollway development
86597 agreement.
86598 Section 2107. Section **72-6-119** is amended to read:
86599 **72-6-119. "511" Traveler information services -- Lead agency -- Implementation**
86600 **-- Cooperation -- Rulemaking -- Costs.**
86601 (1) As used in this section, "511" or "511 service" means three-digit
86602 telecommunications dialing to access intelligent transportation system -- traveler information
86603 service provided in the state in accordance with the Federal Communications Commission and
86604 United States Department of Transportation.
86605 (2) The department is the state's lead agency for implementing 511 service and is the
86606 state's point of contact for coordinating 511 service with telecommunications service providers.
86607 (3) The department shall:
86608 (a) implement and administer 511 service in the state;
86609 (b) coordinate with the highway authorities and public transit districts to provide
86610 advanced multimodal traveler information through 511 service and other means; and

86611 (c) in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
86612 Administrative Rulemaking Act, make rules as necessary to implement this section.
86613 (4) (a) In accordance with Title 11, Chapter 13, Interlocal Cooperation Act, the
86614 department shall enter into agreements or contracts with highway authorities and public transit
86615 districts to share the costs of implementing and administering 511 service in the state.
86616 (b) The department shall enter into other agreements or contracts relating to the 511
86617 service to offset the costs of implementing and administering 511 service in the state.
86618 Section 2108. Section **72-6-120** is amended to read:
86619 **72-6-120. Department authorized to participate in federal program assuming**
86620 **responsibility for environmental review of categorically excluded projects -- Rulemaking**
86621 **authority.**
86622 (1) The department may:
86623 (a) assume responsibilities under 23 U.S.C. Sec. 326 for:
86624 (i) determining whether state highway design and construction projects are
86625 categorically excluded from requirements for environmental assessments or environmental
86626 impact statements; and
86627 (ii) environmental review, consultation, or other actions required under federal law for
86628 categorically excluded projects;
86629 (b) enter one or more memoranda of understanding with the United States Department
86630 of Transportation related to federal highway programs as provided in 23 U.S.C. Sec. 326
86631 subject to the requirements of Subsection 72-1-207(5);
86632 (c) accept, receive, and administer grants, other money, or gifts from public and private
86633 agencies, including the federal government, for the purpose of carrying out the programs
86634 authorized under this section; and
86635 (d) cooperate with the federal government in implementing this section and any
86636 memorandum of understanding entered into under Subsection 72-1-207(5).
86637 (2) Notwithstanding any other provision of law, in implementing a program under this
86638 section that is approved by the United States Department of Transportation, the department is
86639 authorized to:
86640 (a) perform or conduct any of the activities described in a memorandum of
86641 understanding entered into under Subsection 72-1-207(5);

86642 (b) take actions necessary to implement the program; and
86643 (c) adopt relevant federal environmental standards as the standards for this state for
86644 categorically excluded projects.
86645 (3) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
86646 Administrative Rulemaking Act, the department may makes rules to implement the provisions
86647 of this section.
86648 Section 2109. Section **72-6-204** is amended to read:
86649 **72-6-204. Minimum requirements for a tollway development agreement proposal.**
86650 (1) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
86651 Administrative Rulemaking Act, the department and the commission shall make rules
86652 establishing minimum guidelines for tollway development agreement proposals.
86653 (2) The guidelines under Subsection (1) shall require the proposal to include:
86654 (a) a map indicating the location of the tollway facility;
86655 (b) a description of the tollway facility;
86656 (c) a list of the major permits and approvals required for developing or operating
86657 improvements to the tollway facility from local, state, or federal agencies and a projected
86658 schedule for obtaining the permits and approvals;
86659 (d) a description of the types of public utility facilities, if any, that will be crossed by
86660 the tollway facility and a statement of the plans to accommodate the crossing;
86661 (e) an estimate of the design and construction costs of the tollway facility;
86662 (f) a statement setting forth the private entity's general plans for developing or
86663 operating the tollway facility, including identification of any revenue, public or private, or
86664 proposed debt or equity investment proposed by the private entity;
86665 (g) a statement of the estimated level of funding, if any, required to be provided by the
86666 state;
86667 (h) the name and addresses of the persons who may be contacted for further
86668 information concerning the tollway development agreement proposal; and
86669 (i) any other material or information that the department requires by rules made under
86670 this section.
86671 (3) The department is not required to review a tollway development agreement
86672 proposal if it determines that the proposal does not meet the guidelines established under this

86673 section.
86674 Section 2110. Section **72-6-205** is amended to read:
86675 **72-6-205. Solicited and unsolicited tollway development agreement proposals.**
86676 (1) In accordance with this section, the department may:
86677 (a) accept unsolicited tollway development agreement proposals; or
86678 (b) solicit tollway development agreement proposals for a proposed project.
86679 (2) The department shall solicit tollway development agreement proposals in
86680 accordance with Section [~~63-56-502.5~~] 63G-6-503.
86681 (3) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
86682 Administrative Rulemaking Act, the department and the commission shall establish rules and
86683 procedures for accepting unsolicited proposals that require the:
86684 (a) private entity that submits the unsolicited proposal to comply with the minimum
86685 requirements for tollway development agreement proposals under Section 72-6-204;
86686 (b) department to issue a request for competing proposals and qualifications that
86687 includes:
86688 (i) a description of the proposed tollway development facility and the terms and
86689 conditions of a tollway development agreement;
86690 (ii) submittal requirements;
86691 (iii) the criteria to be used to evaluate the proposals;
86692 (iv) the relative weight given to the criteria; and
86693 (v) the deadline by which competing proposals must be received; and
86694 (c) department to publish a notice advertising the request for competing proposals and
86695 providing information regarding how to obtain a copy of the request.
86696 (4) (a) The department may establish a fee in accordance with Section [~~63-38-3.2~~]
86697 63J-1-303 for reviewing unsolicited proposals and competing proposals submitted under this
86698 section.
86699 (b) The department may waive the fee under Subsection (4)(a) if it determines that it is
86700 reasonable and in the best interest of the state.
86701 Section 2111. Section **72-7-102** is amended to read:
86702 **72-7-102. Excavations, structures, or objects prohibited within right-of-way**
86703 **except in accordance with law -- Permit and fee requirements -- Rulemaking -- Penalty**

86704 **for violation.**
86705 (1) As used in this section, "management costs" means the reasonable, direct, and
86706 actual costs a highway authority incurs in exercising authority over the highways under its
86707 jurisdiction.
86708 (2) Except as provided in Subsection (3) and Section 54-4-15, a person may not:
86709 (a) dig or excavate, within the right-of-way of any state highway, county road, or city
86710 street; or
86711 (b) place, construct, or maintain any approach road, driveway, pole, pipeline, conduit,
86712 sewer, ditch, culvert, billboard, advertising sign, or any other structure or object of any kind or
86713 character within the right-of-way.
86714 (3) (a) A highway authority having jurisdiction over the right-of-way may allow
86715 excavating, installation of utilities and other facilities or access under rules made by the
86716 highway authority and in compliance with federal, state, and local law as applicable.
86717 (b) (i) The rules may require a permit for any excavation or installation and may
86718 require a surety bond or other security.
86719 (ii) The application for a permit for excavation or installation on a state highway shall
86720 be accompanied by a fee established under Subsection (4)(f).
86721 (iii) The permit may be revoked and the surety bond or other security may be forfeited
86722 for cause.
86723 (4) (a) Except as provided in Section 72-7-108 with respect to the department
86724 concerning the interstate highway system, a highway authority may require compensation from
86725 a utility service provider for access to the right-of-way of a highway only as provided in this
86726 section.
86727 (b) A highway authority may recover from a utility service provider, only those
86728 management costs caused by the utility service provider's activities in the right-of-way of a
86729 highway under the jurisdiction of the highway authority.
86730 (c) (i) A fee or other compensation under this Subsection (4) shall be imposed on a
86731 competitively neutral basis.
86732 (ii) If a highway authority's management costs cannot be attributed to only one entity,
86733 the management costs shall be allocated among all privately owned and government agencies
86734 using the highway right-of-way for utility service purposes, including the highway authority

86735 itself. The allocation shall reflect proportionately the management costs incurred by the
86736 highway authority as a result of the various utility uses of the highway.
86737 (d) A highway authority may not use the compensation authority granted under this
86738 Subsection (4) as a basis for generating revenue for the highway authority that is in addition to
86739 its management costs.
86740 (e) (i) A utility service provider that is assessed management costs or a franchise fee by
86741 a highway authority is entitled to recover those management costs.
86742 (ii) If the highway authority that assesses the management costs or franchise fees is a
86743 political subdivision of the state and the utility service provider serves customers within the
86744 boundaries of that highway authority, the management costs may be recovered from those
86745 customers.
86746 (f) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
86747 Administrative Rulemaking Act, the department shall adopt a schedule of fees to be assessed
86748 for management costs incurred in connection with issuing and administering a permit on a state
86749 highway under this section.
86750 (g) In addition to the requirements of this Subsection (4), a telecommunications tax or
86751 fee imposed by a municipality on a telecommunications provider, as defined in Section
86752 10-1-402, is subject to Section 10-1-406.
86753 (5) Permit fees collected by the department under this section shall be deposited with
86754 the state treasurer and credited to the Transportation Fund.
86755 (6) Nothing in this section shall affect the authority of a municipality under:
86756 (a) Section 10-1-203;
86757 (b) Section 11-26-1;
86758 (c) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act; or
86759 (d) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.
86760 (7) A person who violates the provisions of Subsection (2) is guilty of a class B
86761 misdemeanor.
86762 Section 2112. Section **72-7-104** is amended to read:
86763 **72-7-104. Installations constructed in violation of rules -- Rights of highway**
86764 **authorities to remove or require removal.**
86765 (1) If any person, firm, or corporation installs, places, constructs, alters, repairs, or

86766 maintains any approach road, driveway, pole, pipeline, conduit, sewer, ditch, culvert, outdoor
86767 advertising sign, or any other structure or object of any kind or character within the
86768 right-of-way of any highway without complying with this title, the highway authority having
86769 jurisdiction over the right-of-way may:
86770 (a) remove the installation from the right-of-way or require the person, firm, or
86771 corporation to remove the installation; or
86772 (b) give written notice to the person, firm, or corporation to remove the installation
86773 from the right-of-way.
86774 (2) Notice under Subsection (1)(b) may be served by:
86775 (a) personal service; or
86776 (b) (i) mailing the notice to the person, firm, or corporation by certified mail; and
86777 (ii) posting a copy on the installation for ten days.
86778 (3) If the installation is not removed within ten days after the notice is complete, the
86779 highway authority may remove the installation at the expense of the person, firm, or
86780 corporation.
86781 (4) A highway authority may recover:
86782 (a) the costs and expenses incurred in removing the installation, serving notice, and the
86783 costs of a lawsuit if any; and
86784 (b) $10 for each day the installation remained within the right-of-way after notice was
86785 complete.
86786 (5) (a) If the person, firm, or corporation disputes or denies the existence, placement,
86787 construction, or maintenance of the installation, or refuses to remove or permit its removal, the
86788 highway authority may bring an action to abate the installation as a public nuisance.
86789 (b) If the highway authority is granted a judgment, the highway authority may recover
86790 the costs of having the public nuisance abated as provided in Subsection (4).
86791 (6) The department, its agents, or employees, if acting in good faith, incur no liability
86792 for causing removal of an installation within a right-of-way of a highway as provided in this
86793 section.
86794 (7) The actions of the department under this section are not subject to the provisions of
86795 [~~Title 63, Chapter 46b, the~~] Title 63G, Chapter 4, Administrative Procedures Act.
86796 Section 2113. Section **72-7-107** is amended to read:

86797 **72-7-107. Public safety program signs -- Permits.**
86798 (1) As used in this section, "public safety program sign" means a sign, placed on or
86799 adjacent to a highway, that is promoting a highway safety program or highway safety practice,
86800 or a crime or drug abuse prevention program that is being sponsored by the department, the
86801 Department of Public Safety, or a local law enforcement agency.
86802 (2) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
86803 Administrative Rulemaking Act, the department shall make rules to allow public safety
86804 program signs on state highways by permit. The rules shall contain reasonable terms and
86805 conditions:
86806 (a) that are no more restrictive than motorist service signing requirements of the
86807 Manual on Uniform Traffic Control Devices for Streets and Highways adopted under Section
86808 41-6a-301; and
86809 (b) for granting and maintaining a permit.
86810 Section 2114. Section **72-7-108** is amended to read:
86811 **72-7-108. Longitudinal telecommunication access in the interstate highway**
86812 **system -- Definitions -- Agreements -- Compensation -- Restrictions -- Rulemaking.**
86813 (1) As used in this section:
86814 (a) "Longitudinal access" means access to or use of any part of a right-of-way of a
86815 highway on the interstate system that extends generally parallel to the right-of-way for a total of
86816 30 or more linear meters.
86817 (b) "Statewide telecommunications purposes" means the further development of the
86818 statewide network that meets the telecommunications needs of state agencies and enhances the
86819 learning purposes of higher and public education.
86820 (c) "Telecommunication facility" means any telecommunication cable, line, fiber, wire,
86821 conduit, innerduct, access manhole, handhole, tower, hut, pedestal, pole, box, transmitting
86822 equipment, receiving equipment, power equipment, or other equipment, system, and device
86823 used to transmit, receive, produce, or distribute via wireless, wireline, electronic, or optical
86824 signal for communication purposes.
86825 (2) (a) Except as provided in Subsection (4), the department may allow a
86826 telecommunication facility provider longitudinal access to the right-of-way of a highway on the
86827 interstate system for the installation, operation, and maintenance of a telecommunication

86828 facility.
86829 (b) The department shall enter into an agreement with a telecommunication facility
86830 provider and issue a permit before granting it any longitudinal access under this section.
86831 (i) Except as specifically provided by the agreement, a property interest in a
86832 right-of-way may not be granted under the provisions of this section.
86833 (ii) An agreement entered into by the department under this section shall:
86834 (A) specify the terms and conditions for the renegotiation of the agreement;
86835 (B) specify maintenance responsibilities for each telecommunication facility;
86836 (C) be nonexclusive; and
86837 (D) be limited to a maximum term of 30 years.
86838 (3) (a) The department shall require compensation from a telecommunication facility
86839 provider under this section for longitudinal access to the right-of-way of a highway on the
86840 interstate system.
86841 (b) The compensation charged shall be:
86842 (i) fair and reasonable;
86843 (ii) competitively neutral;
86844 (iii) nondiscriminatory;
86845 (iv) open to public inspection;
86846 (v) established to promote access by multiple telecommunication facility providers;
86847 (vi) established for zones of the state, with zones determined based upon factors that
86848 include population density, distance, numbers of telecommunication subscribers, and the
86849 impact upon private right-of-way users;
86850 (vii) established to encourage the deployment of digital infrastructure within the state;
86851 (viii) set after the department conducts a market analysis to determine the fair and
86852 reasonable values of the right-of-way based upon adjacent property values;
86853 (ix) a lump sum payment or annual installment, at the option of the
86854 telecommunications facility provider; and
86855 (x) set in accordance with Subsection (3)(f).
86856 (c) (i) The compensation charged may be cash, in-kind compensation, or a combination
86857 of cash and in-kind compensation.
86858 (ii) In-kind compensation requires the agreement of both the telecommunication

86859 facility provider and the department.
86860 (iii) The department shall, in consultation with the Telecommunications Advisory
86861 Council created in Section 72-7-109, determine the present value of any in-kind compensation
86862 based upon the incremental cost to the telecommunication facility provider.
86863 (iv) The value of in-kind compensation or a combination of cash and in-kind
86864 compensation shall be equal to or greater than the amount of cash compensation that would be
86865 charged if the compensation is cash only.
86866 (d) (i) The department shall provide for the proportionate sharing of costs among the
86867 department and telecommunications providers for joint trenching or trench sharing based on
86868 the amount of conduit innerduct space that is authorized in the agreement for the trench.
86869 (ii) If two or more telecommunications facility providers are required to share a single
86870 trench, each telecommunications facility provider in the trench shall share the cost and benefits
86871 of the trench in accordance with Subsection (3)(d)(i) on a fair, reasonable, competitively
86872 neutral, and nondiscriminatory basis.
86873 (e) The market analysis under Subsection (3)(b)(viii) shall be conducted at least every
86874 five years and any adjustments warranted shall apply only to agreements entered after the date
86875 of the new market analysis.
86876 (f) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
86877 Administrative Rulemaking Act, the department shall establish a schedule of rates of
86878 compensation for any longitudinal access granted under this section.
86879 (4) The department may not grant any longitudinal access under this section that results
86880 in a significant compromise of the safe, efficient, and convenient use of the interstate system
86881 for the traveling public.
86882 (5) The department may not pay any cost of relocation of a telecommunication facility
86883 granted longitudinal access to the right-of-way of a highway on the interstate system under this
86884 section.
86885 (6) (a) Monetary compensation collected by the department in accordance with this
86886 section shall be deposited with the state treasurer and credited to the Transportation Fund.
86887 (b) Any telecommunications capacity acquired as in-kind compensation shall be used:
86888 (i) exclusively for statewide telecommunications purposes and may not be sold or
86889 leased in competition with telecommunication or Internet service providers; and

86890 (ii) as determined by the department after consultation with the Telecommunications
86891 Advisory Council created in Section 72-7-109.
86892 (7) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
86893 Administrative Rulemaking Act, the department shall make rules:
86894 (a) governing the installation, operation, and maintenance of a telecommunication
86895 facility granted longitudinal access under this section;
86896 (b) specifying the procedures for establishing an agreement for longitudinal access for
86897 a telecommunication facility provider;
86898 (c) providing for the relocation or removal of a telecommunication facility for:
86899 (i) needed changes to a highway on the interstate system;
86900 (ii) expiration of an agreement; or
86901 (iii) a breach of an agreement; and
86902 (d) providing an opportunity for all interested providers to apply for access within open
86903 right-of-way segments.
86904 (8) (a) Except for a right-of-way of a highway on the interstate system, nothing in this
86905 section shall be construed to allow a highway authority to require compensation from a
86906 telecommunication facility provider for longitudinal access to the right-of-way of a highway
86907 under the highway authority's jurisdiction.
86908 (b) Nothing in this section shall affect the authority of a municipality under:
86909 (i) Section 10-1-203;
86910 (ii) Section 11-26-1;
86911 (iii) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act; or
86912 (iv) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.
86913 (9) Compensation paid to the department under Subsection (3) may not be used by any
86914 person as evidence of the market or other value of the access for any other purpose, including
86915 condemnation proceedings, other litigation, or the application of rates of taxation or the
86916 establishment of franchise fees relating to longitudinal access rights.
86917 Section 2115. Section **72-7-203** is amended to read:
86918 **72-7-203. License required.**
86919 (1) A person may not establish, operate, or maintain a junkyard, any portion of which is
86920 within 1,000 feet of the nearest edge of the right-of-way of any interstate or federal-aid primary

86921 highway, without obtaining a license from the department under this part.
86922 (2) A municipality may adopt ordinances, not in conflict with this part, to regulate the
86923 creation or maintenance of junkyards of any type within 660 feet of the right-of-way of
86924 designated state and federal highways within the jurisdictional limits of the adopting
86925 municipality.
86926 (3) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
86927 Administrative Rulemaking Act, the department may make rules, not in conflict with this part,
86928 to regulate the creation and maintenance of junkyards within 660 feet of the right-of-way of
86929 designated federal and state highways outside the jurisdictional limits of a municipality.
86930 Section 2116. Section **72-7-205** is amended to read:
86931 **72-7-205. Conditions for licensing of junkyard within 1,000 feet of highway.**
86932 (1) The department may not grant a license for the establishment, maintenance, or
86933 operation of a junkyard within 1,000 feet of the nearest edge of the right-of-way of any
86934 highway on the interstate or primary systems unless the junkyard is:
86935 (a) screened by natural objects, plantings, fences, or other appropriate means so the
86936 junkyard is not visible from the main-traveled-way of the system; and
86937 (b) (i) located within areas that are zoned for industrial use under county or municipal
86938 ordinances; or
86939 (ii) located within unzoned industrial areas, determined by actual land uses as defined
86940 by rules made by the department in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter
86941 3, Utah Administrative Rulemaking Act.
86942 (2) A junkyard controlled by this part may not be expanded or have its use extended
86943 except by permission of the department under rules made by the department.
86944 Section 2117. Section **72-7-206** is amended to read:
86945 **72-7-206. Screening of existing junkyards.**
86946 (1) The department shall screen any junkyard lawfully in existence on May 9, 1967,
86947 which is located within 1,000 feet of the nearest edge of the right-of-way and visible from the
86948 main-traveled-way of any highway on the interstate or primary system.
86949 (2) The screening shall be at locations on the right-of-way or in areas outside the
86950 right-of-way acquired for that purpose and may not be visible from the main-traveled-way of
86951 the interstate or federal-aid primary systems.

86952 (3) The department may not install junkyard screening under this section unless:
86953 (a) the necessary federal funds for participation have been appropriated by the federal
86954 government and are immediately available to the state; and
86955 (b) the department has received approval to seek federal grants, loans, or participation
86956 in federal programs under [~~Title 63, Chapter 38e~~] Title 63J, Chapter 5, Federal Funds
86957 Procedures.
86958 Section 2118. Section **72-7-207** is amended to read:
86959 **72-7-207. Junkyards not adaptable to screening -- Authority of department to**
86960 **acquire land -- Compensation.**
86961 (1) If the department determines that the topography of the land adjoining the interstate
86962 and primary systems will not permit adequate screening of junkyards or that screening would
86963 not be economically feasible, the department may acquire by gift, purchase, exchange, or
86964 eminent domain the interests in lands necessary to secure the relocation, removal, or disposal
86965 of the junkyards.
86966 (2) If the department determines that it is in the best interests of the state, it may
86967 acquire lands, or interests in lands, necessary to provide adequate screening of junkyards.
86968 (3) The acquisitions provided for in this section may not be undertaken unless:
86969 (a) the necessary federal funds for participation have been appropriated by the federal
86970 government and are immediately available to the state; and
86971 (b) the department has received approval to seek federal grants, loans, or participation
86972 in federal programs under [~~Title 63, Chapter 38e~~] Title 63J, Chapter 5, Federal Funds
86973 Procedures.
86974 (4) Damages resulting from any taking of property in eminent domain shall be
86975 ascertained in the manner provided by law.
86976 (5) Just compensation shall be paid the owner for the relocation, removal, or disposal
86977 of a junkyard lawfully established under the laws of this state and which must be relocated,
86978 removed, or disposed of under this part.
86979 Section 2119. Section **72-7-209** is amended to read:
86980 **72-7-209. Enforcement authority -- Agreements with United States.**
86981 (1) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
86982 Administrative Rulemaking Act, the department may make rules:

86983 (a) governing the materials that may be used for screening and the location,
86984 construction, and maintenance of screening for junkyards; and
86985 (b) implementing and enforcing this part.
86986 (2) The department may:
86987 (a) enter into agreements with the secretary pursuant to Title 23, United States Code as
86988 amended, relating to the control of junkyards in areas adjacent to the interstate and primary
86989 systems; and
86990 (b) take action in the name of the state to comply with the terms of the agreements.
86991 Section 2120. Section **72-7-402** is amended to read:
86992 **72-7-402. Limitations as to vehicle width, height, length, and load extensions.**
86993 (1) (a) Except as provided by statute, all state or federally approved safety devices and
86994 any other lawful appurtenant devices, including refrigeration units, hitches, air line
86995 connections, and load securing devices related to the safe operation of a vehicle are excluded
86996 for purposes of measuring the width and length of a vehicle under the provisions of this part, if
86997 the devices are not designed or used for carrying cargo.
86998 (b) Load-induced tire bulge is excluded for purposes of measuring the width of
86999 vehicles under the provisions of this part.
87000 (c) Appurtenances attached to the sides or rear of a recreational vehicle that is not a
87001 commercial motor vehicle are excluded for purposes of measuring the width and length of the
87002 recreational vehicle if the additional width or length of the appurtenances does not exceed six
87003 inches.
87004 (2) A vehicle unladen or with a load may not exceed a width of 8-1/2 feet.
87005 (3) A vehicle unladen or with a load may not exceed a height of 14 feet.
87006 (4) (a) (i) A single-unit vehicle, unladen or with a load, may not exceed a length of 45
87007 feet including front and rear bumpers.
87008 (ii) In this section, a truck tractor coupled to one or more semitrailers or trailers is not
87009 considered a single-unit vehicle.
87010 (b) (i) Except as provided under Subsection (4)(b)(iii), a semitrailer, unladen or with a
87011 load, may not exceed a length of 48 feet excluding refrigeration units, hitches, air line
87012 connections, and safety appurtenances.
87013 (ii) There is no overall length limitation on a truck tractor and semitrailer combination

87014 when the semitrailer length is 48 feet or less.
87015 (iii) A semitrailer that exceeds a length of 48 feet but does not exceed a length of 53
87016 feet may operate on a route designated by the department or within one mile of that route.
87017 (c) (i) Two trailers coupled together, unladen or with a load, may not exceed an overall
87018 length of 61 feet, measured from the front of the first trailer to the rear of the second trailer.
87019 (ii) There is no overall length limitation on a truck tractor and double trailer
87020 combination when the trailers coupled together measure 61 feet or less.
87021 (d) All other combinations of vehicles, unladen or with a load, when coupled together,
87022 may not exceed a total length of 65 feet, except the length limitations do not apply to
87023 combinations of vehicles operated at night by a public utility when required for emergency
87024 repair of public service facilities or properties, or when operated under a permit under Section
87025 72-7-406.
87026 (5) (a) Subject to Subsection (4), a vehicle or combination of vehicles may not carry
87027 any load extending more than three feet beyond the front of the body of the vehicle or more
87028 than six feet beyond the rear of the bed or body of the vehicle.
87029 (b) A passenger vehicle may not carry any load extending beyond the line of the
87030 fenders on the left side of the vehicle nor extending more than six inches beyond the line of the
87031 fenders on the right side of the vehicle.
87032 (6) Any exception to this section must be authorized by a permit as provided under
87033 Section 72-7-406.
87034 (7) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
87035 Administrative Rulemaking Act, the department shall make rules designating routes where a
87036 semitrailer that exceeds a length of 48 feet but that does not exceed a length of 53 feet may
87037 operate as provided under Subsection (4)(b)(iii).
87038 (8) Any person who violates this section is guilty of a class B misdemeanor.
87039 Section 2121. Section **72-7-406** is amended to read:
87040 **72-7-406. Oversize permits and oversize and overweight permits for vehicles of**
87041 **excessive size or weight -- Applications -- Restrictions -- Fees -- Rulemaking provisions --**
87042 **Penalty.**
87043 (1) (a) The department may, upon receipt of an application and good cause shown,
87044 issue in writing an oversize permit or an oversize and overweight permit. The oversize permit

87045 or oversize and overweight permit may authorize the applicant to operate or move upon a
87046 highway:
87047 (i) a vehicle or combination of vehicles, unladen or with a load weighing more than the
87048 maximum weight specified in Section 72-7-404 for any wheel, axle, group of axles, or total
87049 gross weight; or
87050 (ii) a vehicle or combination of vehicles that exceeds the vehicle width, height, or
87051 length provisions under Section 72-7-402.
87052 (b) Except as provided under Subsection (8), an oversize and overweight permit may
87053 not be issued under this section to allow the transportation of a load that is reasonably divisible.
87054 (c) The maximum size or weight authorized by a permit under this section shall be
87055 within limits that do not impair the state's ability to qualify for federal-aid highway funds.
87056 (d) The department may deny or issue a permit under this section to protect the safety
87057 of the traveling public and to protect highway foundation, surfaces, or structures from undue
87058 damage by one or more of the following:
87059 (i) limiting the number of trips the vehicle may make;
87060 (ii) establishing seasonal or other time limits within which the vehicle may operate or
87061 move on the highway indicated;
87062 (iii) requiring security in addition to the permit to compensate for any potential damage
87063 by the vehicle to any highway; and
87064 (iv) otherwise limiting the conditions of operation or movement of the vehicle.
87065 (e) Prior to granting a permit under this section, the department shall approve the route
87066 of any vehicle or combination of vehicles.
87067 (2) An application for a permit under this section shall state:
87068 (a) the proposed maximum wheel loads, maximum axle loads, all axle spacings of each
87069 vehicle or combination of vehicles;
87070 (b) the proposed maximum load size and maximum size of each vehicle or
87071 combination of vehicles;
87072 (c) the specific roads requested to be used under authority of the permit; and
87073 (d) if the permit is requested for a single trip or if other seasonal limits or time limits
87074 apply.
87075 (3) Each oversize permit or oversize and overweight permit shall be carried in the

87076 vehicle or combination of vehicles to which it refers and shall be available for inspection by
87077 any peace officer, special function officer, port of entry agent, or other personnel authorized by
87078 the department.
87079 (4) A permit under this section may not be issued or is not valid unless the vehicle or
87080 combination of vehicles is:
87081 (a) properly registered for the weight authorized by the permit; or
87082 (b) registered for a gross laden weight of 78,001 pounds or over, if the gross laden
87083 weight authorized by the permit exceeds 80,000 pounds.
87084 (5) (a) (i) An oversize permit may be issued under this section for a vehicle or
87085 combination of vehicles that exceeds one or more of the maximum width, height, or length
87086 provisions under Section 72-7-402.
87087 (ii) Except for an annual oversize permit for an implement of husbandry under Section
87088 72-7-407 or for an annual oversize permit issued under Subsection (5)(a)(iii), only a single trip
87089 oversize permit may be issued for a vehicle or combination of vehicles that is more than 14 feet
87090 6 inches wide, 14 feet high, or 105 feet long.
87091 (iii) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
87092 Administrative Rulemaking Act, the department shall make rules for the issuance of an annual
87093 oversize permit for a vehicle or combination of vehicles that is more than 14 feet 6 inches
87094 wide, 14 feet high, or 105 feet long if the department determines that the permit is needed to
87095 accommodate highway transportation needs for multiple trips on a specified route.
87096 (b) The fee is $25 for a single trip oversize permit under this Subsection (5). This
87097 permit is valid for not more than 96 continuous hours.
87098 (c) The fee is $60 for a semiannual oversize permit under this Subsection (5). This
87099 permit is valid for not more than 180 continuous days.
87100 (d) The fee is $75 for an annual oversize permit under this Subsection (5). This permit
87101 is valid for not more than 365 continuous days.
87102 (6) (a) An oversize and overweight permit may be issued under this section for a
87103 vehicle or combination of vehicles carrying a nondivisible load that exceeds one or more of the
87104 maximum weight provisions of Section 72-7-404 by not more than 25%, except that the gross
87105 weight may not exceed 125,000 pounds.
87106 (b) The fee is $50 for a single trip oversize and overweight permit under this

87107 Subsection (6). This permit is valid for not more than 96 continuous hours.
87108 (c) A semiannual oversize and overweight permit under this Subsection (6) is valid for
87109 not more than 180 continuous days. The fee for this permit is:
87110 (i) $150 for a vehicle or combination of vehicles with gross vehicle weight of more
87111 than 80,000 pounds, but not exceeding 84,000 pounds;
87112 (ii) $260 for a vehicle or combination of vehicles with gross vehicle weight of more
87113 than 84,000 pounds, but not exceeding 112,000 pounds; and
87114 (iii) $350 for a vehicle or combination of vehicles with gross vehicle weight of more
87115 than 112,000 pounds, but not exceeding 125,000 pounds.
87116 (d) An annual oversize and overweight permit under this Subsection (6) is valid for not
87117 more than 365 continuous days. The fee for this permit is:
87118 (i) $200 for a vehicle or combination of vehicles with gross vehicle weight of more
87119 than 80,000 pounds, but not exceeding 84,000 pounds;
87120 (ii) $400 for a vehicle or combination of vehicles with gross vehicle weight of more
87121 than 84,000 pounds, but not exceeding 112,000 pounds; and
87122 (iii) $450 for a vehicle or combination of vehicles with gross vehicle weight of more
87123 than 112,000 pounds, but not exceeding 125,000 pounds.
87124 (7) (a) A single trip oversize and overweight permit may be issued under this section
87125 for a vehicle or combination of vehicles carrying a nondivisible load that exceeds one or more
87126 of the maximum weight provisions of Section 72-7-404 by more than 25% or that exceeds a
87127 gross weight of 125,000 pounds.
87128 (b) (i) The fee for a single trip oversize and overweight permit under this Subsection
87129 (7), which is valid for not more than 96 continuous hours, is $.01 per mile for each 1,000
87130 pounds above 80,000 pounds subject to the rounding described in Subsection (7)(c).
87131 (ii) The minimum fee that may be charged under this Subsection (7) is $65.
87132 (iii) The maximum fee that may be charged under this Subsection (7) is $450.
87133 (c) (i) The miles used to calculate the fee under this Subsection (7) shall be rounded up
87134 to the nearest 50 mile increment.
87135 (ii) The pounds used to calculate the fee under this Subsection (7) shall be rounded up
87136 to the nearest 25,000 pound increment.
87137 (8) (a) An oversize and overweight permit may be issued under this section for a

87138 vehicle or combination of vehicles carrying a divisible load if:
87139 (i) the bridge formula under Subsection 72-7-404(3) is not exceeded; and
87140 (ii) the length of the vehicle or combination of vehicles is:
87141 (A) more than the limitations specified under Subsections 72-7-402(4)(c) and (d) but
87142 not exceeding 81 feet in cargo carrying length and the application is for a single trip,
87143 semiannual trip, or annual trip permit; or
87144 (B) more than 81 feet in cargo carrying length but not exceeding 95 feet in cargo
87145 carrying length and the application is for an annual trip permit.
87146 (b) The fee is $50 for a single trip oversize and overweight permit under this
87147 Subsection (8). The permit is valid for not more than 96 continuous hours.
87148 (c) The fee for a semiannual oversize and overweight permit under this Subsection (8),
87149 which permit is valid for not more than 180 continuous days is:
87150 (i) $150 for a vehicle or combination of vehicles with gross vehicle weight of more
87151 than 80,000 pounds, but not exceeding 84,000 pounds;
87152 (ii) $260 for a vehicle or combination of vehicles with gross vehicle weight of more
87153 than 84,000 pounds, but not exceeding 112,000 pounds; and
87154 (iii) $350 for a vehicle or combination of vehicles with gross vehicle weight of more
87155 than 112,000 pounds, but not exceeding 129,000 pounds.
87156 (d) The fee for an annual oversize and overweight permit under this Subsection (8),
87157 which permit is valid for not more than 365 continuous days is:
87158 (i) $200 for a vehicle or combination of vehicles with gross vehicle weight of more
87159 than 80,000 pounds, but not exceeding 84,000 pounds;
87160 (ii) $400 for a vehicle or combination of vehicles with gross vehicle weight of more
87161 than 84,000 pounds, but not exceeding 112,000 pounds; and
87162 (iii) $450 for a vehicle or combination of vehicles with gross vehicle weight of more
87163 than 112,000 pounds, but not exceeding 129,000 pounds.
87164 (9) Permits under Subsections (7) and (8) may be issued only upon authorization of the
87165 commission.
87166 (10) Permit fees collected under this section shall be credited monthly to the
87167 Transportation Fund.
87168 (11) The department shall prepare maps, drawings, and instructions as guidance when

87169 issuing permits under this section.
87170 (12) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
87171 Administrative Rulemaking Act, the department shall make rules governing the issuance and
87172 revocation of all permits under this section and Section 72-7-407.
87173 (13) Any person who violates any of the terms or conditions of a permit issued under
87174 this section:
87175 (a) may have [~~his~~] the person's permit revoked; and
87176 (b) is guilty of a class B misdemeanor.
87177 Section 2122. Section **72-7-407** is amended to read:
87178 **72-7-407. Implements of husbandry -- Escort vehicle requirements -- Oversize**
87179 **permit -- Rulemaking -- Penalty.**
87180 (1) As used in this section, "escort vehicle" means a motor vehicle, as defined under
87181 Section 41-1a-102, that has its emergency warning lights operating, and that is being used to
87182 warn approaching motorists by either preceding or following a slow or oversized vehicle,
87183 object, or implement of husbandry being moved on the highway.
87184 (2) An implement of husbandry being moved on a highway shall be accompanied by:
87185 (a) front and rear escort vehicles when the implement of husbandry is 16 feet in width
87186 or greater unless the implement of husbandry is moved by a farmer or rancher or [~~his~~] the
87187 farmer or rancher's employees in connection with an agricultural operation; or
87188 (b) one or more escort vehicles when the implement of husbandry is traveling on a
87189 highway where special hazards exist related to weather, pedestrians, other traffic, or highway
87190 conditions.
87191 (3) In addition to the requirements of Subsection (2), a person may not move an
87192 implement of husbandry on a highway during hours of darkness without lights and reflectors as
87193 required under Section 41-6a-1608 or 41-6a-1609.
87194 (4) (a) Except for an implement of husbandry moved by a farmer or rancher or the
87195 farmer's or rancher's employees in connection with an agricultural operation, a person may not
87196 move an implement of husbandry on the highway without:
87197 (i) an oversize permit obtained under Section 72-7-406 if required;
87198 (ii) trained escort vehicle drivers and approved escort vehicles when required under
87199 Subsection (2); and

87200 (iii) compliance with the vehicle weight requirements of Section 72-7-404.
87201 (b) (i) The department shall issue an annual oversize permit for the purpose of allowing
87202 the movement of implements of husbandry on the highways in accordance with this chapter.
87203 (ii) The permit shall require the applicant to obtain verbal permission from the
87204 department for each trip involving the movement of an implement of husbandry 16 feet or
87205 greater in width.
87206 (c) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
87207 Administrative Rulemaking Act, the department shall make rules specifying training for escort
87208 vehicle drivers and equipment requirements for escort vehicles as provided in Subsection
87209 (4)(a).
87210 (5) Any person who violates this section is guilty of a class B misdemeanor.
87211 Section 2123. Section **72-7-504** is amended to read:
87212 **72-7-504. Advertising prohibited near interstate or primary system -- Exceptions**
87213 **-- Logo advertising -- Department rules.**
87214 (1) Outdoor advertising that is capable of being read or comprehended from any place
87215 on the main-traveled way of an interstate or primary system may not be erected or maintained,
87216 except:
87217 (a) directional and other official signs and notices authorized or required by law,
87218 including signs and notices pertaining to natural wonders and scenic and historic attractions,
87219 informational or directional signs regarding utility service, emergency telephone signs, buried
87220 or underground utility markers, and above ground utility closure signs;
87221 (b) signs advertising the sale or lease of property upon which they are located;
87222 (c) signs advertising activities conducted on the property where they are located,
87223 including signs on the premises of a public assembly facility as provided in Section 72-7-504.5;
87224 (d) signs located in a commercial or industrial zone;
87225 (e) signs located in unzoned industrial or commercial areas as determined from actual
87226 land uses; and
87227 (f) logo advertising under Subsection (2).
87228 (2) (a) The department may itself or by contract erect, administer, and maintain
87229 informational signs on the main-traveled way of an interstate or primary system for the display
87230 of logo advertising and information of interest to the traveling public if:

87231 (i) the department complies with [~~Title 63, Chapter 56~~] Title 63G, Chapter 6, Utah
87232 Procurement Code, in the lease or other contract agreement with a private party for the sign or
87233 sign space; and
87234 (ii) the private party for the lease of the sign or sign space pays an amount set by the
87235 department to be paid to the department or the party under contract with the department under
87236 this Subsection (2).
87237 (b) The amount shall be sufficient to cover the costs of erecting, administering, and
87238 maintaining the signs or sign spaces.
87239 (c) The department may consult the Governor's Office of Economic Development in
87240 carrying out this Subsection (2).
87241 (3) (a) Revenue generated under Subsection (2) shall be:
87242 (i) applied first to cover department costs under Subsection (2); and
87243 (ii) deposited in the Transportation Fund.
87244 (b) Revenue in excess of costs under Subsection (2)(a) shall be deposited in the
87245 General Fund as a dedicated credit for use by the Governor's Office of Economic Development
87246 no later than the following fiscal year.
87247 (4) Outdoor advertising under Subsections (1)(a), (d), (e), and (f) shall conform to the
87248 rules made by the department under Sections 72-7-506 and 72-7-507.
87249 Section 2124. Section **72-7-506** is amended to read:
87250 **72-7-506. Advertising -- Regulatory power of department -- Notice requirements.**
87251 (1) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
87252 Administrative Rulemaking Act, the department may make rules no more restrictive than this
87253 chapter to:
87254 (a) control the erection and maintenance of outdoor advertising along the interstate and
87255 primary highway systems;
87256 (b) provide for enforcement of this chapter;
87257 (c) establish the form, content, and submittal of applications to erect outdoor
87258 advertising; and
87259 (d) establish administrative procedures.
87260 (2) In addition to all other statutory notice requirements:
87261 (a) the department shall give reasonably timely written notice to all outdoor advertising

87262 permit holders of any changes or proposed changes in administrative rules made under
87263 authority of this part; and
87264 (b) any county, municipality, or governmental entity shall, upon written request, give
87265 reasonably timely written notice to all outdoor advertising permit holders within its jurisdiction
87266 of any change or proposed change to the outdoor or off-premise advertising provisions of its
87267 zoning provisions, codes, or ordinances.
87268 Section 2125. Section **72-7-507** is amended to read:
87269 **72-7-507. Advertising -- Permits -- Application requirements -- Duration -- Fees.**
87270 (1) (a) Outdoor advertising may not be maintained without a current permit.
87271 (b) Applications for permits shall be made to the department on forms furnished by it.
87272 (c) A permit must be obtained prior to installing each outdoor sign.
87273 (d) The application for a permit shall be accompanied by an initial fee established
87274 under Section [~~63-38-3.2~~] 63J-1-303.
87275 (2) (a) Each permit issued by the department is valid for a period of up to five years
87276 and shall expire on June 30 of the fifth year of the permit, or upon the expiration or termination
87277 of the right to use the property, whichever is sooner.
87278 (b) Upon renewal, each permit may be renewed for periods of up to five years upon the
87279 filing of a renewal application and payment of a renewal fee established under Section
87280 [~~63-38-3.2~~] 63J-1-303.
87281 (3) Sign owners residing outside the state shall provide the department with a
87282 continuous performance bond in the amount of $2,500.
87283 (4) Fees may not be prorated for fractions of the permit period. Advertising copy may
87284 be changed at any time without payment of an additional fee.
87285 (5) (a) Each sign shall have its permit continuously affixed to the sign in a position
87286 visible from the nearest traveled portion of the highway.
87287 (b) The permit shall be affixed to the sign structure within 30 days after delivery by the
87288 department to the permit holder, or within 30 days of the installation date of the sign structure.
87289 (c) Construction of the sign structure shall begin within 180 days after delivery of the
87290 permit by the department to the permit holder and construction shall be completed within 365
87291 days after delivery of the permit.
87292 (6) The department may not accept any applications for a permit or issue any permit to

87293 erect or maintain outdoor advertising within 500 feet of a permitted sign location except to the
87294 permit holder or the permit holder's assigns until the permit has expired or has been terminated
87295 pursuant to the procedures under Section 72-7-508.
87296 (7) Permits are transferrable if the ownership of the permitted sign is transferred.
87297 (8) Conforming, permitted sign structures may be altered, changed, remodeled, and
87298 relocated subject to the provisions of Subsection (6).
87299 Section 2126. Section **72-7-508** is amended to read:
87300 **72-7-508. Unlawful outdoor advertising -- Adjudicative proceedings -- Judicial**
87301 **review -- Costs of removal -- Civil and criminal liability for damaging regulated signs --**
87302 **Immunity for Department of Transportation.**
87303 (1) Outdoor advertising is unlawful when:
87304 (a) erected after May 9, 1967, contrary to the provisions of this chapter;
87305 (b) a permit is not obtained as required by this part;
87306 (c) a false or misleading statement has been made in the application for a permit that
87307 was material to obtaining the permit; or
87308 (d) the sign for which a permit was issued is not in a reasonable state of repair, is
87309 unsafe, or is otherwise in violation of this part.
87310 (2) The establishment, operation, repair, maintenance, or alteration of any sign contrary
87311 to this chapter is also a public nuisance.
87312 (3) Except as provided in Subsection (4), in its enforcement of this section, the
87313 department shall comply with the procedures and requirements of [~~Title 63, Chapter 46b~~] Title
87314 63G, Chapter 4, Administrative Procedures Act.
87315 (4) (a) The district courts shall have jurisdiction to review by trial de novo all final
87316 orders of the department under this part resulting from formal and informal adjudicative
87317 proceedings.
87318 (b) Venue for judicial review of final orders of the department shall be in the county in
87319 which the sign is located.
87320 (5) If the department is granted a judgment, the department is entitled to have any
87321 nuisance abated and recover from the responsible person, firm, or corporation, jointly and
87322 severally:
87323 (a) the costs and expenses incurred in removing the sign; and

87324 (b) $100 for each day the sign was maintained following the expiration of ten days after
87325 notice of agency action was filed and served under Section [~~63-46b-3~~] 63G-4-201.
87326 (6) (a) Any person, partnership, firm, or corporation who vandalizes, damages, defaces,
87327 destroys, or uses any sign controlled under this chapter without the owner's permission is liable
87328 to the owner of the sign for treble the amount of damage sustained and all costs of court,
87329 including a reasonable attorney's fee, and is guilty of a class C misdemeanor.
87330 (b) This Subsection (6) does not apply to the department, its agents, or employees if
87331 acting to enforce this part.
87332 Section 2127. Section **72-9-103** is amended to read:
87333 **72-9-103. Rulemaking -- Adjudicative proceedings.**
87334 (1) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
87335 Administrative Rulemaking Act, the department shall make rules:
87336 (a) adopting by reference in whole or in part the Federal Motor Carrier Safety
87337 Regulations including minimum security requirements for motor carriers;
87338 (b) specifying the equipment required to be carried in each tow truck, including limits
87339 on loads that may be moved based on equipment capacity and load weight;
87340 (c) specifying collection procedures, in conjunction with the administration and
87341 enforcement of the safety or security requirements, for the motor carrier fee under Section
87342 72-9-706; and
87343 (d) providing for the necessary administration and enforcement of this chapter.
87344 (2) The department shall comply with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
87345 Administrative Procedures Act, in its adjudicative proceedings.
87346 Section 2128. Section **72-9-502** is amended to read:
87347 **72-9-502. Motor vehicles to stop at ports-of-entry -- Signs -- Exceptions --**
87348 **Rulemaking -- By-pass permits.**
87349 (1) Except under Subsection (3), a motor carrier operating a motor vehicle with a gross
87350 vehicle weight of 10,001 pounds or more or any motor vehicle carrying livestock as defined in
87351 Section 4-24-2 shall stop at a port-of-entry as required under this section.
87352 (2) The department may erect and maintain signs directing motor vehicles to a
87353 port-of-entry as provided in this section.
87354 (3) A motor vehicle required to stop at a port-of-entry under Subsection (1) is exempt

87355 from this section if:
87356 (a) the total one-way trip distance for the motor vehicle would be increased by more
87357 than 5% or three miles, whichever is greater if diverted to a port-of-entry; or
87358 (b) the motor vehicle is operating under a temporary port-of-entry by-pass permit
87359 issued under Subsection (4).
87360 (4) (a) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
87361 Administrative Rulemaking Act, the department shall make rules for the issuance of a
87362 temporary port-of-entry by-pass permit exempting a motor vehicle from the provisions of
87363 Subsection (1) if the department determines that the permit is needed to accommodate highway
87364 transportation needs due to multiple daily or weekly trips in the proximity of a port-of-entry.
87365 (b) The rules under Subsection (4)(a) shall provide that one permit may be issued to a
87366 motor carrier for multiple motor vehicles.
87367 Section 2129. Section **72-9-602** is amended to read:
87368 **72-9-602. Towing inspections, investigations, and certification -- Equipment**
87369 **requirements -- Consumer information.**
87370 (1) (a) The department shall inspect, investigate, and certify tow truck motor carriers,
87371 tow trucks, and tow truck drivers to ensure compliance with this chapter and compliance with
87372 Sections 41-6a-1406 and 41-6a-1407.
87373 (b) The inspection, investigation, and certification shall be conducted prior to any tow
87374 truck operation and at least every two years thereafter.
87375 (c) (i) The department shall issue an authorized towing certificate for each tow truck
87376 motor carrier, tow truck, and driver that complies with this part.
87377 (ii) The certificate shall expire two years from the month of issuance.
87378 (d) The department may charge a biennial fee established under Section [~~63-38-3.2~~]
87379 63J-1-303 to cover the cost of the inspection, investigation, and certification required under
87380 this part.
87381 (2) The department shall make consumer protection information available to the public
87382 that may use a tow truck motor carrier.
87383 Section 2130. Section **72-9-603** is amended to read:
87384 **72-9-603. Towing notice requirements -- Cost responsibilities -- Abandoned**
87385 **vehicle title restrictions -- Rules for maximum rates and certification.**

87386 (1) Except for tow truck service that was ordered by a peace officer, or a person acting
87387 on behalf of a law enforcement agency, or a highway authority, as defined in Section 72-1-102,
87388 after performing a tow truck service that is being done without the vehicle, vessel, or outboard
87389 motor owner's knowledge, the tow truck operator or the tow truck motor carrier shall:
87390 (a) immediately upon arriving at the place of storage or impound of the vehicle, vessel,
87391 or outboard motor, contact the law enforcement agency having jurisdiction over the area where
87392 the vehicle, vessel, or outboard motor was picked up and notify the agency of the:
87393 (i) location of the vehicle, vessel, or outboard motor;
87394 (ii) date, time, and location from which the vehicle, vessel, or outboard motor was
87395 removed;
87396 (iii) reasons for the removal of the vehicle, vessel, or outboard motor;
87397 (iv) person who requested the removal of the vehicle, vessel, or outboard motor; and
87398 (v) vehicle, vessel, or outboard motor's description, including its identification number
87399 and license number or other identification number issued by a state agency; and
87400 (b) within two business days of performing the tow truck service, send a certified letter
87401 to the last-known address of the registered owner and lien holder of the vehicle, vessel, or
87402 outboard motor obtained from the Motor Vehicle Division or if the person has actual
87403 knowledge of the owner's address to the current address, notifying him of the:
87404 (i) location of the vehicle, vessel, or outboard motor;
87405 (ii) date, time, location from which the vehicle, vessel, or outboard motor was
87406 removed;
87407 (iii) reasons for the removal of the vehicle, vessel, or outboard motor;
87408 (iv) person who requested the removal of the vehicle, vessel, or outboard motor;
87409 (v) a description, including its identification number and license number or other
87410 identification number issued by a state agency; and
87411 (vi) costs and procedures to retrieve the vehicle, vessel, or outboard motor.
87412 (2) Until the tow truck operator or tow truck motor carrier reports the removal as
87413 required under Subsection (1)(a), a tow truck motor carrier or impound yard may not:
87414 (a) collect any fee associated with the removal; and
87415 (b) begin charging storage fees.
87416 (3) The owner of a vehicle, vessel, or outboard motor lawfully removed is only

87417 responsible for paying:
87418 (a) the tow truck service and storage fees set in accordance with Subsection (7); and
87419 (b) the administrative impound fee set in Section 41-6a-1406, if applicable.
87420 (4) The fees under Subsection (3) are a possessory lien on the vehicle, vessel, or
87421 outboard motor until paid.
87422 (5) A person may not request a transfer of title to an abandoned vehicle until at least 30
87423 days after notice has been sent under Subsection (1)(b).
87424 (6) A tow truck motor carrier or impound yard shall clearly and conspicuously post and
87425 disclose all its current fees and rates for tow truck service and storage of a vehicle in
87426 accordance with rules established under Subsection (7).
87427 (7) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
87428 Administrative Rulemaking Act, the Department of Transportation shall:
87429 (a) set maximum rates that:
87430 (i) tow truck motor carriers may charge for the tow truck service of a vehicle, vessel, or
87431 outboard motor that are transported in response to:
87432 (A) a peace officer dispatch call;
87433 (B) a motor vehicle division call; and
87434 (C) any other call where the owner of the vehicle, vessel, or outboard motor has not
87435 consented to the removal; and
87436 (ii) impound yards may charge for the storage of a vehicle, vessel, or outboard motor
87437 stored as a result of one of the conditions listed under Subsection (7)(a)(i);
87438 (b) establish authorized towing certification requirements, not in conflict with federal
87439 law, related to incident safety, clean-up, and hazardous material handling; and
87440 (c) specify the form and content of the posting and disclosure of fees and rates charged
87441 by a tow truck motor carrier or impound yard.
87442 Section 2131. Section **72-10-103** is amended to read:
87443 **72-10-103. Rulemaking requirement.**
87444 (1) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
87445 Administrative Rulemaking Act, the department shall make rules:
87446 (a) governing the establishment, location, and use of air navigation facilities;
87447 (b) regulating the use, licensing, and supervision of airports;

87448 (c) establishing minimum standards with which all air navigation facilities, flying
87449 clubs, aircraft, gliders, pilots, and airports must comply; and
87450 (d) safeguarding from accident and protecting the safety of persons operating or using
87451 aircraft and persons and property on the ground.
87452 (2) The rules may:
87453 (a) require that any device or accessory that forms part of any aircraft or its equipment
87454 be certified as complying with this chapter;
87455 (b) limit the use of any device or accessory as necessary for safety; and
87456 (c) develop and promote aeronautics within this state.
87457 (3) (a) To avoid the danger of accident incident to confusion arising from conflicting
87458 rules governing aeronautics, the rules shall conform as nearly as possible with federal
87459 legislation, rules, regulations, and orders on aeronautics.
87460 (b) The rules may not be inconsistent with paramount federal legislation, rules,
87461 regulations, and orders on the subject.
87462 (4) The department may not require any pilot, aircraft, or mechanic who has procured a
87463 license under the Civil Aeronautics Authority of the United States to obtain a license from this
87464 state, other than required by this chapter.
87465 (5) The department may not make rules that conflict with the regulations of:
87466 (a) the Civil Aeronautics Authority; or
87467 (b) other federal agencies authorized to regulate the particular activity.
87468 (6) All schedules of charges, tolls, and fees established by the division shall be
87469 approved and adopted by the department.
87470 (7) The department shall comply with the procedures and requirements of [~~Title 63,~~
87471 ~~Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative
87472 proceedings.
87473 Section 2132. Section **72-10-107** is amended to read:
87474 **72-10-107. Procedures -- Adjudicative proceedings.**
87475 The division shall conduct adjudicative proceedings in accordance with [~~Title 63,~~
87476 ~~Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
87477 Section 2133. Section **72-10-116** is amended to read:
87478 **72-10-116. Airport license required -- Issuance by division -- Restrictions on use**

87479 **of lands or waters of another -- Annual fee.**
87480 (1) (a) An airport open to public use may not be used or operated unless it is duly
87481 licensed by the division.
87482 (b) Any person who owns or operates an airport open to public use shall file an
87483 application with the division for a license for the facility.
87484 (2) (a) A license shall be granted whenever it is reasonably necessary for the
87485 accommodation and convenience of the public and may be granted in other cases in the
87486 discretion of the division.
87487 (b) The division may not issue a license if the division finds that the facility is not
87488 constructed, equipped, and operated in accordance with the standards set by the department.
87489 (3) (a) The landing or taking off of aircraft on or from the lands or waters of another
87490 without consent is unlawful, except in the case of a forced landing.
87491 (b) For damages caused by a takeoff or landing, the owner, lessee of the aircraft,
87492 operator, or any of them is liable.
87493 (4) (a) A student pilot may not land on any area without the knowledge of the operator,
87494 instructor, or school from which the student is flying.
87495 (b) The use of private landing fields must not impose a hazard upon the person or
87496 property of others.
87497 (5) A certificate of registration is not required of, and the rules made under this title do
87498 not apply to an airport owned or operated by the government of the United States.
87499 (6) The division, with the approval of the commission, may charge a fee determined by
87500 the division pursuant to Section [~~63-38-3.2~~] 63J-1-303 for the issuance of an annual airport
87501 license.
87502 Section 2134. Section **72-10-117** is amended to read:
87503 **72-10-117. Aircraft landing permits -- Eligible aircraft -- Special licenses -- Rules**
87504 **-- Proof of insurance -- Bonds.**
87505 (1) (a) The county executive of any county may issue permits authorizing aircraft to
87506 land on or take off from designated county roads.
87507 (b) Permits may be issued to aircraft operated:
87508 (i) as air ambulances;
87509 (ii) as pesticide applicators; or

87510 (iii) by or under contract with public utilities and used in connection with inspection,
87511 maintenance, installation, operation, construction, or repair of property owned or operated by
87512 the public utility.
87513 (2) Permits may also be issued by the county executive to other aircraft under rules
87514 made by the division.
87515 (3) (a) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
87516 Administrative Rulemaking Act, the division shall make rules for issuing a special license to:
87517 (i) an aircraft permitted by a county executive to land on a county road; and
87518 (ii) a pilot permitted to operate an aircraft licensed under this subsection from a county
87519 road.
87520 (b) The rules made under this subsection shall include provisions for the safety of the
87521 flying and motoring public.
87522 (4) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
87523 Administrative Rulemaking Act, the department shall make rules for the landing and taking off
87524 of aircraft to which permits have been issued, which may include annual reports of activities of
87525 the aircraft.
87526 (5) Prior to obtaining a permit or license to any aircraft, the applicant shall file with the
87527 county executive and the division a certificate of insurance executed by an insurance company
87528 or association authorized to transact business in this state upon a form prescribed by the
87529 division that there is in full force and effect a policy of insurance covering the aircraft for
87530 liability against:
87531 (a) personal injury or death for any one person in an amount of $50,000 or more;
87532 (b) any one accident in an amount of $100,000 or more; and
87533 (c) property damage in an amount of $50,000 or more.
87534 (6) In addition to the insurance required under this section, either the county executive
87535 or the division may require the posting of a bond to indemnify the county or division against
87536 liability resulting from issuing the permit or license.
87537 Section 2135. Section **72-11-203** is amended to read:
87538 **72-11-203. Procedures -- Adjudicative proceedings.**
87539 The committee shall comply with the procedures and requirements of [~~Title 63, Chapter~~
87540 ~~46b~~] Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative proceedings.

87541 Section 2136. Section **72-11-208** is amended to read:
87542 **72-11-208. Passenger ropeways -- Registration fee.**
87543 The application for registration, or supplemental application, shall be accompanied by
87544 an annual fee adopted by the committee in accordance with Section [~~63-38-3.2~~] 63J-1-303.
87545 Section 2137. Section **72-11-210** is amended to read:
87546 **72-11-210. Passenger ropeways -- Additional powers and duties of committee.**
87547 The committee may:
87548 (1) in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
87549 Administrative Rulemaking Act, make rules establishing:
87550 (a) public safety in the design, construction, and operation of passenger ropeways that:
87551 (i) adopt the American National Standard for Passenger Ropeways;
87552 (ii) modify the standard under Subsection (1)(a)(i); or
87553 (iii) establish an equivalent standard; and
87554 (b) the annual registration date;
87555 (2) hold hearings and take evidence in all matters relating to the exercise and
87556 performance of the powers and duties vested in the committee;
87557 (3) subpoena witnesses;
87558 (4) administer oaths;
87559 (5) compel the testimony of witnesses and the production of books, papers, and records
87560 relevant to any inquiry;
87561 (6) approve, deny, revoke, and renew the registrations provided for in this chapter;
87562 (7) cause the prosecution and enjoinder of all persons violating the provisions of this
87563 chapter and incur the necessary expenses;
87564 (8) elect officers and adopt a seal which may be affixed to all registrations issued by
87565 the committee; and
87566 (9) employ, within the funds available, and prescribe the duties of a secretary and other
87567 personnel as the committee considers necessary.
87568 Section 2138. Section **73-1-4** is amended to read:
87569 **73-1-4. Reversion to the public by abandonment or forfeiture for nonuse within**
87570 **five years -- Extension of time.**
87571 (1) (a) In order to further the state policy of securing the maximum use and benefit of

87572 its scarce water resources, a person entitled to the use of water has a continuing obligation to
87573 place all of a water right to beneficial use.
87574 (b) The forfeiture of all or part of any right to use water for failure to place all or part of
87575 the water to beneficial use makes possible the allocation and use of water consistent with long
87576 established beneficial use concepts.
87577 (c) The provisions of Subsections (2) through (6) shall be construed to carry out the
87578 purposes and policies set forth in this Subsection (1).
87579 (2) As used in this section, "public water supply entity" means an entity that supplies
87580 water as a utility service or for irrigation purposes and is also:
87581 (a) a municipality, water conservancy district, metropolitan water district, irrigation
87582 district, or other public agency;
87583 (b) a water company regulated by the Public Service Commission; or
87584 (c) any other owner of a community water system.
87585 (3) (a) When an appropriator or the appropriator's successor in interest abandons or
87586 ceases to use all or a portion of a water right for a period of five years, the water right or the
87587 unused portion of that water right ceases and the water reverts to the public, unless, before the
87588 expiration of the five-year period, the appropriator or the appropriator's successor in interest
87589 files a verified nonuse application with the state engineer.
87590 (b) (i) A nonuse application may be filed on all or a portion of the water right,
87591 including water rights held by mutual irrigation companies.
87592 (ii) Public water supply entities that own stock in a mutual water company, after giving
87593 written notice to the water company, may file nonuse applications with the state engineer on
87594 the water represented by the stock.
87595 (c) (i) A water right or a portion of the water right may not be forfeited unless a judicial
87596 action to declare the right forfeited is commenced within 15 years from the end of the latest
87597 period of nonuse of at least five years.
87598 (ii) If forfeiture is asserted in an action for general determination of rights in
87599 conformance with the provisions of Chapter 4, Determination of Water Rights, the 15-year
87600 limitation period shall commence to run back in time from the date the state engineer's
87601 proposed determination of rights is served upon each claimant.
87602 (iii) A decree entered in an action for general determination of rights under Chapter 4,

87603 Determination of Water Rights, shall bar any claim of forfeiture for prior nonuse against any
87604 right determined to be valid in the decree, but shall not bar a claim for periods of nonuse that
87605 occur after the entry of the decree.
87606 (iv) A proposed determination by the state engineer in an action for general
87607 determination of rights under Chapter 4, Determination of Water Rights, shall bar any claim of
87608 forfeiture for prior nonuse against any right proposed to be valid, unless a timely objection has
87609 been filed within the time allowed in Chapter 4, Determination of Water Rights.
87610 (d) The extension of time to resume the use of that water may not exceed five years
87611 unless the time is further extended by the state engineer.
87612 (e) The provisions of this section are applicable whether the unused or abandoned
87613 water or a portion of the water is permitted to run to waste or is used by others without right
87614 with the knowledge of the water right holder, provided that the use of water pursuant to a lease
87615 or other agreement with the appropriator or the appropriator's successor shall be considered to
87616 constitute beneficial use.
87617 (f) The provisions of this section shall not apply:
87618 (i) to those periods of time when a surface water source fails to yield sufficient water to
87619 satisfy the water right, or when groundwater is not available because of a sustained drought;
87620 (ii) to water stored in reservoirs pursuant to an existing water right, where the stored
87621 water is being held in storage for present or future use; or
87622 (iii) when a water user has beneficially used substantially all of a water right within a
87623 five-year period, provided that this exemption shall not apply to the adjudication of a water
87624 right in a general determination of water rights under Chapter 4, Determination of Water
87625 Rights.
87626 (g) Groundwater rights used to supplement the quantity or quality of other water
87627 supplies may not be subject to loss or reduction under this section if not used during periods
87628 when the other water source delivers sufficient water so as to not require use of the
87629 supplemental groundwater.
87630 (4) (a) The state engineer shall furnish an application requiring the following
87631 information:
87632 (i) the name and address of the applicant;
87633 (ii) a description of the water right or a portion of the water right, including the point of

87634 diversion, place of use, and priority;
87635 (iii) the date the water was last diverted and placed to beneficial use;
87636 (iv) the quantity of water;
87637 (v) the period of use;
87638 (vi) the extension of time applied for;
87639 (vii) a statement of the reason for the nonuse of the water; and
87640 (viii) any other information that the state engineer requires.
87641 (b) Filing the application extends the time during which nonuse may continue until the
87642 state engineer issues [~~his~~] the state engineer's order on the nonuse application.
87643 (c) (i) Upon receipt of the application, the state engineer shall publish a notice of the
87644 application once a week for two successive weeks in a newspaper of general circulation in the
87645 county in which the source of the water supply is located and where the water is to be used.
87646 (ii) The notice shall:
87647 (A) state that an application has been made; and
87648 (B) specify where the interested party may obtain additional information relating to the
87649 application.
87650 (d) Any interested person may file a written protest with the state engineer against the
87651 granting of the application:
87652 (i) within 20 days after the notice is published, if the adjudicative proceeding is
87653 informal; and
87654 (ii) within 30 days after the notice is published, if the adjudicative proceeding is
87655 formal.
87656 (e) In any proceedings to determine whether the application for extension should be
87657 approved or rejected, the state engineer shall follow the procedures and requirements of [~~Title~~
87658 ~~63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
87659 (f) After further investigation, the state engineer may approve or reject the application.
87660 (5) (a) Nonuse applications on all or a portion of a water right shall be granted by the
87661 state engineer for periods not exceeding five years each, upon a showing of reasonable cause
87662 for nonuse.
87663 (b) Reasonable causes for nonuse include:
87664 (i) demonstrable financial hardship or economic depression;

87665 (ii) the initiation of recognized water conservation or efficiency practices, or the
87666 operation of a groundwater recharge recovery program approved by the state engineer;
87667 (iii) operation of legal proceedings;
87668 (iv) the holding of a water right or stock in a mutual water company without use by any
87669 public water supply entity to meet the reasonable future requirements of the public;
87670 (v) situations where, in the opinion of the state engineer, the nonuse would assist in
87671 implementing an existing, approved water management plan;
87672 (vi) situations where all or part of the land on which water is used is contracted under
87673 an approved state agreement or federal conservation fallowing program;
87674 (vii) the loss of capacity caused by deterioration of the water supply or delivery
87675 equipment if the applicant submits, with the application, a specific plan to resume full use of
87676 the water right by replacing, restoring, or improving the equipment; or
87677 (viii) any other reasonable cause.
87678 (6) (a) Sixty days before the expiration of any extension of time, the state engineer
87679 shall notify the applicant by mail or by any form of electronic communication through which
87680 receipt is verifiable, of the date when the extension period will expire.
87681 (b) Before the date of expiration, the applicant shall either:
87682 (i) file a verified statement with the state engineer setting forth the date on which use of
87683 the water was resumed, and whatever additional information is required by the state engineer;
87684 or
87685 (ii) apply for a further extension of time in which to resume use of the water according
87686 to the procedures and requirements of this section.
87687 (c) Upon receipt of the applicant's properly completed, verified statement, the state
87688 engineer shall conduct investigations necessary to verify that beneficial use has resumed and, if
87689 so, shall issue a certificate of resumption of use of the water as evidenced by the resumed
87690 beneficial use.
87691 (7) The appropriator’s water right or a portion of the water right ceases and the water
87692 reverts to the public if the:
87693 (a) appropriator or the appropriator’s successor in interest fails to apply for an
87694 extension of time;
87695 (b) state engineer denies the nonuse application; or

87696 (c) appropriator or the appropriator's successor in interest fails to apply for a further
87697 extension of time.
87698 Section 2139. Section **73-2-1** is amended to read:
87699 **73-2-1. State engineer -- Term -- Powers and duties -- Qualification for duties.**
87700 (1) There shall be a state engineer.
87701 (2) The state engineer shall:
87702 (a) be appointed by the governor with the consent of the Senate;
87703 (b) hold office for the term of four years and until a successor is appointed; and
87704 (c) have five years experience as a practical engineer or the theoretical knowledge,
87705 practical experience, and skill necessary for the position.
87706 (3) (a) The state engineer shall be responsible for the general administrative
87707 supervision of the waters of the state and the measurement, appropriation, apportionment, and
87708 distribution of those waters.
87709 (b) The state engineer may secure the equitable apportionment and distribution of the
87710 water according to the respective rights of appropriators.
87711 (4) The state engineer shall make rules, in accordance with [~~Title 63, Chapter 46a~~]
87712 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with the purposes and
87713 provisions of this title, regarding:
87714 (a) reports of water right conveyances;
87715 (b) the construction of water wells and the licensing of water well drillers;
87716 (c) dam construction and safety;
87717 (d) the alteration of natural streams;
87718 (e) sewage effluent reuse;
87719 (f) geothermal resource conservation; and
87720 (g) enforcement orders and the imposition of fines and penalties.
87721 (5) The state engineer may make rules, in accordance with [~~Title 63, Chapter 46a~~] Title
87722 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with the purposes and
87723 provisions of this title, governing:
87724 (a) water distribution systems and water commissioners;
87725 (b) water measurement and reporting;
87726 (c) ground-water recharge and recovery;

87727 (d) the determination of water rights; and
87728 (e) the form and content of applications and related documents, maps, and reports.
87729 (6) The state engineer may bring suit in courts of competent jurisdiction to:
87730 (a) enjoin the unlawful appropriation, diversion, and use of surface and underground
87731 water without first seeking redress through the administrative process;
87732 (b) prevent theft, waste, loss, or pollution of those waters;
87733 (c) enable him to carry out the duties of [~~his~~] the state engineer's office; and
87734 (d) enforce administrative orders and collect fines and penalties.
87735 (7) The state engineer may:
87736 (a) upon request from the board of trustees of an irrigation district under Title 17B,
87737 Chapter 2a, Part 5, Irrigation District Act, or another local district under Title 17B, Limited
87738 Purpose Local Government Entities - Local Districts, or a special service district under Title
87739 17A, Chapter 2, Part 13, Utah Special Service District Act, that operates an irrigation water
87740 system, cause a water survey to be made of all lands proposed to be annexed to the district in
87741 order to determine and allot the maximum amount of water that could be beneficially used on
87742 the land, with a separate survey and allotment being made for each 40-acre or smaller tract in
87743 separate ownership; and
87744 (b) upon completion of the survey and allotment under Subsection (7)(a), file with the
87745 district board a return of the survey and report of the allotment.
87746 (8) (a) The state engineer may establish water distribution systems and define their
87747 boundaries.
87748 (b) The water distribution systems shall be formed in a manner that:
87749 (i) secures the best protection to the water claimants; and
87750 (ii) is the most economical for the state to supervise.
87751 Section 2140. Section **73-2-1.5** is amended to read:
87752 **73-2-1.5. Procedures -- Adjudicative proceedings.**
87753 Except as provided in Sections [~~63-46b-1~~] 63G-4-102 and 73-2-25, the state engineer
87754 and the Division of Water Rights shall comply with the procedures and requirements of [~~Title~~
87755 ~~63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, in their adjudicative
87756 proceedings.
87757 Section 2141. Section **73-2-14** is amended to read:

87758 **73-2-14. Fees of state engineer -- Deposited as a dedicated credit.**
87759 (1) The state engineer shall charge fees pursuant to Section [~~63-38-3.2~~] 63J-1-303 for
87760 the following:
87761 (a) applications to appropriate water;
87762 (b) applications to temporarily appropriate water;
87763 (c) applications for permanent or temporary change;
87764 (d) applications for exchange;
87765 (e) applications for an extension of time in which to resume use of water;
87766 (f) applications to appropriate water, or make a permanent or temporary change, for use
87767 outside the state filed pursuant to Title 73, Chapter 3a, Water Exports;
87768 (g) groundwater recovery permits;
87769 (h) diligence claims for surface or underground water filed pursuant to Section
87770 73-5-13;
87771 (i) republication of notice to water users after amendment of application where
87772 required by this title;
87773 (j) applications to segregate;
87774 (k) requests for an extension of time in which to submit proof of appropriation not to
87775 exceed 14 years after the date of approval of the application;
87776 (l) requests for an extension of time in which to submit proof of appropriation 14 years
87777 or more after the date of approval of the application;
87778 (m) groundwater recharge permits;
87779 (n) applications for a well driller's license, annual renewal of a well driller's license,
87780 and late annual renewal of a well driller's license;
87781 (o) certification of copies;
87782 (p) preparing copies of documents; and
87783 (q) reports of water right conveyance.
87784 (2) Fees for the services specified in Subsections (1)(a) through (i) shall be based upon
87785 the rate of flow or volume of water. If it is proposed to appropriate by both direct flow and
87786 storage, the fee shall be based upon either the rate of flow or annual volume of water stored,
87787 whichever fee is greater.
87788 (3) Fees collected under this section:

87789 (a) shall be deposited in the General Fund as a dedicated credit to be used by the
87790 Division of Water Rights; and
87791 (b) may only be used by the Division of Water Rights to:
87792 (i) meet the publication of notice requirements under this title; and
87793 (ii) process reports of water right conveyance.
87794 Section 2142. Section **73-2-25** is amended to read:
87795 **73-2-25. State engineer enforcement powers.**
87796 (1) For purposes of this section, "initial order" means one of the following issued by
87797 the state engineer:
87798 (a) a notice of violation; or
87799 (b) a cease and desist order.
87800 (2) (a) The state engineer may commence an enforcement action under this section if
87801 the state engineer finds that a person:
87802 (i) is diverting, impounding, or using water for which no water right has been
87803 established;
87804 (ii) is diverting, impounding, or using water in violation of an existing water right;
87805 (iii) violates Section 73-5-4;
87806 (iv) violates Section 73-5-9;
87807 (v) violates a written distribution order from the state engineer;
87808 (vi) violates an order issued under Section 73-3-29 regarding the alteration of the bed
87809 or bank of a natural stream channel; or
87810 (vii) violates a notice or order regarding dam safety issued under Chapter 5a, Dam
87811 Safety.
87812 (b) To commence an enforcement action under this section, the state engineer shall
87813 issue an initial order, which shall include:
87814 (i) a description of the violation;
87815 (ii) notice of any penalties to which a person may be subject under Section 73-2-26;
87816 and
87817 (iii) notice that the state engineer may treat each day's violation of the provisions listed
87818 in Subsection (2)(a) as a separate violation under Subsection 73-2-26(1)(d).
87819 (c) The state engineer's issuance and enforcement of an initial order is exempt from

87820 [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act.
87821 (3) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
87822 Administrative Rulemaking Act, the state engineer shall make rules necessary to enforce an
87823 initial order, which shall include:
87824 (a) provisions consistent with this section and Section 73-2-26 for enforcement of the
87825 initial order if a person to whom an initial order is issued fails to respond to the order or abate
87826 the violation;
87827 (b) the right to a hearing, upon request by a person against whom an initial order is
87828 issued; and
87829 (c) provisions for timely issuance of a final order after:
87830 (i) the person to whom the initial order is issued fails to respond to the order or abate
87831 the violation; or
87832 (ii) a hearing held under Subsection (3)(b).
87833 (4) A person may not intervene in an enforcement action commenced under this
87834 section.
87835 (5) After issuance of a final order under rules made pursuant to Subsection (3)(c), the
87836 state engineer shall serve a copy of the final order on the person against whom the order is
87837 issued by:
87838 (a) personal service under Utah Rules of Civil Procedure 5; or
87839 (b) certified mail.
87840 (6) (a) The state engineer's final order may be reviewed by trial de novo by the district
87841 court in:
87842 (i) Salt Lake County; or
87843 (ii) the county where the violation occurred.
87844 (b) A person shall file a petition for judicial review of the state engineer's final order
87845 issued under this section within 20 days from the day on which the final order was served on
87846 that person.
87847 (7) The state engineer may bring suit in a court of competent jurisdiction to enforce a
87848 final order issued under this section.
87849 (8) If the state engineer prevails in an action brought under Subsection (6)(b) or (7), the
87850 state may recover all court costs and a reasonable attorney fee.

87851 Section 2143. Section **73-3-14** is amended to read:

87852 **73-3-14. Judicial review -- State engineer as defendant.**

87853 (1) (a) Any person aggrieved by an order of the state engineer may obtain judicial
87854 review by following the procedures and requirements of [~~Title 63, Chapter 46b~~] Title 63G,
87855 Chapter 4, Administrative Procedures Act.

87856 (b) Venue for judicial review of informal adjudicative proceedings shall be in the
87857 county in which the stream or water source, or some part of it, is located.

87858 (2) The state engineer shall be joined as a defendant in all suits to review [~~his~~] the state
87859 engineer's decisions, but no judgment for costs or expenses of the litigation may be rendered
87860 against [~~him~~] the state engineer.

87861 Section 2144. Section **73-3-25** is amended to read:

87862 **73-3-25. Well driller's license -- Bond -- Revocation or suspension for**
87863 **noncompliance.**

87864 (1) (a) Every person that constructs a well in the state shall obtain a license from the
87865 state engineer.

87866 (b) The state engineer shall enact rules defining the form, the expiration date, and the
87867 renewal cycle of the application for a license.

87868 (c) Well drillers' licenses are not transferable. The state engineer shall enact rules for
87869 well construction according to the procedures and requirements of [~~Title 63, Chapter 46a~~] Title
87870 63G, Chapter 3, Utah Administrative Rulemaking Act.

87871 (2) (a) (i) A person who constructs a well in this state must first obtain a license as
87872 provided in this section.

87873 (ii) Before a well driller's license will be issued, the applicant must file a well driller
87874 bond with the state engineer.

87875 (iii) The bond shall be made payable to the Office of the State Engineer.

87876 (iv) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
87877 Administrative Rulemaking Act, the state engineer may make rules to set the amount, form,
87878 and general administrative requirements of a well driller bond. Proper compliance with the
87879 provisions of this section and the rules enacted under the authority of this section are required
87880 to obtain or renew a license.

87881 (b) (i) Well drillers shall comply with the rules enacted by the state engineer under this

87882 chapter.
87883 (ii) If the state engineer determines, following an investigation, that the licensee has
87884 failed to comply with these rules, the state engineer may revoke or suspend the license, and
87885 exact the bond and deposit the money as a nonlapsing dedicated credit.
87886 (iii) The state engineer may expend the funds to investigate or correct any deficiencies
87887 which could adversely affect the public interest resulting from noncompliance with the rules
87888 promulgated under this chapter by any well driller.
87889 (iv) The state engineer may refuse to issue a license to a well driller if it appears that
87890 there has been a violation of the rules or a failure to comply with Section 73-3-22.
87891 Section 2145. Section **73-3-29** is amended to read:
87892 **73-3-29. Relocation of natural streams -- Written permit required -- Emergency**
87893 **work -- Violations.**
87894 (1) Except as provided in Subsection (2), a state agency, county, city, corporation, or
87895 person may not relocate any natural stream channel or alter the beds and banks of any natural
87896 stream without first obtaining the written approval of the state engineer.
87897 (2) (a) The state engineer may issue an emergency permit or order to relocate a natural
87898 stream channel or alter the beds and banks of a natural stream as provided by this Subsection
87899 (2) and Section [~~63-46b-20~~] 63G-4-502.
87900 (b) If an emergency situation arises which involves immediate or actual flooding and
87901 threatens injury or damage to persons or property, steps reasonably necessary to alleviate or
87902 mitigate the threat may be taken before a written permit is issued subject to the requirements of
87903 this section.
87904 (c) (i) If the threat occurs during normal working hours, the state engineer or [~~his~~] the
87905 state engineer's representative must be notified immediately of the threat. After receiving
87906 notification of the threat, the state engineer or [~~his~~] the state engineer's representative may
87907 orally approve action to alleviate or mitigate the threat.
87908 (ii) If the threat does not occur during normal working hours, action may be taken to
87909 alleviate or mitigate the threat and the state engineer or [~~his~~] the state engineer's representative
87910 shall be notified of the action taken on the first working day following the work.
87911 (d) A written application outlining the action taken or the action proposed to be taken
87912 to alleviate or mitigate the threat shall be submitted to the state engineer within two working

87913 days following notification of the threat to the state engineer or [~~his~~] the state engineer's
87914 representative.
87915 (e) (i) The state engineer shall inspect in a timely manner the site where the emergency
87916 action was taken.
87917 (ii) After inspection, additional requirements, including mitigation measures, may be
87918 imposed.
87919 (f) Adjudicative proceedings following the emergency work shall be informal unless
87920 otherwise designated by the state engineer.
87921 (3) An application to relocate any natural stream channel or alter the beds and banks of
87922 any natural stream shall be in writing and shall contain the following:
87923 (a) the name and address of the applicant;
87924 (b) a complete and detailed statement of the location, nature, and type of relocation or
87925 alteration;
87926 (c) the methods to be employed;
87927 (d) the purposes of the application; and
87928 (e) any additional information that the state engineer considers necessary, including,
87929 but not limited to, plans and specifications of the proposed construction of works.
87930 (4) (a) The state engineer shall, without undue delay, conduct investigations that may
87931 be reasonably necessary to determine whether the proposed relocation or alteration will:
87932 (i) impair vested water rights;
87933 (ii) unreasonably or unnecessarily affect any recreational use or the natural stream
87934 environment;
87935 (iii) unreasonably or unnecessarily endanger aquatic wildlife; or
87936 (iv) unreasonably or unnecessarily diminish the natural channel's ability to conduct
87937 high flows.
87938 (b) The application shall be approved unless the proposed relocation or alteration will:
87939 (i) impair vested water rights;
87940 (ii) unreasonably or unnecessarily adversely affect any public recreational use or the
87941 natural stream environment;
87942 (iii) unreasonably or unnecessarily endanger aquatic wildlife; or
87943 (iv) unreasonably or unnecessarily diminish the natural channel's ability to conduct

87944 high flows.
87945 (c) The state engineer may approve the application, in whole or in part, with any
87946 reasonable terms to protect vested water rights, any public recreational use, the natural stream
87947 environment, or aquatic wildlife.
87948 (5) No cost incurred by the applicant, including any cost incurred to comply with the
87949 terms imposed by the state engineer, is reimbursable by the Division of Water Rights.
87950 (6) Except as provided in Subsection (2), a person who knowingly or intentionally
87951 relocates any natural stream channel, or alters the bed or bank of any natural stream channel
87952 without first obtaining the written approval of the state engineer is guilty of a crime punishable
87953 under Section 73-2-27.
87954 Section 2146. Section **73-3a-104** is amended to read:
87955 **73-3a-104. Rulemaking power of state engineer.**
87956 In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
87957 Rulemaking Act, the state engineer may make rules necessary to administer this chapter.
87958 Section 2147. Section **73-3a-105** is amended to read:
87959 **73-3a-105. Procedures -- Adjudicative proceedings.**
87960 (1) Except where inconsistent with the provisions of this chapter, the procedures to be
87961 followed by the state engineer in processing and considering applications filed under this
87962 chapter, and the rights and duties of the applicants, are the same as the procedures, rights, and
87963 duties specified in Title 73, Chapter 3, relating to appropriations of water or changes in the
87964 point of diversion, place of use, or purpose of use of water.
87965 (2) Adjudicative proceedings relating to applications made under this chapter shall be
87966 conducted in accordance with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
87967 Procedures Act.
87968 Section 2148. Section **73-3b-104** is amended to read:
87969 **73-3b-104. Rulemaking power of state engineer.**
87970 The state engineer may make rules to administer this chapter in accordance with [~~Title~~
87971 ~~63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
87972 Section 2149. Section **73-3b-105** is amended to read:
87973 **73-3b-105. Administrative procedures.**
87974 The administrative procedures applicable to the issuance, modification, suspension, or

87975 revocation of recharge and recovery permits are those set forth in [~~Title 63, Chapter 46b~~] Title
87976 63G, Chapter 4, Administrative Procedures Act, and Sections 73-3-6, 73-3-7, 73-3-14, and
87977 73-3-15.
87978 Section 2150. Section **73-3b-201** is amended to read:
87979 **73-3b-201. Application for a recharge permit -- Required information -- Filing**
87980 **fee.**
87981 (1) The application for obtaining a groundwater recharge permit shall include the
87982 following information:
87983 (a) the name and mailing address of the applicant;
87984 (b) the name of the groundwater basin or groundwater sub-basin in which the applicant
87985 proposes to operate the project;
87986 (c) the name and mailing address of the owner of the land on which the applicant
87987 proposes to operate the project;
87988 (d) a legal description of the location of the proposed project;
87989 (e) the source and annual quantity of water proposed to be stored underground;
87990 (f) evidence of a water right or an agreement to use the water proposed to be stored
87991 underground;
87992 (g) the quality of the water proposed to be stored underground and the water quality of
87993 the receiving groundwater aquifer;
87994 (h) evidence that the applicant has applied for all applicable water quality permits;
87995 (i) a plan of operation for the proposed recharge and recovery project which shall
87996 include:
87997 (i) a description of the proposed project;
87998 (ii) its design capacity;
87999 (iii) a detailed monitoring program; and
88000 (iv) the proposed duration of the project;
88001 (j) a copy of a study demonstrating;
88002 (i) the area of hydrologic impact of the project;
88003 (ii) that the project is hydrologically feasible;
88004 (iii) that the project will not:
88005 (A) cause unreasonable harm to land; or

88006 (B) impair any existing water right within the area of hydrologic impact; and
88007 (iv) the percentage of anticipated recoverable water;
88008 (k) evidence of financial and technical capability; and
88009 (l) any other information that the state engineer requires.
88010 (2) (a) A filing fee must be submitted with the application.
88011 (b) The state engineer shall establish the filing fee in accordance with Section
88012 [~~63-38-3.2~~] 63J-1-303.
88013 Section 2151. Section **73-3b-204** is amended to read:
88014 **73-3b-204. Application for a recovery permit -- Required information.**
88015 (1) If a person intends to recharge and recover water, the recovery application and
88016 permit may be filed and processed with the groundwater recharge application and permit.
88017 (2) The application for obtaining a recovery permit shall include the following
88018 information:
88019 (a) the name and mailing address of the applicant;
88020 (b) a legal description of the location of the existing well or proposed new well from
88021 which the applicant intends to recover stored water;
88022 (c) a written consent from the owner of the recharge permit;
88023 (d) the name and mailing address of the owner of the land from which the applicant
88024 proposes to recover stored water;
88025 (e) the name or description of the artificially recharged groundwater aquifer which is
88026 the source of supply;
88027 (f) the purpose for which the stored water will be recovered;
88028 (g) the depth and diameter of the existing well or proposed new well;
88029 (h) a legal description of the area where the stored water is proposed to be used;
88030 (i) the design pumping capacity of the existing well or proposed new well; and
88031 (j) any other information including maps, drawings, and data that the state engineer
88032 requires.
88033 (3) (a) A filing fee must be submitted with the application.
88034 (b) The state engineer shall establish the filing fee in accordance with Section
88035 [~~63-38-3.2~~] 63J-1-303.
88036 Section 2152. Section **73-3b-302** is amended to read:

88037 **73-3b-302. Fee.**
88038 (1) The state engineer shall assess an annual fee, in accordance with Section
88039 [~~63-38-3.2~~] 63J-1-303, on each person who holds a groundwater recharge or recovery permit.
88040 (2) The fee shall reflect the division's costs to administer and monitor groundwater
88041 recharge and recovery projects.
88042 Section 2153. Section **73-3c-301** is amended to read:
88043 **73-3c-301. Application to the Water Quality Board.**
88044 (1) A public agency proposing a water reuse project shall apply to the Water Quality
88045 Board created by Section 19-1-106.
88046 (2) The Water Quality Board may make rules, in accordance with [~~Title 63, Chapter~~
88047 ~~46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the consideration
88048 and approval of water reuse applications and administration of water reuse construction and
88049 operating permits.
88050 (3) Rules created under Subsection (2) shall require that water reuse meet standards
88051 and requirements for water quality set by the Water Quality Board in accordance with Title 19,
88052 Chapter 5, Water Quality Act.
88053 (4) The Water Quality Board shall issue a written decision for each water reuse
88054 application.
88055 Section 2154. Section **73-3c-302** is amended to read:
88056 **73-3c-302. Application to the state engineer.**
88057 (1) A public agency proposing water reuse shall apply to the state engineer.
88058 (2) An application for water reuse under Subsection (1) shall be made upon forms
88059 furnished by the state engineer and shall include:
88060 (a) the name of the applicant;
88061 (b) a description of the underlying water right;
88062 (c) an evaluation of the underlying water right's diversion, depletion, and return flow
88063 requirements;
88064 (d) the estimated quantity of water to be reused;
88065 (e) the location of the POTW;
88066 (f) the place, purpose, and extent of the proposed water reuse;
88067 (g) an evaluation of depletion from the hydrologic system caused by the water reuse;

88068 and
88069 (h) any other information consistent with this chapter that is requested by the state
88070 engineer.
88071 (3) An application under Subsection (1) shall include a copy of a reuse authorization
88072 contract for water reuse proposed by a public agency for any underlying water right not owned
88073 by the public agency.
88074 (4) In considering an application for water reuse, the state engineer shall comply with:
88075 (a) Section 73-3-6;
88076 (b) Section 73-3-7;
88077 (c) Section 73-3-10; and
88078 (d) Section 73-3-14.
88079 (5) In determining whether a proposed water reuse is consistent with the underlying
88080 water right, the state engineer shall conclude that a proposed water reuse is consistent with the
88081 underlying water right if:
88082 (a) the use of the reuse water does not enlarge the underlying water right; and
88083 (b) any return flow requirement of the underlying water right is satisfied.
88084 (6) (a) The state engineer shall approve a water reuse application if the state engineer
88085 concludes that the proposed water reuse is consistent with the underlying water right.
88086 (b) The state engineer may:
88087 (i) deny an application for water reuse if the proposed water reuse is inconsistent with
88088 the underlying water right; or
88089 (ii) approve the application in part or with conditions to assure consistency with the
88090 underlying water right.
88091 (7) A public agency with an approved reuse application shall submit a report, as
88092 directed by the state engineer, concerning the ongoing water reuse operation.
88093 (8) The state engineer may make rules in accordance with [~~Title 63, Chapter 46a~~] Title
88094 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this
88095 chapter.
88096 Section 2155. Section **73-5-15** is amended to read:
88097 **73-5-15. Groundwater management plan.**
88098 (1) As used in this section:

88099 (a) "Critical management area" means a groundwater basin in which the groundwater
88100 withdrawals consistently exceed the safe yield.
88101 (b) "Safe yield" means the amount of groundwater that can be withdrawn from a
88102 groundwater basin over a period of time without exceeding the long-term recharge of the basin
88103 or unreasonably affecting the basin's physical and chemical integrity.
88104 (2) (a) The state engineer may regulate groundwater withdrawals within a specific
88105 groundwater basin by adopting a groundwater management plan in accordance with this section
88106 for any groundwater basin or aquifer or combination of hydrologically connected groundwater
88107 basins or aquifers.
88108 (b) The objectives of a groundwater management plan are to:
88109 (i) limit groundwater withdrawals to safe yield;
88110 (ii) protect the physical integrity of the aquifer; and
88111 (iii) protect water quality.
88112 (c) The state engineer shall adopt a groundwater management plan for a groundwater
88113 basin if more than 1/3 of the water right owners in the groundwater basin request that the state
88114 engineer adopt a groundwater management plan.
88115 (3) (a) In developing a groundwater management plan, the state engineer may consider:
88116 (i) the hydrology of the groundwater basin;
88117 (ii) the physical characteristics of the groundwater basin;
88118 (iii) the relationship between surface water and groundwater, including whether the
88119 groundwater should be managed in conjunction with hydrologically connected surface waters;
88120 (iv) the geographic spacing and location of groundwater withdrawals;
88121 (v) water quality;
88122 (vi) local well interference; and
88123 (vii) other relevant factors.
88124 (b) The state engineer shall base the provisions of a groundwater management plan on
88125 the principles of prior appropriation.
88126 (c) (i) The state engineer shall use the best available scientific method to determine
88127 safe yield.
88128 (ii) As hydrologic conditions change or additional information becomes available, safe
88129 yield determinations made by the state engineer may be revised by following the procedures

88130 listed in Subsection (5).
88131 (4) (a) (i) Except as provided in Subsection (4)(b), the withdrawal of water from a
88132 groundwater basin shall be limited to the basin's safe yield.
88133 (ii) Before limiting withdrawals in a groundwater basin to safe yield, the state engineer
88134 shall:
88135 (A) determine the groundwater basin's safe yield; and
88136 (B) adopt a groundwater management plan for the groundwater basin.
88137 (iii) If the state engineer determines that groundwater withdrawals in a groundwater
88138 basin exceed the safe yield, the state engineer shall regulate groundwater rights in that
88139 groundwater basin based on the priority date of the water rights under the groundwater
88140 management plan, unless a voluntary arrangement exists under Subsection (4)(c) that requires a
88141 different distribution.
88142 (b) When adopting a groundwater management plan for a critical management area, the
88143 state engineer shall, based on economic and other impacts to an individual water user or a local
88144 community caused by the implementation of safe yield limits on withdrawals, allow gradual
88145 implementation of the groundwater management plan.
88146 (c) (i) In consultation with the state engineer, water users in a groundwater basin may
88147 agree to participate in a voluntary arrangement for managing withdrawals at any time, either
88148 before or after a determination that groundwater withdrawals exceed the groundwater basin's
88149 safe yield.
88150 (ii) A voluntary arrangement under Subsection (4)(c)(i) shall be consistent with other
88151 law.
88152 (iii) The adoption of a voluntary arrangement under this Subsection (4)(c) by less than
88153 all of the water users in a groundwater basin does not affect the rights of water users who do
88154 not agree to the voluntary arrangement.
88155 (5) To adopt a groundwater management plan, the state engineer shall:
88156 (a) give notice as specified in Subsection (7) at least 30 days before the first public
88157 meeting held in accordance with Subsection (5)(b):
88158 (i) that the state engineer proposes to adopt a groundwater management plan;
88159 (ii) describing generally the land area proposed to be included in the groundwater
88160 management plan; and

88161 (iii) stating the location, date, and time of each public meeting to be held in accordance
88162 with Subsection (5)(b);
88163 (b) hold one or more public meetings in the geographic area proposed to be included
88164 within the groundwater management plan to:
88165 (i) address the need for a groundwater management plan;
88166 (ii) present any data, studies, or reports that the state engineer intends to consider in
88167 preparing the groundwater management plan;
88168 (iii) address safe yield and any other subject that may be included in the groundwater
88169 management plan;
88170 (iv) outline the estimated administrative costs, if any, that groundwater users are likely
88171 to incur if the plan is adopted; and
88172 (v) receive any public comments and other information presented at the public
88173 meeting, including comments from any of the entities listed in Subsection (7)(a)(iii);
88174 (c) receive and consider written comments concerning the proposed groundwater
88175 management plan from any person for a period determined by the state engineer of not less
88176 than 60 days after the day on which the notice required by Subsection (5)(a) is given;
88177 (d) (i) at least 60 days prior to final adoption of the groundwater management plan,
88178 publish notice:
88179 (A) that a draft of the groundwater management plan has been proposed; and
88180 (B) specifying where a copy of the draft plan may be reviewed; and
88181 (ii) promptly provide a copy of the draft plan in printed or electronic form to each of
88182 the entities listed in Subsection (7)(a)(iii) that makes written request for a copy; and
88183 (e) provide notice of the adoption of the groundwater management plan.
88184 (6) A groundwater management plan shall become effective on the date notice of
88185 adoption is completed under Subsection (7), or on a later date if specified in the plan.
88186 (7) (a) A notice required by this section shall be:
88187 (i) published once a week for two successive weeks in a newspaper of general
88188 circulation in each county that encompasses a portion of the land area proposed to be included
88189 within the groundwater management plan;
88190 (ii) published conspicuously on the state engineer's Internet website; and
88191 (iii) mailed to each of the following that has within its boundaries a portion of the land

88192 area to be included within the proposed groundwater management plan:
88193 (A) county;
88194 (B) incorporated city or town;
88195 (C) improvement district under Title 17B, Chapter 2a, Part 4, Improvement District
88196 Act;
88197 (D) service area, under Title 17B, Chapter 2a, Part 9, Service Area Act;
88198 (E) drainage district, under Title 17B, Chapter 2a, Part 2, Drainage District Act;
88199 (F) irrigation district, under Title 17B, Chapter 2a, Part 5, Irrigation District Act;
88200 (G) metropolitan water district, under Title 17B, Chapter 2a, Part 6, Metropolitan
88201 Water District Act;
88202 (H) special service district providing water, sewer, drainage, or flood control services,
88203 under Title 17A, Chapter 2, Part 13, Utah Special Service District Act;
88204 (I) water conservancy district, under Title 17B, Chapter 2a, Part 10, Water
88205 Conservancy District Act; and
88206 (J) conservation district, under Title 17A, Chapter 3, Part 8, Conservation Districts.
88207 (b) A notice required by this section is effective upon substantial compliance with
88208 Subsections (7)(a)(i) through (iii).
88209 (8) A groundwater management plan may be amended in the same manner as a
88210 groundwater management plan may be adopted under this section.
88211 (9) The existence of a groundwater management plan does not preclude any otherwise
88212 eligible person from filing any application or challenging any decision made by the state
88213 engineer within the affected groundwater basin.
88214 (10) (a) A person aggrieved by a groundwater management plan may challenge any
88215 aspect of the groundwater management plan by filing a complaint within 60 days after the
88216 adoption of the groundwater management plan in the district court for any county in which the
88217 groundwater basin is found.
88218 (b) Notwithstanding Subsection (9), a person may challenge the components of a
88219 groundwater management plan only in the manner provided by Subsection (10)(a).
88220 (c) An action brought under this Subsection (10) is reviewed de novo by the district
88221 court.
88222 (d) A person challenging a groundwater management plan under this Subsection (10)

88223 shall join the state engineer as a defendant in the action challenging the groundwater
88224 management plan.
88225 (e) (i) Within 30 days after the day on which a person files an action challenging any
88226 aspect of a groundwater management plan under Subsection (10)(a), the person filing the action
88227 shall publish notice of the action in a newspaper of general circulation in the county in which
88228 the district court is located.
88229 (ii) The notice required by Subsection (10)(e)(i) shall be published once a week for two
88230 consecutive weeks.
88231 (iii) The notice required by Subsection (10)(e)(i) shall:
88232 (A) identify the groundwater management plan the person is challenging;
88233 (B) identify the case number assigned by the district court;
88234 (C) state that a person affected by the groundwater management plan may petition the
88235 district court to intervene in the action challenging the groundwater management plan; and
88236 (D) list the address for the clerk of the district court in which the action is filed.
88237 (iv) (A) Any person affected by the groundwater management plan may petition to
88238 intervene in the action within 60 days after the day on which notice is last published under
88239 Subsections (10)(e)(i) and (ii).
88240 (B) The district court's treatment of a petition to intervene under this Subsection
88241 (10)(e)(iv) is governed by the Utah Rules of Civil Procedure.
88242 (v) A district court in which an action is brought under Subsection (10)(a) shall
88243 consolidate all actions brought under that Subsection and include in the consolidated action any
88244 person whose petition to intervene is granted.
88245 (11) A groundwater management plan adopted or amended in accordance with this
88246 section is exempt from the requirements in [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
88247 Administrative Rulemaking Act.
88248 (12) Recharge and recovery projects permitted under Chapter 3b, Groundwater
88249 Recharge and Recovery Act, are exempted from this section.
88250 (13) Nothing in this section may be interpreted to require the development,
88251 implementation, or consideration of a groundwater management plan as a prerequisite or
88252 condition to the exercise of the state engineer's enforcement powers under other law, including
88253 powers granted under Section 73-2-25.

88254 (14) A groundwater management plan adopted in accordance with this section may not
88255 apply to the dewatering of a mine.
88256 (15) (a) A groundwater management plan adopted by the state engineer before May 1,
88257 2006, remains in force and has the same legal effect as it had on the day on which it was
88258 adopted by the state engineer.
88259 (b) If a groundwater management plan that existed before May 1, 2006, is amended on
88260 or after May 1, 2006, the amendment is subject to this section's provisions.
88261 Section 2156. Section **73-10-27** is amended to read:
88262 **73-10-27. Project priorities -- Considerations -- Determinations of feasibility --**
88263 **Bids and contracts -- Definitions -- Retainage.**
88264 (1) In considering the priorities for projects to be built with funds made available under
88265 Section 73-10-24, the board shall give preference to those projects which:
88266 (a) are sponsored by the state or a political subdivision of the state;
88267 (b) meet a critical local need;
88268 (c) have greater economic feasibility;
88269 (d) will yield revenue to the state within a reasonable time or will return a reasonable
88270 rate of interest, based on financial feasibility; and
88271 (e) meet other considerations deemed necessary by the board, including, but not limited
88272 to, wildlife management and recreational needs.
88273 (2) In determining the economic feasibility the board shall establish a benefit-to-cost
88274 ratio for each project, using a uniform standard of procedure for all projects. In considering
88275 whether a project should be built, the benefit-to-cost ratio for each project shall be weighted
88276 based on the relative cost of the project. A project, when considered in total with all other
88277 projects constructed under this chapter and still the subject of a repayment contract, may not
88278 cause the accumulative benefit-to-cost ratio of the projects to be less than one to one.
88279 (3) Under no circumstances may a project be built that is not in the public interest as
88280 determined by the Board of Water Resources, and no project may be built which is not
88281 adequately designed based on sound engineering and geologic considerations.
88282 (4) The board in the preparation of a project for construction shall comply with the
88283 following:
88284 (a) All flood control projects involving cities and counties costing in excess of

88285 $35,000, and all contracts for the construction of a storage reservoir in excess of 100 acre-feet
88286 or for the construction of a hydroelectric generating facility, shall be awarded on the basis of
88287 competitive bid. Advertisement for competitive bids shall be published by the board at least
88288 once a week for three consecutive weeks in a newspaper with general circulation in the state.
88289 The advertisement shall indicate that the board will award the contract to the lowest
88290 responsible bidder but that it reserves to itself the right to reject any and all bids. The date of
88291 last publication shall appear at least five days before the scheduled bid opening.
88292 (b) If all initial bids on the project are rejected, the board shall readvertise the project in
88293 the manner specified in Subsection (4)(a). If no satisfactory bid is received by the board upon
88294 the readvertisement of the project, it may proceed to construct the project but only in
88295 accordance with the plans and specifications used to calculate the estimated cost of the project.
88296 (c) The board shall keep an accurate record of all facts and representations relied upon
88297 in preparing its estimated cost for any project which is subject to the competitive bidding
88298 requirements of this section.
88299 (d) For the purposes of this Subsection (4):
88300 (i) "Estimated cost" means the cost of all labor, material, and equipment necessary for
88301 construction of the contemplated project.
88302 (ii) "Lowest responsible bidder" means any licensed contractor who submits the lowest
88303 bid, whose bid is in compliance with the invitation for bids, whose bid meets the plans and
88304 specifications, and who furnishes bonds under Sections 14-1-18 and [~~63-56-504~~] 63G-6-505.
88305 (5) If any payment on a contract with a private contractor for construction of projects
88306 under this section is retained or withheld, it shall be retained or withheld and released as
88307 provided in Section 13-8-5.
88308 Section 2157. Section **73-10c-4.1** is amended to read:
88309 **73-10c-4.1. Wastewater projects -- Loan criteria and requirements -- Process for**
88310 **approval.**
88311 (1) The Water Quality Board shall review the plans and specifications for a wastewater
88312 project before approval of any loan and may condition approval on the availability of loan
88313 funds and on assurances that the Water Quality Board considers necessary to ensure that loan
88314 funds are used to pay the wastewater project costs and that the wastewater project is completed.
88315 (2) (a) Each loan shall specify the terms for repayment, with the term, interest rate or

88316 rates, including a variable rate, and security as determined by the Water Quality Board.
88317 (b) The loan may be evidenced by general obligation or revenue bonds or other
88318 obligations of the political subdivision.
88319 (c) Loan payments made by a political subdivision shall be deposited in the Water
88320 Quality Security Subaccount as described in Section 73-10c-5.
88321 (d) The loans are subject to the provisions of [~~Title 63, Chapter 65~~] Title 63B, Chapter
88322 1b, State Financing Consolidation Act.
88323 (3) In determining the priority for a wastewater project loan, the Water Quality Board
88324 shall consider:
88325 (a) the ability of the political subdivision to obtain monies for the wastewater project
88326 from other sources or to finance the project from its own resources;
88327 (b) the ability of the political subdivision to repay the loan;
88328 (c) whether or not a good faith effort to secure all or part of the services needed from
88329 the private sector of the economy has been made; and
88330 (d) whether or not the wastewater project:
88331 (i) meets a critical local or state need;
88332 (ii) is cost effective;
88333 (iii) will protect against present or potential health hazards;
88334 (iv) is needed to comply with minimum standards of the federal Water Pollution
88335 Control Act, Title 33, Chapter 26, United States Code, or any similar or successor statute;
88336 (v) is needed to comply with the minimum standards of Title 19, Chapter 5, Water
88337 Quality Act, or any similar or successor statute;
88338 (vi) is designed to reduce the pollution of the waters of this state; and
88339 (vii) meets any other consideration considered necessary by the Water Quality Board.
88340 (4) In determining the cost effectiveness of a wastewater project the Water Quality
88341 Board shall:
88342 (a) require the preparation of a cost-effective analysis of feasible wastewater treatment
88343 or conveyance alternatives capable of meeting state and federal water quality and public health
88344 requirements;
88345 (b) consider monetary costs, including the present worth or equivalent annual value of
88346 all capital costs and operation, maintenance, and replacement costs; and

88347 (c) ensure that the alternative selected is the most economical means of meeting
88348 applicable state and federal wastewater and water quality or public health requirements over
88349 the useful life of the facility while recognizing environmental and other nonmonetary
88350 considerations.
88351 (5) A loan may not be made for a wastewater project that is not in the public interest as
88352 determined by the Water Quality Board.
88353 Section 2158. Section **73-10c-4.2** is amended to read:
88354 **73-10c-4.2. Drinking water projects -- Loan criteria and requirements -- Process**
88355 **for approval.**
88356 (1) The Drinking Water Board shall review the plans and specifications for a drinking
88357 water project before approval of any loan and may condition approval on the availability of
88358 loan funds and on the assurances that the Drinking Water Board considers necessary to ensure
88359 that loan funds are used to pay the drinking water project costs and that the drinking water
88360 project is completed.
88361 (2) (a) Each loan shall specify the terms for repayment, with the term, interest rate or
88362 rates, including a variable rate, and security as determined by the Drinking Water Board.
88363 (b) The loan may be evidenced by general obligation or revenue bonds or other
88364 obligations of the political subdivision.
88365 (c) Loan payments made by a political subdivision shall be deposited in the Drinking
88366 Water Security Subaccount as described in Section 73-10c-5.
88367 (d) The loans are subject to the provisions of [~~Title 63, Chapter 65~~] Title 63B, Chapter
88368 1b, State Financing Consolidation Act.
88369 (3) In determining the priority for a drinking water project loan, the Drinking Water
88370 Board shall consider:
88371 (a) the ability of the political subdivision to obtain monies for the drinking water
88372 project from other sources or to finance such project from its own resources;
88373 (b) the ability of the political subdivision to repay the loan;
88374 (c) whether or not a good faith effort to secure all or part of the services needed from
88375 the private sector of the economy has been made; and
88376 (d) whether or not the drinking water project:
88377 (i) meets a critical local or state need;

88378 (ii) is cost effective;
88379 (iii) will protect against present or potential health hazards;
88380 (iv) is needed to comply with minimum standards of the federal Safe Drinking Water
88381 Act, or any similar or successor statute;
88382 (v) is needed to comply with the minimum standards of Title 19, Chapter 4, Safe
88383 Drinking Water Act, or any similar or successor statute; and
88384 (vi) meets any other consideration considered necessary by the Drinking Water Board.
88385 (4) In determining the cost effectiveness of a drinking water project the Drinking Water
88386 Board shall:
88387 (a) require the preparation of a cost-effective analysis of feasible drinking water
88388 projects;
88389 (b) consider monetary costs, including the present worth or equivalent annual value of
88390 all capital costs and operation, maintenance, and replacement cost; and
88391 (c) ensure that the alternative selected is the most economical means of meeting
88392 applicable water quality or public health requirements over the useful life of the facility while
88393 recognizing environmental and other nonmonetary considerations.
88394 (5) A loan may not be made for a drinking water project that is not in the public
88395 interest as determined by the Drinking Water Board.
88396 Section 2159. Section **73-10c-4.5** is amended to read:
88397 **73-10c-4.5. Nonpoint source project loans and grants -- Project objectives --**
88398 **Water Quality Board duties.**
88399 (1) The Water Quality Board may make a loan from the Utah Wastewater Loan
88400 Program Subaccount created in Subsection 73-10c-5(2)(a) or from the Utah State Revolving
88401 Fund for Wastewater Projects Subaccount created in Subsection 73-10c-5(2)(b) or a grant from
88402 the Hardship Grant Program for Wastewater Projects Subaccount created in Subsection
88403 73-10c-5(2)(c) to a political subdivision, individual, corporation, association, state or federal
88404 agency, or other private entity to acquire, construct, or implement a nonpoint source project.
88405 (2) The Water Quality Board may only award a loan or grant for a nonpoint source
88406 project that will achieve one or more of the following objectives:
88407 (a) abate or reduce raw sewage discharges;
88408 (b) repair or replace failing individual on-site wastewater disposal systems;

88409 (c) abate or reduce untreated or uncontrolled runoff;
88410 (d) improve critical aquatic habitat resources;
88411 (e) conserve soil, water, or other natural resources;
88412 (f) protect and improve ground water quality;
88413 (g) preserve and protect the beneficial uses of waters of the state;
88414 (h) reduce the number of water bodies not achieving water quality standards;
88415 (i) improve watershed management; or
88416 (j) prepare and implement total maximum daily load (TMDL) assessments.
88417 (3) The Water Quality Board shall:
88418 (a) determine the amount, term, and interest rate for each loan made under this section;
88419 (b) assure that adequate security is obtained for each loan;
88420 (c) establish criteria and procedures for determining priority nonpoint source projects
88421 and award loans in accordance with those priorities; and
88422 (d) make rules to implement this section in accordance with [~~Title 63, Chapter 46a~~]
88423 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
88424 Section 2160. Section **73-10c-8** is amended to read:
88425 **73-10c-8. Rules.**
88426 The board shall make rules in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
88427 Chapter 3, Utah Administrative Rulemaking Act, as necessary to administer this chapter,
88428 including the application by political subdivisions for the securing of their drinking water or
88429 wastewater project obligations, the approval of obligations to be secured, the verification of
88430 notices with respect to inabilities of political subdivisions to pay principal and interest, and the
88431 credit enhancement agreements with political subdivisions setting forth the terms and
88432 conditions under which obligations may be secured under this chapter.
88433 Section 2161. Section **73-10c-10** is amended to read:
88434 **73-10c-10. Origination fee.**
88435 (1) The Drinking Water Board and the Water Quality Board may establish an
88436 origination fee for a loan to fund the administration of the programs created by this chapter by
88437 following the procedures and requirements of Section [~~63-38-3.2~~] 63J-1-303.
88438 (2) The origination fee shall be part of the department fee schedule established under
88439 Section 19-1-201.

88440 (3) Notwithstanding Subsection [~~63-38-3.2~~] 63J-1-303(2)(e), the board shall deposit
88441 the fee in the origination fee subaccount created in Section 73-10c-5 and use the fee to
88442 administer this chapter.
88443 (4) The loan recipient may pay the origination fee from the loan proceeds.
88444 Section 2162. Section **73-18-4** is amended to read:
88445 **73-18-4. Board may promulgate rules and set fees.**
88446 (1) The board may promulgate rules:
88447 (a) creating a uniform waterway marking system which shall be obeyed by all vessel
88448 operators;
88449 (b) regulating the placement of waterway markers and other permanent or anchored
88450 objects on the waters of this state;
88451 (c) zoning certain waters of this state for the purpose of prohibiting the operation of
88452 vessels or motors for safety and health purposes only; and
88453 (d) regulating vessel operators who carry passengers for hire and outfitting companies.
88454 (2) (a) The board may set fees for licensing vessel operators who carry passengers for
88455 hire and registering outfitting companies in accordance with Section [~~63-38-3.2~~] 63J-1-303.
88456 (b) The license and registration fees imposed pursuant to Subsection (2)(a) shall be
88457 deposited into the Boating Account created in Section 73-18-22.
88458 Section 2163. Section **73-18-7** is amended to read:
88459 **73-18-7. Registration requirements -- Exemptions -- Fee -- Agents -- Records --**
88460 **Period of registration and renewal -- Expiration -- Notice of transfer of interest or change**
88461 **of address -- Duplicate registration card -- Invalid registration -- Powers of board.**
88462 (1) (a) Except as provided by Section 73-18-9, the owner of each motorboat and
88463 sailboat on the waters of this state shall register it with the division as provided in this chapter.
88464 (b) A person may not place, give permission for the placement of, operate, or give
88465 permission for the operation of a motorboat or sailboat on the waters of this state, unless the
88466 motorboat or sailboat is registered as provided in this chapter.
88467 (2) (a) The owner of a motorboat or sailboat required to be registered shall file an
88468 application for registration with the division on forms approved by the division.
88469 (b) The owner of the motorboat or sailboat shall sign the application and pay the fee set
88470 by the board in accordance with Section [~~63-38-3.2~~] 63J-1-303.

88471 (c) Before receiving a registration card and registration decals, the applicant shall
88472 provide the division with a certificate from the county assessor of the county in which the
88473 motorboat or sailboat has situs for taxation, stating that:
88474 (i) the property tax on the motorboat or sailboat for the current year has been paid;
88475 (ii) in the county assessor's opinion, the property tax is a lien on real property sufficient
88476 to secure the payment of the property tax; or
88477 (iii) the motorboat or sailboat is exempt by law from payment of property tax for the
88478 current year.
88479 (d) If the board modifies the fee under Subsection (2)(b), the modification shall take
88480 effect on the first day of the calendar quarter after 90 days from the day on which the board
88481 provides the State Tax Commission:
88482 (i) notice from the board stating that the board will modify the fee; and
88483 (ii) a copy of the fee modification.
88484 (3) (a) Upon receipt of the application in the approved form, the division shall record
88485 the receipt and issue to the applicant registration decals and a registration card that state the
88486 number assigned to the motorboat or sailboat and the name and address of the owner.
88487 (b) The registration card shall be available for inspection on the motorboat or sailboat
88488 for which it was issued, whenever that motorboat or sailboat is in operation.
88489 (4) The assigned number shall:
88490 (a) be painted or permanently attached to each side of the forward half of the motorboat
88491 or sailboat;
88492 (b) consist of plain vertical block characters not less than three inches in height;
88493 (c) contrast with the color of the background and be distinctly visible and legible;
88494 (d) have spaces or hyphens equal to the width of a letter between the letter and numeral
88495 groupings; and
88496 (e) read from left to right.
88497 (5) A motorboat or sailboat with a valid marine document issued by the United States
88498 Coast Guard is exempt from the number display requirements of Subsection (4).
88499 (6) The nonresident owner of any motorboat or sailboat already covered by a valid
88500 number that has been assigned to it according to federal law or a federally approved numbering
88501 system of the owner's resident state is exempt from registration while operating the motorboat

88502 or sailboat on the waters of this state unless the owner is operating in excess of the reciprocity
88503 period provided for in Subsection 73-18-9(1).
88504 (7) (a) If the ownership of a motorboat or sailboat changes, the new owner shall file a
88505 new application form and fee with the division, and the division shall issue a new registration
88506 card and registration decals in the same manner as provided for in Subsections (2) and (3).
88507 (b) The division shall reassign the current number assigned to the motorboat or sailboat
88508 to the new owner to display on the motorboat or sailboat.
88509 (8) If the United States Coast Guard has in force an overall system of identification
88510 numbering for motorboats or sailboats within the United States, the numbering system
88511 employed under this chapter by the board shall conform with that system.
88512 (9) (a) The division may authorize any person to act as its agent for the registration of
88513 motorboats and sailboats.
88514 (b) A number assigned, a registration card, and registration decals issued by an agent of
88515 the division in conformity with this chapter and rules of the board are valid.
88516 (10) (a) The Motor Vehicle Division shall classify all records of the division made or
88517 kept according to this section in the same manner that motor vehicle records are classified
88518 under Section 41-1a-116.
88519 (b) Division records are available for inspection in the same manner as motor vehicle
88520 records pursuant to Section 41-1a-116.
88521 (11) (a) (i) Each registration, registration card, and decal issued under this chapter shall
88522 continue in effect for 12 months, beginning with the first day of the calendar month of
88523 registration.
88524 (ii) A registration may be renewed by the owner in the same manner provided for in the
88525 initial application.
88526 (iii) The division shall reassign the current number assigned to the motorboat or
88527 sailboat when the registration is renewed.
88528 (b) Each registration, registration card, and registration decal expires the last day of the
88529 month in the year following the calendar month of registration.
88530 (c) If the last day of the registration period falls on a day in which the appropriate state
88531 or county offices are not open for business, the registration of the motorboat or sailboat is
88532 extended to 12 midnight of the next business day.

88533 (d) The division may receive applications for registration renewal and issue new
88534 registration cards at any time before the expiration of the registration, subject to the availability
88535 of renewal materials.
88536 (e) The new registration shall retain the same expiration month as recorded on the
88537 original registration even if the registration has expired.
88538 (f) The year of registration shall be changed to reflect the renewed registration period.
88539 (g) If the registration renewal application is an application generated by the division
88540 through its automated system, the owner is not required to surrender the last registration card or
88541 duplicate.
88542 (12) (a) An owner shall notify the division of:
88543 (i) the transfer of all or any part of the owner's interest, other than creation of a security
88544 interest, in a motorboat or sailboat registered in this state under Subsections (2) and (3); and
88545 (ii) the destruction or abandonment of the owner's motorboat or sailboat.
88546 (b) Notification must take place within 15 days of the transfer, destruction, or
88547 abandonment.
88548 (c) (i) The transfer, destruction, or abandonment of a motorboat or sailboat terminates
88549 its registration.
88550 (ii) Notwithstanding Subsection (12)(c)(i), a transfer of a part interest that does not
88551 affect the owner's right to operate a motorboat or sailboat does not terminate the registration.
88552 (13) (a) A registered owner shall notify the division within 15 days if the owner's
88553 address changes from the address appearing on the registration card and shall, as a part of this
88554 notification, furnish the division with [~~his~~] the owner's new address.
88555 (b) The board may provide in its rules for:
88556 (i) the surrender of the registration card bearing the former address; and
88557 (ii) (A) the replacement of the card with a new registration card bearing the new
88558 address; or
88559 (B) the alteration of an existing registration card to show the owner's new address.
88560 (14) (a) If a registration card is lost or stolen, the division may collect a fee of $4 for
88561 the issuance of a duplicate card.
88562 (b) If a registration decal is lost or stolen, the division may collect a fee of $3 for the
88563 issuance of a duplicate decal.

88564 (15) A number other than the number assigned to a motorboat or sailboat or a number
88565 for a motorboat or sailboat granted reciprocity under this chapter may not be painted, attached,
88566 or otherwise displayed on either side of the bow of a motorboat or sailboat.
88567 (16) A motorboat or sailboat registration and number are invalid if obtained by
88568 knowingly falsifying an application for registration.
88569 (17) The board may designate the suffix to assigned numbers, and by following the
88570 procedures and requirements of [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
88571 Administrative Rulemaking Act, make rules for:
88572 (a) the display of registration decals;
88573 (b) the issuance and display of dealer numbers and registrations; and
88574 (c) the issuance and display of temporary registrations.
88575 Section 2164. Section **73-18-13.5** is amended to read:
88576 **73-18-13.5. Motorboat accidents -- Investigation and report of operator security**
88577 **-- Agency action if no security -- Surrender of registration materials.**
88578 (1) Upon request of a peace officer investigating an accident involving a motorboat as
88579 defined in Section 73-18c-102, the operator of the motorboat shall provide evidence of the
88580 owner's or operator's security required under Section 73-18c-301.
88581 (2) The peace officer shall record on a form approved by the division:
88582 (a) the information provided by the operator;
88583 (b) whether the operator provided insufficient or no information; and
88584 (c) whether the peace officer finds reasonable cause to believe that any information
88585 given is not correct.
88586 (3) The peace officer shall deposit all completed forms with the peace officer's agency,
88587 which shall forward the forms to the division no later than ten days after receipt.
88588 (4) (a) The division shall revoke the registration of a motorboat as defined in Section
88589 73-18c-102 involved in an accident unless the owner or operator can demonstrate to the
88590 division compliance with the owner's or operator's security requirement of Section 73-18c-301
88591 at the time of the accident.
88592 (b) Any registration revoked may not be renewed for a period of one year following the
88593 date of revocation.
88594 (5) A person may appeal a revocation issued under Subsection (4) in accordance with

88595 procedures established by the board by rule that are consistent with [~~Title 63, Chapter 46b~~]
88596 Title 63G, Chapter 4, Administrative Procedures Act.
88597 (6) (a) Any person whose registration is revoked under Subsection (4) shall return the
88598 registration card and decals for the motorboat to the division.
88599 (b) If the person fails to return the registration materials as required, they shall be
88600 confiscated under Section 73-18-13.6.
88601 (7) The board may make rules for the enforcement of this section.
88602 (8) In this section, "evidence of owner's or operator's security" includes any one of the
88603 following:
88604 (a) the operator's:
88605 (i) insurance policy;
88606 (ii) binder notice;
88607 (iii) renewal notice; or
88608 (iv) card issued by an insurance company as evidence of insurance;
88609 (b) a copy of a surety bond, certified by the surety, which conforms to Section
88610 73-18c-102;
88611 (c) a certificate of the state treasurer issued under Section 73-18c-305; or
88612 (d) a certificate of self-funded coverage issued under Section 73-18c-306.
88613 Section 2165. Section **73-18-19** is amended to read:
88614 **73-18-19. Publication of rules and regulations.**
88615 The rules promulgated under this chapter shall be published as required by [~~Title 63,~~
88616 ~~Chapter 46a~~] Title 63G, Chapter 3, the Utah Administrative Rulemaking Act.
88617 Section 2166. Section **73-18-25** is amended to read:
88618 **73-18-25. Fees to cover the costs of electronic payments.**
88619 (1) As used in this section:
88620 (a) "Electronic payment" has the same meaning as defined in Section 41-1a-1221.
88621 (b) "Electronic payment fee" has the same meaning as defined in Section 41-1a-1221.
88622 (2) (a) The Motor Vehicle Division may collect an electronic payment fee on all
88623 registrations and renewals of registration under Section 73-18-7.
88624 (b) The fee described under Subsection (2)(a) shall be imposed regardless of the
88625 method of payment for a particular transaction.

88626 (3) The Motor Vehicle Division shall establish the fee according to the procedures and
88627 requirements of Section [~~63-38-3.2~~] 63J-1-303.
88628 (4) A fee imposed under this section:
88629 (a) shall be used by the Motor Vehicle Division as a dedicated credit to cover the costs
88630 of electronic payments;
88631 (b) is nonlapsing;
88632 (c) is not subject to Subsection [~~63-38a-104~~] 63J-2-202(2); and
88633 (d) need not be separately identified from the fees imposed on registrations and
88634 renewals of registration under Section 73-18-7.
88635 Section 2167. Section **73-18a-4** is amended to read:
88636 **73-18a-4. Marine toilets -- Pollution control devices required -- Rules established**
88637 **by board.**
88638 (1) Every marine toilet on a vessel used or operated upon the waters of this state shall
88639 be equipped with an approved pollution control device in operative condition.
88640 (2) The board shall make rules in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
88641 Chapter 3, Utah Administrative Rulemaking Act, as provided in this chapter, establishing
88642 criteria or standards for definition and approval of acceptable pollution control devices for
88643 vessels.
88644 Section 2168. Section **73-18a-5** is amended to read:
88645 **73-18a-5. Chemical treatment of marine toilet contents -- Rules established by**
88646 **board and Department of Environmental Quality.**
88647 The board shall establish by rule, in accordance with [~~Title 63, Chapter 46a~~] Title 63G,
88648 Chapter 3, Utah Administrative Rulemaking Act, with approval by the Department of
88649 Environmental Quality, as provided in this chapter, standards relating to chemical treatment of
88650 marine toilet contents.
88651 Section 2169. Section **73-18a-12** is amended to read:
88652 **73-18a-12. Rules promulgated by board -- Subject to approval by Department of**
88653 **Environmental Quality.**
88654 The board may promulgate rules under [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
88655 Utah Administrative Rulemaking Act, which are necessary for the carrying out of duties,
88656 obligations, and powers conferred on the division by this chapter. These rules shall be subject

88657 to review and approval by the Department of Environmental Quality. This approval shall be
88658 recorded as part of the rules.
88659 Section 2170. Section **73-18c-201** is amended to read:
88660 **73-18c-201. Division to administer and enforce chapter -- Board may adopt**
88661 **rules.**
88662 (1) The division shall administer and enforce the provisions of this chapter.
88663 (2) The board may adopt rules as necessary for the administration of this chapter in
88664 accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
88665 Rulemaking Act.
88666 Section 2171. Section **73-18c-306** is amended to read:
88667 **73-18c-306. Certificate of self-funded coverage as proof of owner's or operator's**
88668 **security.**
88669 (1) The division may, upon the application of any person, issue a certificate of
88670 self-funded coverage when it is satisfied that the person has:
88671 (a) more than 24 motorboats; and
88672 (b) on deposit, in a form approved by the division, cash or securities in an amount of
88673 $200,000 plus $100 for each motorboat up to and including 1,000 motorboats and $50 for each
88674 motorboat over 1,000 motorboats.
88675 (2) Persons holding a certificate of self-funded coverage under this chapter shall pay
88676 benefits to persons injured from the self-funded person's operation, maintenance, and use of
88677 motorboats as would an insurer issuing a policy to the self-funded person containing the
88678 coverages under Sections 31A-22-1502 and 31A-22-1503.
88679 (3) In accordance with [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
88680 Procedures Act, the division may, upon reasonable grounds, cancel the certificate. Failure to
88681 pay any judgment up to the limit under Subsection 31A-22-1503(2) within 30 days after the
88682 judgment is final is a reasonable ground to cancel the certificate.
88683 (4) Any government entity with self-funded coverage for government-owned
88684 motorboats under [~~Title 63, Chapter 30d~~] Title 63G, Chapter 7, Governmental Immunity Act of
88685 Utah, meets the requirements of this section.
88686 Section 2172. Section **73-22-5** is amended to read:
88687 **73-22-5. Jurisdiction of division -- Hearings -- Subpoena power -- Restraining**

88688 **violations -- Actions for damages against violators unaffected.**
88689 (1) The division has jurisdiction and authority over all persons and property, public and
88690 private, necessary to enforce the provisions of this chapter and may enact, issue, and enforce
88691 necessary rules and orders to carry out the requirements of this chapter.
88692 (2) (a) Any affected person may apply for a hearing before the division, or the division
88693 may initiate proceedings upon any question relating to the administration of this chapter by
88694 following the procedures and requirements of [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,
88695 Administrative Procedures Act.
88696 (b) The Division of Water Rights shall comply with the procedures and requirements
88697 of [~~Title 63, Chapter 46b,~~] Title 63G, Chapter 4, Administrative Procedures Act, in its
88698 adjudicative proceedings.
88699 (3) The division shall have the power to summon witnesses, to administer oaths, and to
88700 require the production of records, books, and documents for examination at any hearing or
88701 investigation conducted by it.
88702 (4) (a) If any person fails or refuses to comply with a subpoena issued by the division,
88703 or if any witness fails or refuses to testify about any matter regarding which [~~he~~] the witness
88704 may be interrogated, the division may petition any district court in the state to issue an order
88705 compelling the person to:
88706 (i) comply with the subpoena and attend before the division;
88707 (ii) produce any records, books, and documents covered by the subpoena; or
88708 (iii) to give testimony.
88709 (b) The court may punish failure to comply with the order as contempt.
88710 (5) (a) Whenever it appears that any person is violating or threatening to violate any
88711 provision of this chapter, or any rule or order made under this chapter, the division may file suit
88712 in the name of the state to restrain that person from continuing the violation or from carrying
88713 out the threat of violation.
88714 (b) Venue for the action is in the district court in the county where any defendant
88715 resides or in the county where the violation is alleged to have occurred.
88716 (6) (a) Nothing in this chapter, no suit by or against the division, and no violation
88717 charged or asserted against any person under this chapter, or any rule or order issued under it,
88718 shall impair, abridge, or delay any cause of action for damages that any person may have or

88719 assert against any person violating this chapter, or any rule or order issued under it.
88720 (b) Any person so damaged by the violation may sue for and recover whatever damages
88721 that [~~he~~] the person is otherwise entitled to receive.
88722 Section 2173. Section **73-23-3** is amended to read:
88723 **73-23-3. Duties and powers of Division of Water Resources.**
88724 For purposes of this chapter, the Division of Water Resources:
88725 (1) shall provide for the construction, operation, and maintenance of the West Desert
88726 Pumping Project;
88727 (2) may enter into agreements as necessary to provide for all or any portion of the West
88728 Desert Pumping Project, including any indemnification agreements required by the federal
88729 government;
88730 (3) may acquire land or any other property right by any lawful means, including
88731 eminent domain;
88732 (4) is exempt from [~~Title 63, Chapter 56~~] Title 63G, Chapter 6, the Utah Procurement
88733 Code; and
88734 (5) may proceed without obtaining water right approval from the state engineer.
88735 Section 2174. Section **73-26-402** is amended to read:
88736 **73-26-402. Rulemaking power of the board.**
88737 In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative
88738 Rulemaking Act, the board may make rules to:
88739 (1) determine water charges as provided in Section 73-26-506;
88740 (2) administer and operate the reservoirs and associated facilities constructed in
88741 accordance with Section 73-26-301;
88742 (3) establish procedures for reviewing offers to contract for the sale or lease of
88743 developed water; and
88744 (4) set the interest rate for repayment of construction and environmental mitigation
88745 costs.
88746 Section 2175. Section **73-26-403** is amended to read:
88747 **73-26-403. Immunity from suit -- Exception.**
88748 Activities engaged in under authority of this chapter are governmental functions. The
88749 state and its officers and employees are immune from suit for any injury or damage resulting

88750 from those activities, except as provided in Section [~~63-30d-301~~] 63G-7-301.
88751 Section 2176. Section **73-28-104** is amended to read:
88752 **73-28-104. Powers of the board.**
88753 (1) The board may contract with:
88754 (a) a district for the sale of developed water;
88755 (b) a qualified entity for the development or construction of the project; or
88756 (c) a district or other qualified entity for the operation, maintenance, repair, or
88757 replacement of the project.
88758 (2) By following the procedures and requirements of [~~Title 63, Chapter 46a~~] Title 63G,
88759 Chapter 3, Utah Administrative Rulemaking Act, the board may make rules to:
88760 (a) establish prices, in consultation with the committee and in accordance with Section
88761 73-28-403, for:
88762 (i) developed water sold to the districts; and
88763 (ii) electricity made available by the project;
88764 (b) establish procedures for reviewing offers to contract for the sale of developed water
88765 and electricity;
88766 (c) establish the interest rate for repayment of preconstruction and construction costs;
88767 (d) establish a reasonable time period for the districts to offer to purchase water; and
88768 (e) administer and operate the project.
88769 (3) The board may exercise eminent domain, as provided in Title 78, Chapter 34,
88770 Eminent Domain, to construct the project.
88771 Section 2177. Section **73-28-404** is amended to read:
88772 **73-28-404. Repayments returned to Water Resources Conservation and**
88773 **Development Fund -- Establishment of an enterprise fund.**
88774 (1) The board shall deposit, in accordance with Section 51-4-1, into the Water
88775 Resources Conservation and Development Fund:
88776 (a) repayments of preconstruction and construction costs; and
88777 (b) the interest charged.
88778 (2) (a) There is created an enterprise fund, as defined in Subsection 51-5-4(8), entitled
88779 the "Lake Powell Pipeline Project Operation and Maintenance Fund."
88780 (b) The fund consists of:

88781 (i) revenues received from the sale of developed water that is designated for project
88782 operation, maintenance, repair, and replacement costs;
88783 (ii) revenues received from the sale of electricity that are deposited in the fund in
88784 accordance with Subsection 73-28-203(3); and
88785 (iii) all interest earned by the fund.
88786 (3) (a) Any unexpended monies remaining in the fund at the end of the fiscal year are
88787 nonlapsing.
88788 (b) Notwithstanding Section [~~63-38-3.6~~] 63J-1-307, the Legislature may not
88789 appropriate any monies from the Lake Powell Pipeline Project Operation and Maintenance
88790 Fund.
88791 (4) The state treasurer shall:
88792 (a) invest the monies in the enterprise fund by following the procedures and
88793 requirements of Title 51, Chapter 7, State Money Management Act; and
88794 (b) deposit all interest or other earnings derived from those investments into the Lake
88795 Powell Pipeline Operation and Maintenance Fund.
88796 (5) The committee shall approve the expenditure of fund monies to cover the project
88797 operation, maintenance, repair, and replacement costs, subject to:
88798 (a) monies available in the fund; and
88799 (b) rules established by the board under Subsection 73-28-104(2).
88800 (6) If title to the project is transferred under Section 73-28-405, the agreement shall
88801 direct the disposition of the monies remaining in the fund.
88802 Section 2178. Section **75-2a-106 (Effective 01/01/08)** is amended to read:
88803 **75-2a-106 (Effective 01/01/08). Emergency medical services -- Physician order to**
88804 **withhold life sustaining procedures.**
88805 (1) (a) The following persons may direct an emergency medical service provider
88806 licensed or certified under Title 26, Chapter 8a, Utah Emergency Medical Services System Act,
88807 who responds to a call to provide emergency medical services as defined in Section 26-8a-102,
88808 to withhold all life sustaining procedures:
88809 (i) an individual over the age of 18;
88810 (ii) an emancipated minor; or
88811 (iii) the following person, if the person has a physician's order to withhold life

88812 sustaining procedures that is issued in compliance with this section:
88813 (A) a parent or legal guardian of a minor;
88814 (B) a legal guardian appointed for an individual; or
88815 (C) a surrogate.
88816 (b) A person described in Subsection (1)(a)(iii) may direct an emergency service
88817 provider to withhold life sustaining procedures if the person has a physician's order:
88818 (i) made in compliance with Subsection (4); and
88819 (ii) if the physician's order applies to a minor, it must include a certification by two
88820 physicians that in their clinical judgment an order to withhold life sustaining treatment is in the
88821 best interest of the individual.
88822 (c) The physician order is binding upon emergency medical services providers only if
88823 the physician order is in compliance with Subsections (2) and (4).
88824 (2) (a) The Department of Health shall by administrative rule establish a uniform
88825 system to allow emergency medical service providers to readily identify persons who have
88826 obtained a physician order under this section.
88827 (b) The system may provide for:
88828 (i) personal, tamper-proof identifying bracelets;
88829 (ii) forms;
88830 (iii) the presence of the physician's orders on a form in compliance with Subsection (4)
88831 and approved by the Department of Health; or
88832 (iv) some other system approved by the Department of Health which clearly identifies
88833 the individual as one who has a continued intent to be readily identified as a person with a
88834 physician's order to withhold life sustaining procedures.
88835 (3) An emergency medical services provider is not bound to act in accordance with a
88836 physician order issued under this section unless the physician order complies with the
88837 administrative rules adopted by the Department of Health in accordance with this section.
88838 (4) A physician order made under this section shall be:
88839 (a) in writing and on a form approved by the Department of Health;
88840 (b) signed by:
88841 (i) the declarant;
88842 (ii) a person in the declarant's presence and by the declarant's expressed direction;

88843 (iii) the parent or legal guardian of a minor; or
88844 (iv) if the declarant does not have the ability to give current directions concerning the
88845 declarant's care and treatment, the surrogate or class of surrogates with the highest priority
88846 under Section 75-2a-111;
88847 (c) dated;
88848 (d) signed, completed, and certified by the declarant's licensed health care professional,
88849 acting within the scope of practice; and
88850 (e) if for a minor, in compliance with Subsection (1)(b).
88851 (5) A physician order made under this section takes precedence over a directive made
88852 under Section 75-2a-107, but only to the extent of a conflict.
88853 (6) An individual who wishes to revoke a physician order made under this section may
88854 do so by:
88855 (a) orally informing emergency service personnel;
88856 (b) writing "void" across the form, or burning, tearing, or otherwise destroying or
88857 defacing the document, bracelet, or other evidence of the physician order, or by asking another
88858 person to do the same on the individual's behalf;
88859 (c) signing or directing another person to sign a written revocation on the individual's
88860 behalf;
88861 (d) stating that the individual wishes to revoke the order in the presence of a witness
88862 who is age 18 or older; or
88863 (e) signing a new physician order.
88864 (7) (a) The Department of Health shall adopt rules in accordance with [~~Title 63,~~
88865 ~~Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:
88866 (i) create the forms and systems required by Subsections (2) and (4); and
88867 (ii) develop uniform instructions for the form established in Section 75-2a-117.
88868 (b) The Department of Health may assist others with training of health care
88869 professionals regarding this chapter.
88870 Section 2179. Section **76-6-513** is amended to read:
88871 **76-6-513. Definitions -- Unlawful dealing of property by a fiduciary -- Penalties.**
88872 (1) As used in this section:
88873 (a) "Fiduciary" is as defined in Section 22-1-1.

88874 (b) "Financial institution" means "depository institution" and "trust company" as
88875 defined in Section 7-1-103.
88876 (c) "Governmental entity" is as defined in Section [~~63-30d-102~~] 63G-7-102.
88877 (d) "Person" does not include a financial institution whose fiduciary functions are
88878 supervised by the Department of Financial Institutions or a federal regulatory agency.
88879 (e) "Property" is as defined in Section 76-6-401.
88880 (f) "Public monies" is as defined in Section 76-8-401.
88881 (2) A person is guilty of unlawfully dealing with property by a fiduciary if [~~he~~] the
88882 person deals with property that has been entrusted to him as a fiduciary, or property of a
88883 governmental entity, public monies, or of a financial institution, in a manner which [~~he~~] the
88884 person knows is a violation of [~~his~~] the person's duty and which involves substantial risk of
88885 loss or detriment to the owner or to a person for whose benefit the property was entrusted. A
88886 violation of this Subsection (2) is punishable under Section 76-6-412.
88887 (3) (a) A person acting as a fiduciary is guilty of a violation of this subsection if,
88888 without permission of the owner of the property or some other person with authority to give
88889 permission, [~~he~~] the person pledges as collateral for a personal loan, or as collateral for the
88890 benefit of some party, other than the owner or the person for whose benefit the property was
88891 entrusted, the property that has been entrusted to the fiduciary.
88892 (b) An offense under Subsection (3)(a) is punishable as:
88893 (i) a felony of the second degree if the value of the property wrongfully pledged is or
88894 exceeds $5,000;
88895 (ii) a felony of the third degree if the value of the property wrongfully pledged is or
88896 exceeds $1,000 but is less than $5,000;
88897 (iii) a class A misdemeanor if the value of the property is or exceeds $300, but is less
88898 than $1,000 or the actor has been twice before convicted of theft, robbery, burglary with intent
88899 to commit theft, or unlawful dealing with property by a fiduciary; or
88900 (iv) a class B misdemeanor if the value of the property is less than $300.
88901 Section 2180. Section **76-7-317.1** is amended to read:
88902 **76-7-317.1. Creation of Abortion Litigation Trust Account.**
88903 (1) (a) There is created in the General Fund a restricted account known as the Abortion
88904 Litigation Trust Account. All money received by the state from private sources for litigation

88905 expenses connected with the defense of Senate Bill 23, passed in the 1991 Annual General
88906 Session, shall be deposited in that account.
88907 (b) On behalf of the Abortion Litigation Trust Account, the Division of Finance may
88908 accept grants, gifts, bequests, or any money made available from any private sources to
88909 implement this section.
88910 (2) Money shall be appropriated by the Legislature from the account to the Office of
88911 the Attorney General under [~~Title 63, Chapter 38~~] Title 63J, Chapter 1, Budgetary Procedures
88912 Act.
88913 (3) The Abortion Litigation Trust Account may be used only for costs, expenses, and
88914 attorneys fees connected with the defense of the abortion law identified in Subsection (1).
88915 (4) Any funds remaining in the abortion litigation trust account after final appellate
88916 procedures shall revert to the General Fund, to be first used to offset the monies expended by
88917 the state in connection with litigation regarding Senate Bill 23.
88918 Section 2181. Section **76-8-311.3** is amended to read:
88919 **76-8-311.3. Items prohibited in correctional and mental health facilities --**
88920 **Penalties.**
88921 (1) As used in this section:
88922 (a) "Contraband" means any item not specifically prohibited for possession by
88923 offenders under this section or Title 58, Chapter 37, Utah Controlled Substances Act.
88924 (b) "Controlled substance" means any substance defined as a controlled substance
88925 under Title 58, Chapter 37, Utah Controlled Substances Act.
88926 (c) "Correctional facility" means:
88927 (i) any facility operated by or contracting with the Department of Corrections to house
88928 offenders in either a secure or nonsecure setting;
88929 (ii) any facility operated by a municipality or a county to house or detain criminal
88930 offenders;
88931 (iii) any juvenile detention facility; and
88932 (iv) any building or grounds appurtenant to the facility or lands granted to the state,
88933 municipality, or county for use as a correctional facility.
88934 (d) "Medicine" means any prescription drug as defined in Title 58, Chapter 17b,
88935 Pharmacy Practice Act, but does not include any controlled substances as defined in Title 58,

88936 Chapter 37, Utah Controlled Substances Act.
88937 (e) "Mental health facility" has the same meaning as defined in Section 62A-15-602.
88938 (f) "Offender" means a person in custody at a correctional facility.
88939 (g) "Secure area" has the same meaning as provided in Section 76-8-311.1.
88940 (2) Notwithstanding Section 76-10-500, a correctional or mental health facility may
88941 provide by rule that no firearm, ammunition, dangerous weapon, implement of escape,
88942 explosive, controlled substance, spirituous or fermented liquor, medicine, or poison in any
88943 quantity may be:
88944 (a) transported to or upon a correctional or mental health facility;
88945 (b) sold or given away at any correctional or mental health facility;
88946 (c) given to or used by any offender at a correctional or mental health facility; or
88947 (d) knowingly or intentionally possessed at a correctional or mental health facility.
88948 (3) It is a defense to any prosecution under this section if the accused in committing the
88949 act made criminal by this section:
88950 (a) with respect to a correctional facility operated by the Department of Corrections,
88951 acted in conformity with departmental rule or policy;
88952 (b) with respect to a correctional facility operated by a municipality, acted in
88953 conformity with the policy of the municipality;
88954 (c) with respect to a correctional facility operated by a county, acted in conformity with
88955 the policy of the county; or
88956 (d) with respect to a mental health facility, acted in conformity with the policy of the
88957 mental health facility.
88958 (4) (a) Any person who transports to or upon a correctional facility, or into a secure
88959 area of a mental health facility, any firearm, ammunition, dangerous weapon, or implement of
88960 escape with intent to provide or sell it to any offender, is guilty of a second degree felony.
88961 (b) Any person who provides or sells to any offender at a correctional facility, or any
88962 detainee at a secure area of a mental health facility, any firearm, ammunition, dangerous
88963 weapon, or implement of escape is guilty of a second degree felony.
88964 (c) Any offender who possesses at a correctional facility, or any detainee who
88965 possesses at a secure area of a mental health facility, any firearm, ammunition, dangerous
88966 weapon, or implement of escape is guilty of a second degree felony.

88967 (d) Any person who, without the permission of the authority operating the correctional
88968 facility or the secure area of a mental health facility, knowingly possesses at a correctional
88969 facility or a secure area of a mental health facility any firearm, ammunition, dangerous weapon,
88970 or implement of escape is guilty of a third degree felony.
88971 (e) Any person violates Section 76-10-306 who knowingly or intentionally transports,
88972 possesses, distributes, or sells any explosive in a correctional facility or mental health facility.
88973 (5) (a) A person is guilty of a third degree felony who, without the permission of the
88974 authority operating the correctional facility or secure area of a mental health facility, knowingly
88975 transports to or upon a correctional facility or into a secure area of a mental health facility any:
88976 (i) spirituous or fermented liquor;
88977 (ii) medicine, whether or not lawfully prescribed for the offender; or
88978 (iii) poison in any quantity.
88979 (b) A person is guilty of a third degree felony who knowingly violates correctional or
88980 mental health facility policy or rule by providing or selling to any offender at a correctional
88981 facility or detainee within a secure area of a mental health facility any:
88982 (i) spirituous or fermented liquor;
88983 (ii) medicine, whether or not lawfully prescribed for the offender; or
88984 (iii) poison in any quantity.
88985 (c) An inmate is guilty of a third degree felony who, in violation of correctional or
88986 mental health facility policy or rule, possesses at a correctional facility or in a secure area of a
88987 mental health facility any:
88988 (i) spirituous or fermented liquor;
88989 (ii) medicine, other than medicine provided by the facility's health care providers in
88990 compliance with facility policy; or
88991 (iii) poison in any quantity.
88992 (d) A person is guilty of a class A misdemeanor who, with the intent to directly or
88993 indirectly provide or sell any tobacco product to an offender, directly or indirectly:
88994 (i) transports, delivers, or distributes any tobacco product to an offender or on the
88995 grounds of any correctional facility;
88996 (ii) solicits, requests, commands, coerces, encourages, or intentionally aids another
88997 person to transport any tobacco product to an offender or on any correctional facility, if the

88998 person is acting with the mental state required for the commission of an offense; or
88999 (iii) facilitates, arranges, or causes the transport of any tobacco product in violation of
89000 this section to an offender or on the grounds of any correctional facility.
89001 (e) A person is guilty of a class A misdemeanor who, without the permission of the
89002 authority operating the correctional or mental health facility, fails to declare or knowingly
89003 possesses at a correctional facility or in a secure area of a mental health facility any:
89004 (i) spirituous or fermented liquor;
89005 (ii) medicine; or
89006 (iii) poison in any quantity.
89007 (f) A person is guilty of a class B misdemeanor who, without the permission of the
89008 authority operating the correctional facility, knowingly engages in any activity that would
89009 facilitate the possession of any contraband by an offender in a correctional facility. The
89010 provisions of Subsection (5)(d) regarding any tobacco product take precedence over this
89011 Subsection (5)(f).
89012 (g) Exemptions may be granted for worship for Native American inmates pursuant to
89013 Section 64-13-40.
89014 (6) The possession, distribution, or use of a controlled substance at a correctional
89015 facility or in a secure area of a mental health facility shall be prosecuted in accordance with
89016 Title 58, Chapter 37, Utah Controlled Substances Act.
89017 (7) The department shall make rules under [~~Title 63, Chapter 46a~~] Title 63G, Chapter
89018 3, Utah Administrative Rulemaking Act, to establish guidelines for providing written notice to
89019 visitors that providing any tobacco product to offenders is a class A misdemeanor.
89020 Section 2182. Section **76-8-317** is amended to read:
89021 **76-8-317. Refusal to comply with order to evacuate or other orders issued in a**
89022 **local or state emergency -- Penalties.**
89023 (1) A person may not refuse to comply with an order to evacuate issued under this
89024 chapter or refuse to comply with any other order issued by the governor in a state of an
89025 emergency or by a chief executive officer in a local emergency under Sections [~~63-5a-3~~]
89026 63K-4-201 or [~~63-5a-4~~] 63K-4-202, if notice of the order has been given to that person.
89027 (2) A person who violates this section is guilty of a class B misdemeanor.
89028 Section 2183. Section **76-8-1101** is amended to read:

89029 **76-8-1101. Criminal offenses and penalties relating to revenue and taxation --**
89030 **Rulemaking authority -- Statute of limitations.**
89031 (1) (a) As provided in Section 59-1-401, criminal offenses and penalties are as
89032 provided in Subsections (1)(b) through (e).
89033 (b) (i) Any person who is required by Title 59, Revenue and Taxation, or any laws the
89034 State Tax Commission administers or regulates to register with or obtain a license or permit
89035 from the State Tax Commission, who operates without having registered or secured a license or
89036 permit, or who operates when the registration, license, or permit is expired or not current, is
89037 guilty of a class B misdemeanor.
89038 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (1)(b)(i), the
89039 penalty may not:
89040 (A) be less than $500; or
89041 (B) exceed $1,000.
89042 (c) (i) Any person who, with intent to evade any tax or requirement of Title 59,
89043 Revenue and Taxation, or any lawful requirement of the State Tax Commission, fails to make,
89044 render, sign, or verify any return or to supply any information within the time required by law,
89045 or who makes, renders, signs, or verifies any false or fraudulent return or statement, or who
89046 supplies any false or fraudulent information, is guilty of a third degree felony.
89047 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (1)(c)(i), the penalty
89048 may not:
89049 (A) be less than $1,000; or
89050 (B) exceed $5,000.
89051 (d) (i) Any person who intentionally or willfully attempts to evade or defeat any tax or
89052 the payment of a tax is, in addition to other penalties provided by law, guilty of a second degree
89053 felony.
89054 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (1)(d)(i), the penalty
89055 may not:
89056 (A) be less than $1,500; or
89057 (B) exceed $25,000.
89058 (e) (i) A person is guilty of a second degree felony if that person commits an act:
89059 (A) described in Subsection (1)(e)(ii) with respect to one or more of the following

89060 documents:
89061 (I) a return;
89062 (II) an affidavit;
89063 (III) a claim; or
89064 (IV) a document similar to Subsections (1)(e)(i)(A)(I) through (III); and
89065 (B) subject to Subsection (1)(e)(iii), with knowledge that the document described in
89066 Subsection (1)(e)(i)(A):
89067 (I) is false or fraudulent as to any material matter; and
89068 (II) could be used in connection with any material matter administered by the State Tax
89069 Commission.
89070 (ii) The following acts apply to Subsection (1)(e)(i):
89071 (A) preparing any portion of a document described in Subsection (1)(e)(i)(A);
89072 (B) presenting any portion of a document described in Subsection (1)(e)(i)(A);
89073 (C) procuring any portion of a document described in Subsection (1)(e)(i)(A);
89074 (D) advising in the preparation or presentation of any portion of a document described
89075 in Subsection (1)(e)(i)(A);
89076 (E) aiding in the preparation or presentation of any portion of a document described in
89077 Subsection (1)(e)(i)(A);
89078 (F) assisting in the preparation or presentation of any portion of a document described
89079 in Subsection (1)(e)(i)(A); or
89080 (G) counseling in the preparation or presentation of any portion of a document
89081 described in Subsection (1)(e)(i)(A).
89082 (iii) This Subsection (1)(e) applies:
89083 (A) regardless of whether the person for which the document described in Subsection
89084 (1)(e)(i)(A) is prepared or presented:
89085 (I) knew of the falsity of the document described in Subsection (1)(e)(i)(A); or
89086 (II) consented to the falsity of the document described in Subsection (1)(e)(i)(A); and
89087 (B) in addition to any other penalty provided by law.
89088 (iv) Notwithstanding Section 76-3-301, for purposes of this Subsection (1)(e), the
89089 penalty may not:
89090 (A) be less than $1,500; or

89091 (B) exceed $25,000.
89092 (v) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
89093 Administrative Rulemaking Act, the State Tax Commission may make rules prescribing the
89094 documents that are similar to Subsections (1)(e)(i)(A)(I) through (III).
89095 (2) The statute of limitations for prosecution for a violation of this section is the later
89096 of six years:
89097 (a) from the date the tax should have been remitted; or
89098 (b) after the day on which the person commits the criminal offense.
89099 Section 2184. Section **76-10-526** is amended to read:
89100 **76-10-526. Criminal background check prior to purchase of a firearm -- Fee --**
89101 **Exemption for concealed firearm permit holders.**
89102 (1) For purposes of this section, "valid permit to carry a concealed firearm" does not
89103 include a temporary permit issued pursuant to Section 53-5-705.
89104 (2) To establish personal identification and residence in this state for purposes of this
89105 part, a dealer shall require an individual receiving a firearm to present one photo identification
89106 on a form issued by a governmental agency of the state.
89107 (3) A criminal history background check is required for the sale of a firearm by a
89108 licensed firearm dealer in the state.
89109 (4) (a) An individual, except a dealer, purchasing a firearm from a dealer shall consent
89110 in writing to a criminal background check, on a form provided by the division.
89111 (b) The form shall contain the following information:
89112 (i) the dealer identification number;
89113 (ii) the name and address of the individual receiving the firearm;
89114 (iii) the date of birth, height, weight, eye color, and hair color of the individual
89115 receiving the firearm; and
89116 (iv) the Social Security number or any other identification number of the individual
89117 receiving the firearm.
89118 (5) (a) The dealer shall send the form required by Subsection (4) to the division
89119 immediately upon its completion.
89120 (b) No dealer shall sell or transfer any firearm to an individual until the dealer has
89121 provided the division with the information in Subsection (4) and has received approval from

89122 the division under Subsection (7).
89123 (6) The dealer shall make a request for criminal history background information by
89124 telephone or other electronic means to the division and shall receive approval or denial of the
89125 inquiry by telephone or other electronic means.
89126 (7) When the dealer calls for or requests a criminal history background check, the
89127 division shall:
89128 (a) review the criminal history files, including juvenile court records, to determine if
89129 the individual is prohibited from purchasing, possessing, or transferring a firearm by state or
89130 federal law;
89131 (b) inform the dealer that:
89132 (i) the records indicate the individual is so prohibited; or
89133 (ii) the individual is approved for purchasing, possessing, or transferring a firearm;
89134 (c) provide the dealer with a unique transaction number for that inquiry; and
89135 (d) provide a response to the requesting dealer during the call for a criminal
89136 background, or by return call, or other electronic means, without delay, except in case of
89137 electronic failure or other circumstances beyond the control of the division, the division shall
89138 advise the dealer of the reason for the delay and give the dealer an estimate of the length of the
89139 delay.
89140 (8) (a) The division shall not maintain any records of the criminal history background
89141 check longer than 20 days from the date of the dealer's request if the division determines that
89142 the individual receiving the gun is not prohibited from purchasing, possessing, or transferring
89143 the firearm under state or federal law.
89144 (b) However, the division shall maintain a log of requests containing the dealer's
89145 federal firearms number, the transaction number, and the transaction date for a period of 12
89146 months.
89147 (9) If the criminal history background check discloses information indicating that the
89148 individual attempting to purchase the firearm is prohibited from purchasing, possessing, or
89149 transferring a firearm, the division shall inform the law enforcement agency in the jurisdiction
89150 where the person resides.
89151 (10) If an individual is denied the right to purchase a firearm under this section, the
89152 individual may review [~~his~~] the individual's criminal history information and may challenge or

89153 amend the information as provided in Section 53-10-108.
89154 (11) The division shall make rules as provided in [~~Title 63, Chapter 46a~~] Title 63G,
89155 Chapter 3, Utah Administrative Rulemaking Act, to ensure the identity, confidentiality, and
89156 security of all records provided by the division pursuant to this part are in conformance with
89157 the requirements of the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107
89158 Stat. 1536 (1993).
89159 (12) (a) (i) All dealers shall collect a criminal history background check fee which is
89160 $7.50.
89161 (ii) This fee remains in effect until changed by the division through the process under
89162 Section [~~63-38-3.2~~] 63J-1-303.
89163 (b) (i) The dealer shall forward at one time all fees collected for criminal history
89164 background checks performed during the month to the division by the last day of the month
89165 following the sale of a firearm.
89166 (ii) The division shall deposit the fees in the General Fund as dedicated credits to cover
89167 the cost of administering and conducting the criminal history background check program.
89168 (13) An individual with a concealed firearm permit issued pursuant to Title 53, Chapter
89169 5, Part 7, Concealed Weapon Act, shall be exempt from the background check and
89170 corresponding fee required in this section for the purchase of a firearm if:
89171 (a) the individual presents [~~his~~] the individual's concealed firearm permit to the dealer
89172 prior to purchase of the firearm; and
89173 (b) the dealer verifies with the division that the individual's concealed firearm permit is
89174 valid.
89175 Section 2185. Section **76-10-1209** is amended to read:
89176 **76-10-1209. Injunctive relief -- Jurisdiction -- Consent to be sued -- Service of**
89177 **process.**
89178 (1) The district courts of this state shall have full power, authority, and jurisdiction,
89179 upon application by any county attorney or city attorney within their respective jurisdictions or
89180 the attorney general, to issue any and all proper restraining orders, preliminary and permanent
89181 injunctions, and any other writs and processes appropriate to carry out and enforce the
89182 provisions of this part. No restraining order or injunction, however, shall issue except upon
89183 notice to the person sought to be enjoined. That person shall be entitled to a trial of the issues

89184 commencing within three days after filing of an answer to the complaint and a decision shall be
89185 rendered by the court within two days after the conclusion of the trial. If a final order or
89186 judgment of injunction is entered against the person sought to be enjoined, this final order or
89187 judgment shall contain a provision directing the person to surrender to the sheriff of the county
89188 in which the action was brought any pornographic material in [~~his~~] the person's possession
89189 which is subject to the injunction; and the sheriff shall be directed to seize and destroy this
89190 material.
89191 (2) Any person not qualified to do business in the state who sends or brings any
89192 pornographic material into the state with the intent to distribute or exhibit it to others in this
89193 state thereby consents that [~~he~~] the person may be sued in any proceedings commenced under
89194 this section and therefor appoints the director of the Division of Corporations and Commercial
89195 Code to be the agent upon whom may be served all legal process against that person. Service of
89196 process shall be made by serving a copy of same upon the director of the Division of
89197 Corporations and Commercial Code or by filing the copy in that office, together with payment
89198 of a fee determined by the division pursuant to Section [~~63-38-3.2~~] 63J-1-303. This service
89199 shall be sufficient service upon the defendant if:
89200 (a) notice of the service and a copy of the process are within ten days thereafter sent by
89201 mail by the prosecuting attorney to the defendant at the address of the defendant that appears
89202 on any material exhibited or distributed, and if no address appears, then the last known address
89203 of the defendant; and
89204 (b) the prosecuting attorney's affidavit of compliance with the provisions of this
89205 subsection are attached to the summons. The Division of Corporations and Commercial Code
89206 shall keep a record of all the process served upon it under this section, showing the day and
89207 hour of the service. Nothing in this subsection shall be construed to limit the operation of Rule
89208 17(e) of the Utah Rules of Civil Procedure.
89209 (3) This section shall not be construed in any way to limit the district courts in the
89210 exercise of their jurisdiction under any other provision of law.
89211 Section 2186. Section **76-10-1231** is amended to read:
89212 **76-10-1231. Data service providers -- Internet content harmful to minors.**
89213 (1) (a) Upon request by a consumer, a service provider shall filter content to prevent
89214 the transmission of material harmful to minors to the consumer.

89215 (b) A service provider complies with Subsection (1)(a) if it uses a generally accepted
89216 and commercially reasonable method of filtering.
89217 (2) At the time of a consumer's subscription to a service provider's service, or at the
89218 time this section takes effect if the consumer subscribes to the service provider's service at the
89219 time this section takes effect, the service provider shall notify the consumer in a conspicuous
89220 manner that the consumer may request to have material harmful to minors blocked under
89221 Subsection (1).
89222 (3) (a) A service provider may comply with Subsection (1) by:
89223 (i) providing in-network filtering to prevent receipt of material harmful to minors,
89224 provided that the filtering does not affect or interfere with access to Internet content for
89225 consumers who do not request filtering under Subsection (1); or
89226 (ii) providing software, or engaging a third party to provide software, for
89227 contemporaneous installation on the consumer's computer that blocks, in an easy-to-enable and
89228 commercially reasonable manner, receipt of material harmful to minors.
89229 (b) A service provider may charge a consumer for providing filtering under Subsection
89230 (3)(a).
89231 (4) If the attorney general determines that a service provider violates Subsection (1) or
89232 (2), the attorney general shall:
89233 (a) notify the service provider that the service provider is in violation of Subsection (1)
89234 or (2); and
89235 (b) notify the service provider that the service provider has 30 days to comply with the
89236 provision being violated or be subject to Subsection (5).
89237 (5) A service provider that violates Subsection (1) or (2) is:
89238 (a) subject to a civil fine of $2,500 for each separate violation of Subsection (1) or (2),
89239 up to $10,000 per day; and
89240 (b) guilty of a class A misdemeanor if:
89241 (i) the service provider knowingly or intentionally fails to comply with Subsection (1);
89242 or
89243 (ii) the service provider fails to provide the notice required by Subsection (2).
89244 (6) A proceeding to impose a civil fine under Subsection (5)(a) may only be brought by
89245 the attorney general in a court of competent jurisdiction.

89246 (7) (a) The Division of Consumer Protection within the Department of Commerce
89247 shall, in consultation with other entities as the Division of Consumer Protection considers
89248 appropriate, test the effectiveness of a service provider's system for blocking material harmful
89249 to minors under Subsection (1) at least annually.
89250 (b) The results of testing by the Division of Consumer Protection under Subsection
89251 (7)(a) shall be made available to:
89252 (i) the service provider that is the subject of the test; and
89253 (ii) the public.
89254 (c) The Division of Consumer Protection shall make rules in accordance with [~~Title 63,~~
89255 ~~Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to fulfil its duties
89256 under this section.
89257 Section 2187. Section **76-10-1234** is amended to read:
89258 **76-10-1234. Rulemaking authority.**
89259 The Division of Consumer Protection shall make rules in accordance with [~~Title 63,~~
89260 ~~Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish
89261 acceptable rating methods to be implemented by a content provider under Subsection
89262 76-10-1233(1).
89263 Section 2188. Section **76-10-1311** is amended to read:
89264 **76-10-1311. Mandatory testing -- Retention of offender medical file -- Civil**
89265 **liability.**
89266 (1) A person who has entered a plea of guilty, a plea of no contest, a plea of guilty and
89267 mentally ill, or been found guilty for violation of Section 76-10-1302, 76-10-1303, or
89268 76-10-1313 shall be required to submit to a mandatory test to determine if the offender is an
89269 HIV positive individual. The mandatory test shall be required and conducted prior to
89270 sentencing.
89271 (2) If the mandatory test has not been conducted prior to sentencing, and the convicted
89272 offender is already confined in a county jail or state prison, such person shall be tested while in
89273 confinement.
89274 (3) The local law enforcement agency shall cause the blood specimen of the offender as
89275 defined in Subsection (1) confined in county jail to be taken and tested.
89276 (4) The Department of Corrections shall cause the blood specimen of the offender

89277 defined in Subsection (1) confined in any state prison to be taken and tested.
89278 (5) The local law enforcement agency shall collect and retain in the offender's medical
89279 file the following data:
89280 (a) the HIV infection test results;
89281 (b) a copy of the written notice as provided in Section 76-10-1312;
89282 (c) photographic identification; and
89283 (d) fingerprint identification.
89284 (6) The local law enforcement agency shall classify the medical file as a private record
89285 pursuant to Subsection [~~63-2-302~~] 63G-2-302(1)(b) or a controlled record pursuant to Section
89286 [~~63-2-303~~] 63G-2-304.
89287 (7) The person tested shall be responsible for the costs of testing, unless the person is
89288 indigent. The costs will then be paid by the local law enforcement agency or the Department of
89289 Corrections from the General Fund.
89290 (8) (a) The laboratory performing testing shall report test results to only designated
89291 officials in the Department of Corrections, the Department of Health, and the local law
89292 enforcement agency submitting the blood specimen.
89293 (b) Each department or agency shall designate those officials by written policy.
89294 (c) Designated officials may release information identifying an offender under Section
89295 76-10-1302, 76-10-1303, or 76-10-1313 who has tested HIV positive as provided under
89296 Subsection [~~63-2-202~~] 63G-2-202(1) and for purposes of prosecution pursuant to Section
89297 76-10-1309.
89298 (9) (a) An employee of the local law enforcement agency, the Department of
89299 Corrections, or the Department of Health who discloses the HIV test results under this section
89300 is not civilly liable except when disclosure constitutes fraud or willful misconduct as provided
89301 in Section [~~63-30d-202~~] 63G-7-202.
89302 (b) An employee of the local law enforcement agency, the Department of Corrections,
89303 or the Department of Health who discloses the HIV test results under this section is not civilly
89304 or criminally liable, except when disclosure constitutes a knowing violation of Section
89305 [~~63-2-801~~] 63G-2-801.
89306 (10) When the medical file is released as provided in Section [~~63-2-803~~] 63G-2-803,
89307 the local law enforcement agency, the Department of Corrections, or the Department of Health

89308 or its officers or employees are not liable for damages for release of the medical file.
89309 Section 2189. Section **76-10-1602** is amended to read:
89310 **76-10-1602. Definitions.**
89311 As used in this part:
89312 (1) "Enterprise" means any individual, sole proprietorship, partnership, corporation,
89313 business trust, association, or other legal entity, and any union or group of individuals
89314 associated in fact although not a legal entity, and includes illicit as well as licit entities.
89315 (2) "Pattern of unlawful activity" means engaging in conduct which constitutes the
89316 commission of at least three episodes of unlawful activity, which episodes are not isolated, but
89317 have the same or similar purposes, results, participants, victims, or methods of commission, or
89318 otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall
89319 demonstrate continuing unlawful conduct and be related either to each other or to the
89320 enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have
89321 occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful
89322 activity as defined by this part shall have occurred within five years of the commission of the
89323 next preceding act alleged as part of the pattern.
89324 (3) "Person" includes any individual or entity capable of holding a legal or beneficial
89325 interest in property, including state, county, and local governmental entities.
89326 (4) "Unlawful activity" means to directly engage in conduct or to solicit, request,
89327 command, encourage, or intentionally aid another person to engage in conduct which would
89328 constitute any offense described by the following crimes or categories of crimes, or to attempt
89329 or conspire to engage in an act which would constitute any of those offenses, regardless of
89330 whether the act is in fact charged or indicted by any authority or is classified as a misdemeanor
89331 or a felony:
89332 (a) any act prohibited by the criminal provisions of Title 13, Chapter 10, Unauthorized
89333 Recording Practices Act;
89334 (b) any act prohibited by the criminal provisions of Title 19, Environmental Quality
89335 Code, Sections 19-1-101 through 19-7-109;
89336 (c) taking, destroying, or possessing wildlife or parts of wildlife for the primary
89337 purpose of sale, trade, or other pecuniary gain, in violation of Title 23, Chapter 13, Wildlife
89338 Resources Code of Utah, or Section 23-20-4;

89339 (d) false claims for medical benefits, kickbacks, and any other act prohibited by False
89340 Claims Act, Sections 26-20-1 through 26-20-12;
89341 (e) any act prohibited by the criminal provisions of Title 32A, Chapter 12, Criminal
89342 Offenses;
89343 (f) any act prohibited by the criminal provisions of Title 57, Chapter 11, Utah Uniform
89344 Land Sales Practices Act;
89345 (g) any act prohibited by the criminal provisions of Title 58, Chapter 37, Utah
89346 Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act,
89347 Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58, Chapter 37d,
89348 Clandestine Drug Lab Act;
89349 (h) any act prohibited by the criminal provisions of Title 61, Chapter 1, Utah Uniform
89350 Securities Act;
89351 (i) any act prohibited by the criminal provisions of [~~Title 63, Chapter 56~~] Title 63G,
89352 Chapter 6, Utah Procurement Code;
89353 (j) assault or aggravated assault, Sections 76-5-102 and 76-5-103;
89354 (k) a terroristic threat, Section 76-5-107;
89355 (l) criminal homicide, Sections 76-5-201, 76-5-202, and 76-5-203;
89356 (m) kidnapping or aggravated kidnapping, Sections 76-5-301 and 76-5-302;
89357 (n) sexual exploitation of a minor, Section 76-5a-3;
89358 (o) arson or aggravated arson, Sections 76-6-102 and 76-6-103;
89359 (p) causing a catastrophe, Section 76-6-105;
89360 (q) burglary or aggravated burglary, Sections 76-6-202 and 76-6-203;
89361 (r) burglary of a vehicle, Section 76-6-204;
89362 (s) manufacture or possession of an instrument for burglary or theft, Section 76-6-205;
89363 (t) robbery or aggravated robbery, Sections 76-6-301 and 76-6-302;
89364 (u) theft, Section 76-6-404;
89365 (v) theft by deception, Section 76-6-405;
89366 (w) theft by extortion, Section 76-6-406;
89367 (x) receiving stolen property, Section 76-6-408;
89368 (y) theft of services, Section 76-6-409;
89369 (z) forgery, Section 76-6-501;

89370 (aa) fraudulent use of a credit card, Sections 76-6-506.1, 76-6-506.2, and 76-6-506.4;
89371 (bb) deceptive business practices, Section 76-6-507;
89372 (cc) bribery or receiving bribe by person in the business of selection, appraisal, or
89373 criticism of goods, Section 76-6-508;
89374 (dd) bribery of a labor official, Section 76-6-509;
89375 (ee) defrauding creditors, Section 76-6-511;
89376 (ff) acceptance of deposit by insolvent financial institution, Section 76-6-512;
89377 (gg) unlawful dealing with property by fiduciary, Section 76-6-513;
89378 (hh) bribery or threat to influence contest, Section 76-6-514;
89379 (ii) making a false credit report, Section 76-6-517;
89380 (jj) criminal simulation, Section 76-6-518;
89381 (kk) criminal usury, Section 76-6-520;
89382 (ll) fraudulent insurance act, Section 76-6-521;
89383 (mm) retail theft, Section 76-6-602;
89384 (nn) computer crimes, Section 76-6-703;
89385 (oo) identity fraud, Section 76-6-1102;
89386 (pp) sale of a child, Section 76-7-203;
89387 (qq) bribery to influence official or political actions, Section 76-8-103;
89388 (rr) threats to influence official or political action, Section 76-8-104;
89389 (ss) receiving bribe or bribery by public servant, Section 76-8-105;
89390 (tt) receiving bribe or bribery for endorsement of person as public servant, Section
89391 76-8-106;
89392 (uu) official misconduct, Sections 76-8-201 and 76-8-202;
89393 (vv) obstruction of justice, Section 76-8-306;
89394 (ww) acceptance of bribe or bribery to prevent criminal prosecution, Section 76-8-308;
89395 (xx) false or inconsistent material statements, Section 76-8-502;
89396 (yy) false or inconsistent statements, Section 76-8-503;
89397 (zz) written false statements, Section 76-8-504;
89398 (aaa) tampering with a witness or soliciting or receiving a bribe, Section 76-8-508;
89399 (bbb) retaliation against a witness, victim, or informant, Section 76-8-508.3;
89400 (ccc) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;

89401 (ddd) public assistance fraud in violation of Section 76-8-1203, 76-8-1204, or
89402 76-8-1205;
89403 (eee) unemployment insurance fraud, Section 76-8-1301;
89404 (fff) intentionally or knowingly causing one animal to fight with another, Subsection
89405 76-9-301(1)(f);
89406 (ggg) possession, use, or removal of explosives, chemical, or incendiary devices or
89407 parts, Section 76-10-306;
89408 (hhh) delivery to common carrier, mailing, or placement on premises of an incendiary
89409 device, Section 76-10-307;
89410 (iii) possession of a deadly weapon with intent to assault, Section 76-10-507;
89411 (jjj) unlawful marking of pistol or revolver, Section 76-10-521;
89412 (kkk) alteration of number or mark on pistol or revolver, Section 76-10-522;
89413 (lll) forging or counterfeiting trademarks, trade name, or trade device, Section
89414 76-10-1002;
89415 (mmm) selling goods under counterfeited trademark, trade name, or trade devices,
89416 Section 76-10-1003;
89417 (nnn) sales in containers bearing registered trademark of substituted articles, Section
89418 76-10-1004;
89419 (ooo) selling or dealing with article bearing registered trademark or service mark with
89420 intent to defraud, Section 76-10-1006;
89421 (ppp) gambling, Section 76-10-1102;
89422 (qqq) gambling fraud, Section 76-10-1103;
89423 (rrr) gambling promotion, Section 76-10-1104;
89424 (sss) possessing a gambling device or record, Section 76-10-1105;
89425 (ttt) confidence game, Section 76-10-1109;
89426 (uuu) distributing pornographic material, Section 76-10-1204;
89427 (vvv) inducing acceptance of pornographic material, Section 76-10-1205;
89428 (www) dealing in harmful material to a minor, Section 76-10-1206;
89429 (xxx) distribution of pornographic films, Section 76-10-1222;
89430 (yyy) indecent public displays, Section 76-10-1228;
89431 (zzz) prostitution, Section 76-10-1302;

89432 (aaaa) aiding prostitution, Section 76-10-1304;
89433 (bbbb) exploiting prostitution, Section 76-10-1305;
89434 (cccc) aggravated exploitation of prostitution, Section 76-10-1306;
89435 (dddd) communications fraud, Section 76-10-1801;
89436 (eeee) any act prohibited by the criminal provisions of Title 76, Chapter 10, Part 19,
89437 Money Laundering and Currency Transaction Reporting Act;
89438 (ffff) any act prohibited by the criminal provisions of the laws governing taxation in
89439 this state; and
89440 (gggg) any act illegal under the laws of the United States and enumerated in Title 18,
89441 Section 1961 (1)(B), (C), and (D) of the United States Code.
89442 Section 2190. Section **77-2-4.2** is amended to read:
89443 **77-2-4.2. Compromise of traffic charges -- Limitations.**
89444 (1) As used in this section:
89445 (a) "Compromise" means referral of a person charged with a traffic violation to traffic
89446 school or other school, class, or remedial or rehabilitative program.
89447 (b) "Traffic violation" means any charge for which bail may be forfeited in lieu of
89448 appearance, by citation or information, of a violation of:
89449 (i) Title 41, Chapter 6a, Traffic Code, amounting to:
89450 (A) a class B misdemeanor;
89451 (B) a class C misdemeanor; or
89452 (C) an infraction; or
89453 (ii) any local traffic ordinance.
89454 (2) Any compromise of a traffic violation shall be done pursuant to a plea in abeyance
89455 agreement as provided in Title 77, Chapter 2a, Pleas in Abeyance, except:
89456 (a) when the criminal prosecution is dismissed pursuant to Section 77-2-4; or
89457 (b) when there is a plea by the defendant to and entry of a judgment by a court for the
89458 offense originally charged or for an amended charge.
89459 (3) In all cases which are compromised pursuant to the provisions of Subsection (2):
89460 (a) the court, taking into consideration the offense charged, shall collect a plea in
89461 abeyance fee which shall:
89462 (i) be subject to the same surcharge as if imposed on a criminal fine;

89463 (ii) be allocated subject to the surcharge as if paid as a criminal fine under Section
89464 78-3-14.5 and a surcharge under [~~Title 63, Chapter 63a~~] Title 51, Chapter 9, Part 4, Crime
89465 Victim Reparation Trust, Public Safety Support Funds, Substance Abuse Prevention Account,
89466 and Services for Victims of Domestic Violence Account; and
89467 (iii) be not more than $25 greater than the bail designated in the Uniform Bail
89468 Schedule; or
89469 (b) if no plea in abeyance fee is collected, a surcharge on the fee charged for the traffic
89470 school or other school, class, or rehabilitative program shall be collected, which surcharge
89471 shall:
89472 (i) be computed, assessed, collected, and remitted in the same manner as if the traffic
89473 school fee and surcharge had been imposed as a criminal fine and surcharge; and
89474 (ii) be subject to the financial requirements contained in [~~Title 63, Chapter 63a~~] Title
89475 51, Chapter 9, Part 4, Crime Victim Reparation Trust, Public Safety Support Funds, Substance
89476 Abuse Prevention Account, and Services for Victims of Domestic Violence Account.
89477 (4) If a written plea in abeyance agreement is provided, or the defendant requests a
89478 written accounting, an itemized statement of all amounts assessed by the court shall be
89479 provided, including:
89480 (a) the Uniform Bail Schedule amount;
89481 (b) the amount of any surcharges being assessed; and
89482 (c) the amount of the plea in abeyance fee.
89483 Section 2191. Section **77-2a-3** is amended to read:
89484 **77-2a-3. Manner of entry of plea -- Powers of court.**
89485 (1) (a) Acceptance of any plea in anticipation of a plea in abeyance agreement shall be
89486 done in full compliance with the provisions of Rule 11, Utah Rules of Criminal Procedure.
89487 (b) In cases charging offenses for which bail may be forfeited, a plea in abeyance
89488 agreement may be entered into without a personal appearance before a magistrate.
89489 (2) A plea in abeyance agreement may provide that the court may, upon finding that the
89490 defendant has successfully completed the terms of the agreement:
89491 (a) reduce the degree of the offense and enter judgment of conviction and impose
89492 sentence for a lower degree of offense; or
89493 (b) allow withdrawal of defendant's plea and order the dismissal of the case.

89494 (3) Upon finding that a defendant has successfully completed the terms of a plea in
89495 abeyance agreement, the court may reduce the degree of the offense or dismiss the case only as
89496 provided in the plea in abeyance agreement or as agreed to by all parties. Upon sentencing a
89497 defendant for any lesser offense pursuant to a plea in abeyance agreement, the court may not
89498 invoke Section 76-3-402 to further reduce the degree of the offense.
89499 (4) The court may require the Department of Corrections to assist in the administration
89500 of the plea in abeyance agreement as if the defendant were on probation to the court under
89501 Section 77-18-1.
89502 (5) The terms of a plea in abeyance agreement may include:
89503 (a) an order that the defendant pay a nonrefundable plea in abeyance fee, with a
89504 surcharge based on the amount of the plea in abeyance fee, both of which shall be allocated in
89505 the same manner as if paid as a fine for a criminal conviction under Section 78-3-14.5 and a
89506 surcharge under [~~Title 63, Chapter 63a~~] Title 51, Chapter 9, Part 4, Crime Victim Reparation
89507 Trust, Public Safety Support Funds, Substance Abuse Prevention Account, and Services for
89508 Victims of Domestic Violence Account, and which may not exceed in amount the maximum
89509 fine and surcharge which could have been imposed upon conviction and sentencing for the
89510 same offense;
89511 (b) an order that the defendant pay restitution to the victims of [~~his~~] the defendant's
89512 actions as provided in Title 77, Chapter 38a, Crime Victims Restitution Act;
89513 (c) an order that the defendant pay the costs of any remedial or rehabilitative program
89514 required by the terms of the agreement; and
89515 (d) an order that the defendant comply with any other conditions which could have
89516 been imposed as conditions of probation upon conviction and sentencing for the same offense.
89517 (6) A court may not hold a plea in abeyance without the consent of both the
89518 prosecuting attorney and the defendant. A decision by a prosecuting attorney not to agree to a
89519 plea in abeyance is final.
89520 (7) No plea may be held in abeyance in any case involving a sexual offense against a
89521 victim who is under the age of 14.
89522 (8) Beginning on July 1, 2008, no plea may be held in abeyance in any case involving a
89523 driving under the influence violation under Section 41-6a-502.
89524 Section 2192. Section **77-10a-5** is amended to read:

89525 **77-10a-5. Grand jurors -- Qualification and selection -- Limits on disclosure.**
89526 (1) Grand jurors shall meet the qualifications provided for jurors generally in Title 78,
89527 Chapter 46, Jury Selection and Service Act. Grand jurors shall be selected from the qualified
89528 jury list as provided in Section 78-46-12.
89529 (2) The names of grand jurors are classified as protected records under [~~Title 63,~~
89530 ~~Chapter 2~~] Title 63G, Chapter 2, Government Records and Access Management Act.
89531 Section 2193. Section **77-18-1** is amended to read:
89532 **77-18-1. Suspension of sentence -- Pleas held in abeyance -- Probation --**
89533 **Supervision -- Presentence investigation -- Standards -- Confidentiality -- Terms and**
89534 **conditions -- Termination, revocation, modification, or extension -- Hearings -- Electronic**
89535 **monitoring.**
89536 (1) On a plea of guilty or no contest entered by a defendant in conjunction with a plea
89537 in abeyance agreement, the court may hold the plea in abeyance as provided in Title 77,
89538 Chapter 2a, Pleas in Abeyance, and under the terms of the plea in abeyance agreement.
89539 (2) (a) On a plea of guilty, guilty and mentally ill, no contest, or conviction of any
89540 crime or offense, the court may, after imposing sentence, suspend the execution of the sentence
89541 and place the defendant on probation. The court may place the defendant:
89542 (i) on probation under the supervision of the Department of Corrections except in cases
89543 of class C misdemeanors or infractions;
89544 (ii) on probation with an agency of local government or with a private organization; or
89545 (iii) on bench probation under the jurisdiction of the sentencing court.
89546 (b) (i) The legal custody of all probationers under the supervision of the department is
89547 with the department.
89548 (ii) The legal custody of all probationers under the jurisdiction of the sentencing court
89549 is vested as ordered by the court.
89550 (iii) The court has continuing jurisdiction over all probationers.
89551 (3) (a) The department shall establish supervision and presentence investigation
89552 standards for all individuals referred to the department. These standards shall be based on:
89553 (i) the type of offense;
89554 (ii) the demand for services;
89555 (iii) the availability of agency resources;

89556 (iv) the public safety; and
89557 (v) other criteria established by the department to determine what level of services
89558 shall be provided.
89559 (b) Proposed supervision and investigation standards shall be submitted to the Judicial
89560 Council and the Board of Pardons and Parole on an annual basis for review and comment prior
89561 to adoption by the department.
89562 (c) The Judicial Council and the department shall establish procedures to implement
89563 the supervision and investigation standards.
89564 (d) The Judicial Council and the department shall annually consider modifications to
89565 the standards based upon criteria in Subsection (3)(a) and other criteria as they consider
89566 appropriate.
89567 (e) The Judicial Council and the department shall annually prepare an impact report
89568 and submit it to the appropriate legislative appropriations subcommittee.
89569 (4) Notwithstanding other provisions of law, the department is not required to
89570 supervise the probation of persons convicted of class B or C misdemeanors or infractions or to
89571 conduct presentence investigation reports on class C misdemeanors or infractions. However,
89572 the department may supervise the probation of class B misdemeanants in accordance with
89573 department standards.
89574 (5) (a) Prior to the imposition of any sentence, the court may, with the concurrence of
89575 the defendant, continue the date for the imposition of sentence for a reasonable period of time
89576 for the purpose of obtaining a presentence investigation report from the department or
89577 information from other sources about the defendant.
89578 (b) The presentence investigation report shall include a victim impact statement
89579 according to guidelines set in Section 77-38a-203 describing the effect of the crime on the
89580 victim and the victim's family.
89581 (c) The presentence investigation report shall include a specific statement of pecuniary
89582 damages, accompanied by a recommendation from the department regarding the payment of
89583 restitution with interest by the defendant in accordance with Title 77, Chapter 38a, Crime
89584 Victims Restitution Act.
89585 (d) The presentence investigation report shall include:
89586 (i) findings from any screening and any assessment of the offender conducted under

89587 Section 77-18-1.1; and
89588 (ii) recommendations for treatment of the offender.
89589 (e) The contents of the presentence investigation report, including any diagnostic
89590 evaluation report ordered by the court under Section 76-3-404, are protected and are not
89591 available except by court order for purposes of sentencing as provided by rule of the Judicial
89592 Council or for use by the department.
89593 (6) (a) The department shall provide the presentence investigation report to the
89594 defendant's attorney, or the defendant if not represented by counsel, the prosecutor, and the
89595 court for review, three working days prior to sentencing. Any alleged inaccuracies in the
89596 presentence investigation report, which have not been resolved by the parties and the
89597 department prior to sentencing, shall be brought to the attention of the sentencing judge, and
89598 the judge may grant an additional ten working days to resolve the alleged inaccuracies of the
89599 report with the department. If after ten working days the inaccuracies cannot be resolved, the
89600 court shall make a determination of relevance and accuracy on the record.
89601 (b) If a party fails to challenge the accuracy of the presentence investigation report at
89602 the time of sentencing, that matter shall be considered to be waived.
89603 (7) At the time of sentence, the court shall receive any testimony, evidence, or
89604 information the defendant or the prosecuting attorney desires to present concerning the
89605 appropriate sentence. This testimony, evidence, or information shall be presented in open court
89606 on record and in the presence of the defendant.
89607 (8) While on probation, and as a condition of probation, the court may require that the
89608 defendant:
89609 (a) perform any or all of the following:
89610 (i) pay, in one or several sums, any fine imposed at the time of being placed on
89611 probation;
89612 (ii) pay amounts required under Title 77, Chapter 32a, Defense Costs;
89613 (iii) provide for the support of others for whose support [~~he~~] the defendant is legally
89614 liable;
89615 (iv) participate in available treatment programs, including any treatment program in
89616 which the defendant is currently participating, if the program is acceptable to the court;
89617 (v) serve a period of time, not to exceed one year, in a county jail designated by the

89618 department, after considering any recommendation by the court as to which jail the court finds
89619 most appropriate;
89620 (vi) serve a term of home confinement, which may include the use of electronic
89621 monitoring;
89622 (vii) participate in compensatory service restitution programs, including the
89623 compensatory service program provided in Section 78-11-20.7;
89624 (viii) pay for the costs of investigation, probation, and treatment services;
89625 (ix) make restitution or reparation to the victim or victims with interest in accordance
89626 with Title 77, Chapter 38a, Crime Victims Restitution Act; and
89627 (x) comply with other terms and conditions the court considers appropriate; and
89628 (b) if convicted on or after May 5, 1997:
89629 (i) complete high school classwork and obtain a high school graduation diploma, a
89630 GED certificate, or a vocational certificate at the defendant's own expense if the defendant has
89631 not received the diploma, GED certificate, or vocational certificate prior to being placed on
89632 probation; or
89633 (ii) provide documentation of the inability to obtain one of the items listed in
89634 Subsection (8)(b)(i) because of:
89635 (A) a diagnosed learning disability; or
89636 (B) other justified cause.
89637 (9) The department shall collect and disburse the account receivable as defined by
89638 Section 76-3-201.1, with interest and any other costs assessed under Section 64-13-21 during:
89639 (a) the parole period and any extension of that period in accordance with Subsection
89640 77-27-6(4); and
89641 (b) the probation period in cases for which the court orders supervised probation and
89642 any extension of that period by the department in accordance with Subsection (10).
89643 (10) (a) (i) Probation may be terminated at any time at the discretion of the court or
89644 upon completion without violation of 36 months probation in felony or class A misdemeanor
89645 cases, or 12 months in cases of class B or C misdemeanors or infractions.
89646 (ii) (A) If, upon expiration or termination of the probation period under Subsection
89647 (10)(a)(i), there remains an unpaid balance upon the account receivable as defined in Section
89648 76-3-201.1, the court may retain jurisdiction of the case and continue the defendant on bench

89649 probation for the limited purpose of enforcing the payment of the account receivable.
89650 (B) In accordance with Section 77-18-6, the court shall record in the registry of civil
89651 judgments any unpaid balance not already recorded and immediately transfer responsibility to
89652 collect the account to the Office of State Debt Collection.
89653 (iii) Upon motion of the Office of State Debt Collection, prosecutor, victim, or upon its
89654 own motion, the court may require the defendant to show cause why [~~his~~] the defendant's
89655 failure to pay should not be treated as contempt of court.
89656 (b) (i) The department shall notify the sentencing court, the Office of State Debt
89657 Collection, and the prosecuting attorney in writing in advance in all cases when termination of
89658 supervised probation will occur by law.
89659 (ii) The notification shall include a probation progress report and complete report of
89660 details on outstanding accounts receivable.
89661 (11) (a) (i) Any time served by a probationer outside of confinement after having been
89662 charged with a probation violation and prior to a hearing to revoke probation does not
89663 constitute service of time toward the total probation term unless the probationer is exonerated
89664 at a hearing to revoke the probation.
89665 (ii) Any time served in confinement awaiting a hearing or decision concerning
89666 revocation of probation does not constitute service of time toward the total probation term
89667 unless the probationer is exonerated at the hearing.
89668 (b) The running of the probation period is tolled upon the filing of a violation report
89669 with the court alleging a violation of the terms and conditions of probation or upon the issuance
89670 of an order to show cause or warrant by the court.
89671 (12) (a) (i) Probation may not be modified or extended except upon waiver of a hearing
89672 by the probationer or upon a hearing and a finding in court that the probationer has violated the
89673 conditions of probation.
89674 (ii) Probation may not be revoked except upon a hearing in court and a finding that the
89675 conditions of probation have been violated.
89676 (b) (i) Upon the filing of an affidavit alleging with particularity facts asserted to
89677 constitute violation of the conditions of probation, the court that authorized probation shall
89678 determine if the affidavit establishes probable cause to believe that revocation, modification, or
89679 extension of probation is justified.

89680 (ii) If the court determines there is probable cause, it shall cause to be served on the
89681 defendant a warrant for [~~his~~] the defendant's arrest or a copy of the affidavit and an order to
89682 show cause why [~~his~~] the defendant's probation should not be revoked, modified, or extended.
89683 (c) (i) The order to show cause shall specify a time and place for the hearing and shall
89684 be served upon the defendant at least five days prior to the hearing.
89685 (ii) The defendant shall show good cause for a continuance.
89686 (iii) The order to show cause shall inform the defendant of a right to be represented by
89687 counsel at the hearing and to have counsel appointed for him if [~~he~~] the defendant is indigent.
89688 (iv) The order shall also inform the defendant of a right to present evidence.
89689 (d) (i) At the hearing, the defendant shall admit or deny the allegations of the affidavit.
89690 (ii) If the defendant denies the allegations of the affidavit, the prosecuting attorney
89691 shall present evidence on the allegations.
89692 (iii) The persons who have given adverse information on which the allegations are
89693 based shall be presented as witnesses subject to questioning by the defendant unless the court
89694 for good cause otherwise orders.
89695 (iv) The defendant may call witnesses, appear and speak in [~~his~~] the defendant's own
89696 behalf, and present evidence.
89697 (e) (i) After the hearing the court shall make findings of fact.
89698 (ii) Upon a finding that the defendant violated the conditions of probation, the court
89699 may order the probation revoked, modified, continued, or that the entire probation term
89700 commence anew.
89701 (iii) If probation is revoked, the defendant shall be sentenced or the sentence previously
89702 imposed shall be executed.
89703 (13) The court may order the defendant to commit himself to the custody of the
89704 Division of Substance Abuse and Mental Health for treatment at the Utah State Hospital as a
89705 condition of probation or stay of sentence, only after the superintendent of the Utah State
89706 Hospital or [~~his~~] the superintendent's designee has certified to the court that:
89707 (a) the defendant is appropriate for and can benefit from treatment at the state hospital;
89708 (b) treatment space at the hospital is available for the defendant; and
89709 (c) persons described in Subsection 62A-15-610(2)(g) are receiving priority for
89710 treatment over the defendants described in this Subsection (13).

89711 (14) Presentence investigation reports, including presentence diagnostic evaluations,
89712 are classified protected in accordance with [~~Title 63, Chapter 2~~] Title 63G, Chapter 2,
89713 Government Records Access and Management Act. Notwithstanding Sections [~~63-2-403~~]
89714 63G-2-403 and [~~63-2-404~~] 63G-2-404, the State Records Committee may not order the
89715 disclosure of a presentence investigation report. Except for disclosure at the time of sentencing
89716 pursuant to this section, the department may disclose the presentence investigation only when:
89717 (a) ordered by the court pursuant to Subsection [~~63-2-202~~] 63G-2-202(7);
89718 (b) requested by a law enforcement agency or other agency approved by the department
89719 for purposes of supervision, confinement, and treatment of the offender;
89720 (c) requested by the Board of Pardons and Parole;
89721 (d) requested by the subject of the presentence investigation report or the subject's
89722 authorized representative; or
89723 (e) requested by the victim of the crime discussed in the presentence investigation
89724 report or the victim's authorized representative, provided that the disclosure to the victim shall
89725 include only information relating to statements or materials provided by the victim, to the
89726 circumstances of the crime including statements by the defendant, or to the impact of the crime
89727 on the victim or the victim's household.
89728 (15) (a) The court shall consider home confinement as a condition of probation under
89729 the supervision of the department, except as provided in Sections 76-3-406 and 76-5-406.5.
89730 (b) The department shall establish procedures and standards for home confinement,
89731 including electronic monitoring, for all individuals referred to the department in accordance
89732 with Subsection (16).
89733 (16) (a) If the court places the defendant on probation under this section, it may order
89734 the defendant to participate in home confinement through the use of electronic monitoring as
89735 described in this section until further order of the court.
89736 (b) The electronic monitoring shall alert the department and the appropriate law
89737 enforcement unit of the defendant's whereabouts.
89738 (c) The electronic monitoring device shall be used under conditions which require:
89739 (i) the defendant to wear an electronic monitoring device at all times; and
89740 (ii) that a device be placed in the home of the defendant, so that the defendant's
89741 compliance with the court's order may be monitored.

89742 (d) If a court orders a defendant to participate in home confinement through electronic
89743 monitoring as a condition of probation under this section, it shall:
89744 (i) place the defendant on probation under the supervision of the Department of
89745 Corrections;
89746 (ii) order the department to place an electronic monitoring device on the defendant and
89747 install electronic monitoring equipment in the residence of the defendant; and
89748 (iii) order the defendant to pay the costs associated with home confinement to the
89749 department or the program provider.
89750 (e) The department shall pay the costs of home confinement through electronic
89751 monitoring only for those persons who have been determined to be indigent by the court.
89752 (f) The department may provide the electronic monitoring described in this section
89753 either directly or by contract with a private provider.
89754 Section 2194. Section **77-18-11** is amended to read:
89755 **77-18-11. Petition -- Expungement of conviction -- Certificate of eligibility -- Fee**
89756 **-- Notice -- Written evaluation -- Objections -- Hearing.**
89757 (1) A person convicted of a crime may petition the convicting court for an
89758 expungement of the record of conviction.
89759 (2) (a) The court shall require receipt of a certificate of eligibility issued by the division
89760 under Section 77-18-12.
89761 (b) The fee for each certificate of eligibility is $25. This fee remains in effect until
89762 changed by the division through the process under Section [~~63-38-3.2~~] 63J-1-303.
89763 (c) Funds generated under Subsection (2)(b) shall be deposited in the General Fund as
89764 a dedicated credit by the department to cover the costs incurred in providing the information.
89765 (3) The petition and certificate of eligibility shall be filed with the court and served
89766 upon the prosecuting attorney and the Department of Corrections.
89767 (4) A victim shall receive notice of a petition for expungement if, prior to the entry of
89768 an expungement order, the victim or, in the case of a minor or a person who is incapacitated or
89769 deceased, the victim's next of kin or authorized representative, submits a written and signed
89770 request for notice to the office of the Department of Corrections in the judicial district in which
89771 the crime occurred or judgment was entered.
89772 (5) The Department of Corrections shall serve notice of the expungement request by

89773 first-class mail to the victim at the most recent address of record on file with the department.
89774 The notice shall include a copy of the petition, certificate of eligibility, and statutes and rules
89775 applicable to the petition.
89776 (6) The court in its discretion may request a written evaluation by Adult Parole and
89777 Probation of the Department of Corrections.
89778 (a) The evaluation shall include a recommendation concerning the petition for
89779 expungement.
89780 (b) If expungement is recommended, the evaluation shall include certification that the
89781 petitioner has completed all requirements of sentencing and probation or parole and state any
89782 rationale that would support or refute consideration for expungement.
89783 (c) The conclusions and recommendations contained in the evaluation shall be
89784 provided to the petitioner and the prosecuting attorney.
89785 (7) If the prosecuting attorney or a victim submits a written objection to the court
89786 concerning the petition within 30 days after service of the notice, or if the petitioner objects to
89787 the conclusions and recommendations in the evaluation within 15 days after receipt of the
89788 conclusions and recommendations, the court shall set a date for a hearing and notify the
89789 prosecuting attorney for the jurisdiction, the petitioner, and the victim of the date set for the
89790 hearing.
89791 (8) Any person who has relevant information about the petitioner may testify at the
89792 hearing.
89793 (9) The prosecuting attorney may respond to the court with a recommendation or
89794 objection within 30 days.
89795 (10) If an objection is not received under Subsection (7), the expungement may be
89796 granted without a hearing.
89797 (11) A court may not expunge a conviction of:
89798 (a) a capital felony;
89799 (b) a first degree felony;
89800 (c) a second degree forcible felony;
89801 (d) any sexual act against a minor; or
89802 (e) an offense for which a certificate of eligibility may not be issued under Section
89803 77-18-12.

89804 Section 2195. Section **77-18-15** is amended to read:
89805 **77-18-15. Retention of expunged records -- Agencies.**
89806 (1) The division shall keep, index, and maintain all expunged records of arrests and
89807 convictions.
89808 (2) Employees of the division may not divulge any information contained in its index
89809 to any person or agency without a court order, except to the following:
89810 (a) the Board of Pardons and Parole;
89811 (b) the Peace Officer Standards and Training;
89812 (c) federal authorities, unless prohibited by federal law;
89813 (d) the Division of Occupational and Professional Licensing; and
89814 (e) the State Office of Education.
89815 (3) The division may also use the information in its index for the purpose of
89816 establishing good character for issuance of a concealed firearm permit as provided in Section
89817 53-5-704.
89818 (4) A person whose records are released under Subsection (2) shall be given a
89819 reasonable opportunity by the recipient agency to challenge and explain any information in the
89820 records and to challenge the relevancy of that information before a final determination is made
89821 by the agency.
89822 (5) A court may permit inspection or release of an expunged record only upon petition
89823 by the person who is the subject of the record and only to the persons named in the petition.
89824 (6) (a) For judicial sentencing, a court may order any records sealed under this section
89825 to be opened and admitted into evidence.
89826 (b) The records are confidential and are available for inspection only by the court,
89827 parties, counsel for the parties, and any other person who is authorized by the court to inspect
89828 them.
89829 (c) At the end of the action or proceeding, the court shall order the records sealed
89830 again.
89831 (7) Records released under this section are classified as protected under Section
89832 [~~63-2-304~~] 63G-2-305 and are accessible only as provided under [~~Title 63, Chapter 2~~] Title
89833 63G, Chapter 2, Part 2, Access to Records.
89834 Section 2196. Section **77-19-6** is amended to read:

89835 **77-19-6. Judgment of death -- Warrant -- Delivery of warrant -- Determination of**
89836 **execution time.**
89837 (1) (a) When judgment of death is rendered, a warrant, signed by the judge and attested
89838 by the clerk under the seal of the court, shall be drawn and delivered to the sheriff of the county
89839 where the conviction is had.
89840 (b) The sheriff shall deliver the warrant and a certified copy of the judgment to the
89841 executive director of the Department of Corrections or [~~his~~] the executive director's designee at
89842 the time of delivering the defendant to the custody of the Department of Corrections.
89843 (2) The warrant shall state the conviction, the judgment, the method of execution, and
89844 the appointed day the judgment is to be executed, which may not be fewer than 30 days nor
89845 more than 60 days from the date of issuance of the warrant, and may not be a Sunday, Monday,
89846 or a legal holiday, as defined in Section [~~63-13-2~~] 63G-1-301.
89847 (3) The Department of Corrections shall determine the hour, within the appointed day,
89848 at which the judgment is to be executed.
89849 Section 2197. Section **77-19-9** is amended to read:
89850 **77-19-9. Judgment of death not executed -- Order for execution.**
89851 (1) If for any reason a judgment of death has not been executed and remains in force,
89852 the court where the conviction was had, on application of the prosecuting attorney, shall order
89853 the defendant to be brought before it or, if [~~he~~] the defendant is at large, issue a warrant for
89854 [~~his~~] the defendant's apprehension.
89855 (2) When the defendant is brought before the court, it shall inquire into the facts and, if
89856 no legal reason exists against the execution of judgment, the court shall make an order
89857 requiring the executive director of the Department of Corrections or [~~his~~] the executive
89858 director's designee to ensure that the judgment is executed on a specified day, which may not
89859 be fewer than 30 nor more than 60 days after the court's order, and may not be a Sunday,
89860 Monday, or a legal holiday, as defined in Section [~~63-13-2~~] 63G-1-301. The court shall also
89861 draw and have delivered another warrant under Section 77-19-6.
89862 (3) The Department of Corrections shall determine the hour, within the appointed day,
89863 at which the judgment is to be executed.
89864 Section 2198. Section **77-19-202** is amended to read:
89865 **77-19-202. Incompetency or pregnancy of person sentenced to death --**

89866 **Procedures.**
89867 (1) If, after judgment of death, the executive director of the Department of Corrections
89868 has good reason to believe that an inmate sentenced to death is pregnant, or has good reason to
89869 believe that an inmate's competency to be executed under this chapter should be addressed by a
89870 court, the executive director of the Department of Corrections or [~~his~~] the executive director's
89871 designee shall immediately give written notice to the court in which the judgment of death was
89872 rendered, to the prosecuting attorney, and counsel for the inmate. The judgment shall be stayed
89873 pending further order of the court.
89874 (2) (a) On receipt of the notice under Subsection (1) of good reason for the court to
89875 address an inmate's competency to be executed, the court shall order that the mental condition
89876 of the inmate shall be examined under the provisions of Section 77-19-204.
89877 (b) If the inmate is found incompetent, the court shall immediately transmit a
89878 certificate of the findings to the Board of Pardons and Parole and continue the stay of execution
89879 pending further order of the court.
89880 (c) If the inmate is subsequently found competent at any time, the judge shall
89881 immediately transmit a certificate of the findings to the Board of Pardons and Parole, and shall
89882 draw and have delivered another warrant under Section 77-19-6, together with a copy of the
89883 certificate of the findings. The warrant shall state an appointed day on which the judgment is
89884 to be executed, which may not be fewer than 30 nor more than 60 days from the date of the
89885 drawing of the warrant, and which may not be a Sunday, Monday, or a legal holiday, as defined
89886 in Section [~~63-13-2~~] 63G-1-301.
89887 (3) (a) If the court finds the inmate is pregnant, it shall immediately transmit a
89888 certificate of the finding to the Board of Pardons and Parole and to the executive director of the
89889 Department of Corrections or [~~his~~] the executive director's designee, and the court shall issue
89890 an order staying the execution of the judgment of death during the pregnancy.
89891 (b) When the court determines the inmate is no longer pregnant, it shall immediately
89892 transmit a certificate of the finding to the Board of Pardons and Parole and draw and have
89893 delivered another warrant under Section 77-19-6, with a copy of the certificate of the finding.
89894 The warrant shall state an appointed day on which the judgment is to be executed, which may
89895 not be fewer than 30 nor more than 60 days from the date of the drawing of the warrant, and
89896 which may not be a Sunday, Monday, or a legal holiday, as defined in Section [~~63-13-2~~]

89897 63G-1-301.
89898 (4) The Department of Corrections shall determine the hour, within the appointed day,
89899 at which the judgment is to be executed.
89900 Section 2199. Section **77-22-2** is amended to read:
89901 **77-22-2. Investigations -- Right to subpoena witnesses and require production of**
89902 **evidence -- Contents of subpoena -- Rights of witnesses -- Interrogation before closed**
89903 **court -- Disclosure of information.**
89904 (1) As used in this section, "prosecutor" means the attorney general, county attorney, or
89905 district attorney.
89906 (2) (a) In any matter involving the investigation of a crime or malfeasance in office, or
89907 any criminal conspiracy or activity, the prosecutor may, upon application and approval of the
89908 district court and for good cause shown, conduct a criminal investigation.
89909 (b) The application and statement of good cause shall state whether or not any other
89910 investigative order related to the investigation at issue has been filed in another court.
89911 (3) (a) Subject to the conditions established in Subsection (3)(b), the prosecutor may:
89912 (i) subpoena witnesses;
89913 (ii) compel their attendance and testimony under oath to be recorded by a suitable
89914 electronic recording device or to be given before any certified court reporter; and
89915 (iii) require the production of books, papers, documents, recordings, and any other
89916 items that constitute evidence or may be relevant to the investigation.
89917 (b) The prosecutor shall:
89918 (i) apply to the district court for each subpoena; and
89919 (ii) show that the requested information is reasonably related to the criminal
89920 investigation authorized by the court.
89921 (4) (a) The prosecutor shall state in each subpoena:
89922 (i) the time and place of the examination;
89923 (ii) that the subpoena is issued in aid of a criminal investigation; and
89924 (iii) the right of the person subpoenaed to have counsel present.
89925 (b) The examination may be conducted anywhere within the jurisdiction of the
89926 prosecutor issuing the subpoena.
89927 (c) The subpoena need not disclose the names of possible defendants.

89928 (d) Witness fees and expenses shall be paid as in a civil action.
89929 (5) (a) At the beginning of each compelled interrogation, the prosecutor shall personally
89930 inform each witness:
89931 (i) of the general subject matter of the investigation;
89932 (ii) of the privilege to, at any time during the proceeding, refuse to answer any question
89933 or produce any evidence of a communicative nature that may result in self-incrimination;
89934 (iii) that any information provided may be used against the witness in a subsequent
89935 criminal proceeding; and
89936 (iv) of the right to have counsel present.
89937 (b) If the prosecutor has substantial evidence that the subpoenaed witness has
89938 committed a crime that is under investigation, the prosecutor shall:
89939 (i) inform the witness in person before interrogation of that witness's target status; and
89940 (ii) inform the witness of the nature of the charges under consideration against the
89941 witness.
89942 (6) (a) (i) The prosecutor may make written application to any district court showing a
89943 reasonable likelihood that publicly releasing information about the identity of a witness or the
89944 substance of the evidence resulting from a subpoena or interrogation would pose a threat of
89945 harm to a person or otherwise impede the investigation.
89946 (ii) Upon a finding of reasonable likelihood, the court may order the:
89947 (A) interrogation of a witness be held in secret;
89948 (B) occurrence of the interrogation and other subpoenaing of evidence, the identity of
89949 the person subpoenaed, and the substance of the evidence obtained be kept secret; and
89950 (C) record of testimony and other subpoenaed evidence be kept secret unless the court
89951 for good cause otherwise orders.
89952 (b) After application, the court may by order exclude from any investigative hearing or
89953 proceeding any persons except:
89954 (i) the attorneys representing the state and members of their staffs;
89955 (ii) persons who, in the judgment of the attorneys representing the state, are reasonably
89956 necessary to assist in the investigative process;
89957 (iii) the court reporter or operator of the electronic recording device; and
89958 (iv) the attorney for the witness.

89959 (c) This chapter does not prevent attorneys representing the state or members of their
89960 staff from disclosing information obtained pursuant to this chapter for the purpose of furthering
89961 any official governmental investigation.
89962 (d) (i) If a secrecy order has been granted by the court regarding the interrogation or
89963 disclosure of evidence by a witness under this subsection, and if the court finds a further
89964 restriction on the witness is appropriate, the court may order the witness not to disclose the
89965 substance of the witness's testimony or evidence given by the witness to others.
89966 (ii) Any order to not disclose made under this subsection shall be served with the
89967 subpoena.
89968 (iii) In an appropriate circumstance the court may order that the witness not disclose
89969 the existence of the investigation to others.
89970 (iv) Any order under this Subsection (6)(d) must be based upon a finding by the court
89971 that one or more of the following risks exist:
89972 (A) disclosure by the witness would cause destruction of evidence;
89973 (B) disclosure by the witness would taint the evidence provided by other witnesses;
89974 (C) disclosure by the witness to a target of the investigation would result in flight or
89975 other conduct to avoid prosecution;
89976 (D) disclosure by the witness would damage a person's reputation; or
89977 (E) disclosure by the witness would cause a threat of harm to any person.
89978 (e) (i) If the court imposes an order under Subsection (6)(d) authorizing an instruction
89979 to a witness not to disclose the substance of testimony or evidence provided and the
89980 prosecuting agency proves by a preponderance of the evidence that a witness has violated that
89981 order, the court may hold the witness in contempt.
89982 (ii) An order of secrecy imposed on a witness under this Subsection (6)(e) may not
89983 infringe on the attorney-client relationship between the witness and [~~his~~] the witness's attorney
89984 or on any other legally recognized privileged relationship.
89985 (7) (a) (i) The prosecutor may submit to any district court a separate written request
89986 that the application, statement of good cause, and the court's order authorizing the investigation
89987 be kept secret.
89988 (ii) The request for secrecy is a public record under [~~Title 63, Chapter 2~~] Title 63G,
89989 Chapter 2, Government Records Access and Management Act, but need not contain any

89990 information that would compromise any of the interest listed in Subsection (7)(c).
89991 (b) With the court's permission, the prosecutor may submit to the court, in camera, any
89992 additional information to support the request for secrecy if necessary to avoid compromising
89993 the interests listed in Subsection (7)(c).
89994 (c) The court shall consider all information in the application and order authorizing the
89995 investigation and any information received in camera and shall order that all information be
89996 placed in the public file except information that, if disclosed, would pose:
89997 (i) a substantial risk of harm to a person's safety;
89998 (ii) a clearly unwarranted invasion of or harm to a person's reputation or privacy; or
89999 (iii) a serious impediment to the investigation.
90000 (d) Before granting an order keeping secret documents and other information received
90001 under this section, the court shall narrow the secrecy order as much as reasonably possible in
90002 order to preserve the openness of court records while protecting the interests listed in
90003 Subsection (7)(c).
90004 Section 2200. Section **77-27-7** is amended to read:
90005 **77-27-7. Parole or hearing dates -- Interview -- Hearings -- Report of alienists --**
90006 **Mental competency.**
90007 (1) The Board of Pardons and Parole shall determine within six months after the date
90008 of an offender's commitment to the custody of the Department of Corrections, for serving a
90009 sentence upon conviction of a felony or class A misdemeanor offense, a date upon which the
90010 offender shall be afforded a hearing to establish a date of release or a date for a rehearing, and
90011 shall promptly notify the offender of the date.
90012 (2) Before reaching a final decision to release any offender under this chapter, the chair
90013 shall cause the offender to appear before the board, its panel, or any appointed hearing officer,
90014 who shall personally interview the offender to consider [~~his~~] the offender's fitness for release
90015 and verify as far as possible information furnished from other sources. Any offender may
90016 waive a personal appearance before the board. Any offender outside of the state shall, if
90017 ordered by the board, submit to a courtesy hearing to be held by the appropriate authority in the
90018 jurisdiction in which the offender is housed in lieu of an appearance before the board. The
90019 offender shall be promptly notified in writing of the board's decision.
90020 (3) (a) In the case of an offender convicted of violating or attempting to violate any of

90021 the provisions of Section 76-5-301.1, Subsection 76-5-302(1)(b)(vi), Section 76-5-402,
90022 76-5-402.1, 76-5-402.2, 76-5-402.3, 76-5-403, 76-5-403.1, 76-5-404, 76-5-404.1, or 76-5-405,
90023 the chair may appoint one or more alienists who shall examine the offender within six months
90024 prior to a hearing at which an original parole date is granted on any offense listed in this
90025 Subsection (3).
90026 (b) The alienists shall report in writing the results of the examination to the board prior
90027 to the hearing. The report of the appointed alienists shall specifically address the question of
90028 the offender's current mental condition and attitudes as they relate to any danger the offender
90029 may pose to children or others if the offender is released on parole.
90030 (4) The parolee may petition the board for termination of lifetime parole as provided in
90031 Section 76-3-202 in the case of a person convicted of a first degree felony violation or
90032 convicted of attempting to violate Section 76-5-301.1, Subsection 76-5-302(1)(b)(vi), Section
90033 76-5-402, 76-5-402.1, 76-5-402.2, 76-5-402.3, 76-5-403, 76-5-403.1, 76-5-404.1, or 76-5-405.
90034 (5) In any case where an offender's mental competency is questioned by the board, the
90035 chair may appoint one or more alienists to examine the offender and report in writing to the
90036 board, specifically addressing the issue of competency.
90037 (6) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
90038 Administrative Rulemaking Act, the board shall make rules governing:
90039 (a) the hearing process;
90040 (b) alienist examination; and
90041 (c) parolee petitions for termination of parole.
90042 Section 2201. Section **77-27-9** is amended to read:
90043 **77-27-9. Parole proceedings.**
90044 (1) (a) The Board of Pardons and Parole may pardon or parole any offender or
90045 commute or terminate the sentence of any offender committed to a penal or correctional facility
90046 under the jurisdiction of the Department of Corrections for a felony or class A misdemeanor
90047 except as provided in Subsection (2).
90048 (b) The board may not release any offender before the minimum term has been served
90049 unless the board finds mitigating circumstances which justify the release and unless the board
90050 has granted a full hearing, in open session, after previous notice of the time and place of the
90051 hearing, and recorded the proceedings and decisions of the board.

90052 (c) The board may not pardon or parole any offender or commute or terminate the
90053 sentence of any offender unless the board has granted a full hearing, in open session, after
90054 previous notice of the time and place of the hearing, and recorded the proceedings and
90055 decisions of the board.
90056 (d) The release of an offender shall be at the initiative of the board, which shall
90057 consider each case as the offender becomes eligible. However, a prisoner may submit [~~his~~] the
90058 prisoner's own application, subject to the rules of the board promulgated in accordance with
90059 [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
90060 (2) (a) A person sentenced to prison prior to April 29, 1996, for a first degree felony
90061 involving child kidnapping, a violation of Section 76-5-301.1; aggravated kidnapping, a
90062 violation of Section 76-5-302; rape of a child, a violation of Section 76-5-402.1; object rape of
90063 a child, a violation of Section 76-5-402.3; sodomy upon a child, a violation of Section
90064 76-5-403.1; aggravated sexual abuse of a child, a violation of Subsection 76-5-404.1(4);
90065 aggravated sexual assault, a violation of Section 76-5-405; or a prior offense as described in
90066 Section 76-3-407, may not be eligible for release on parole by the Board of Pardons and Parole
90067 until the offender has fully completed serving the minimum mandatory sentence imposed by
90068 the court. This Subsection (2)(a) supersedes any other provision of law.
90069 (b) The board may not parole any offender or commute or terminate the sentence of
90070 any offender before the offender has served the minimum term for the offense, if the offender
90071 was sentenced prior to April 29, 1996, and if:
90072 (i) the offender was convicted of forcible sexual abuse, forcible sodomy, rape,
90073 aggravated assault, kidnapping, aggravated kidnapping, or aggravated sexual assault as defined
90074 in Title 76, Chapter 5, Offenses Against the Person; and
90075 (ii) the victim of the offense was under 18 years of age at the time the offense was
90076 committed.
90077 (c) For a crime committed on or after April 29, 1996, the board may parole any
90078 offender under Subsections (2)(b)(i) and (ii) for lifetime parole as provided in this section.
90079 (d) The board may not pardon or parole any offender or commute or terminate the
90080 sentence of any offender who is sentenced to life in prison without parole except as provided in
90081 Subsection (6).
90082 (e) On or after April 27, 1992, the board may commute a sentence of death only to a

90083 sentence of life in prison without parole.
90084 (f) The restrictions imposed in Subsections(2)(d) and (e) apply to all cases that come
90085 before the Board of Pardons and Parole on or after April 27, 1992.
90086 (g) (i) As used in this Subsection (2)(g):
90087 (A) "Assessment" has the same meaning as in Section 41-6a-501.
90088 (B) "Screening" has the same meaning as in Section 41-6a-501.
90089 (C) "Substance abuse treatment" has the same meaning as in Section 77-18-1.1.
90090 (ii) Except as provided in Subsection (2)(g)(iii), the board may not parole any offender
90091 who has not:
90092 (A) participated in a screening within six months prior to the parole date; and
90093 (B) participated in an assessment within six months prior to the parole date, if an
90094 assessment is indicated to be appropriate by the screening.
90095 (iii) The board may parole an offender who has not met the requirements of Subsection
90096 (2)(g)(ii) upon the condition that the offender, within 45 days of being paroled:
90097 (A) participates in a screening; and
90098 (B) participates in an assessment if it is indicated to be appropriate by the screening.
90099 (iv) When the board grants an offender parole, it shall order as a condition of parole
90100 that the offender participate in substance abuse treatment if:
90101 (A) the assessment conducted under this Subsection (2)(g) indicates substance abuse
90102 treatment is appropriate; and
90103 (B) the board finds the offender to be an appropriate candidate for community-based
90104 supervision.
90105 (v) Moneys appropriated by the Legislature for the funding of the screening,
90106 assessment, and substance abuse treatment provided under this section are not subject to any
90107 requirement regarding matching funds from a state or local governmental entity.
90108 (3) (a) The board may issue subpoenas to compel the attendance of witnesses and the
90109 production of evidence, to administer oaths, and to take testimony for the purpose of any
90110 investigation by the board or any of its members or by a designated hearing examiner in the
90111 performance of its duties.
90112 (b) A person who willfully disobeys a properly served subpoena issued by the board is
90113 guilty of a class B misdemeanor.

90114 (4) (a) The board may adopt rules consistent with law for its government, meetings and
90115 hearings, the conduct of proceedings before it, the parole and pardon of offenders, the
90116 commutation and termination of sentences, and the general conditions under which parole may
90117 be granted and revoked.
90118 (b) The rules shall ensure an adequate opportunity for victims to participate at hearings
90119 held under this chapter, as provided in Section 77-27-9.5.
90120 (c) The rules may allow the board to establish reasonable and equitable time limits on
90121 the presentations by all participants in hearings held under this chapter.
90122 (5) The board does not provide counseling or therapy for victims as a part of their
90123 participation in any hearing under this chapter.
90124 (6) The board may parole a person sentenced to life in prison without parole if the
90125 board finds by clear and convincing evidence that the person is permanently incapable of being
90126 a threat to the safety of society.
90127 Section 2202. Section **77-27-10** is amended to read:
90128 **77-27-10. Conditions of parole -- Rulemaking -- Intensive early release parole**
90129 **program.**
90130 (1) (a) When the Board of Pardons and Parole releases an offender on parole, it shall
90131 issue to the parolee a certificate setting forth the conditions of parole which [~~he~~] the offender
90132 shall accept and agree to as evidenced by [~~his~~] the offender's signature affixed to the
90133 agreement.
90134 (b) A copy of the agreement shall be delivered to the Department of Corrections and a
90135 copy shall be given to the parolee. The original shall remain with the board's file.
90136 (2) If an offender convicted of violating or attempting to violate Section 76-5-301.1,
90137 Subsection 76-5-302(1), Section 76-5-402, 76-5-402.1, 76-5-402.2, 76-5-402.3, 76-5-403,
90138 76-5-403.1, 76-5-404, 76-5-404.1, or 76-5-405, is released on parole, the board shall order
90139 outpatient mental health counseling and treatment as a condition of parole. The board shall
90140 develop standards and conditions of parole under this subsection in accordance with [~~Title 63,~~
90141 ~~Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act. This subsection
90142 does not apply to intensive early release parole.
90143 (3) (a) In addition to the conditions set out in Subsection (1), the board may place
90144 offenders in an intensive early release parole program. The board shall determine the

90145 conditions of parole which are reasonably necessary to protect the community as well as to
90146 protect the interests of the offender and to assist the offender to lead a law-abiding life.
90147 (b) The offender is eligible for this program only if [~~he~~] the offender:
90148 (i) has not been convicted of a sexual offense; or
90149 (ii) has not been sentenced pursuant to Section 76-3-406.
90150 (c) The department shall:
90151 (i) promulgate rules in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
90152 Utah Administrative Rulemaking Act, for operation of the program;
90153 (ii) adopt and implement internal management policies for operation of the program;
90154 (iii) determine whether or not to refer an offender into this program within 120 days
90155 from the date the offender is committed to prison by the sentencing court; and
90156 (iv) make the final recommendation to the board regarding the placement of an
90157 offender into the program.
90158 (d) The department shall not consider credit for time served in a county jail awaiting
90159 trial or sentencing when calculating the 120 day period.
90160 (e) The prosecuting attorney or sentencing court may refer an offender for
90161 consideration by the department for participation in the program.
90162 (f) The board shall determine whether or not to place an offender into this program
90163 within 30 days of receiving the department's recommendation.
90164 (4) This program shall be implemented by the department within the existing budget.
90165 (5) During the time the offender is on parole, the department shall collect from the
90166 offender the monthly supervision fee authorized by Section 64-13-21.
90167 Section 2203. Section **77-27-21.5** is amended to read:
90168 **77-27-21.5. Sex offender registration -- Information system -- Law enforcement**
90169 **and courts to report -- Registration -- Penalty -- Effect of expungement.**
90170 (1) As used in this section:
90171 (a) "Department" means the Department of Corrections.
90172 (b) "Division" means the Division of Juvenile Justice Services.
90173 (c) "Employed" or "carries on a vocation" includes employment that is full time or part
90174 time, whether financially compensated, volunteered, or for the purpose of government or
90175 educational benefit.

90176 (d) "Notification" means a person's acquisition of information from the department
90177 about a sex offender, including [~~his~~] the sex offender's place of habitation, physical description,
90178 and other information as provided in Subsections (12) and (13).
90179 (e) "Register" means to comply with the rules of the department made under this
90180 section.
90181 (f) "Sex offender" means any person:
90182 (i) convicted by this state of:
90183 (A) a felony or class A misdemeanor violation of Section 76-4-401, enticing a minor
90184 over the Internet;
90185 (B) Section 76-5-301.1, kidnapping of a child;
90186 (C) a felony violation of Section 76-5-401, unlawful sexual activity with a minor;
90187 (D) Section 76-5-401.1, sexual abuse of a minor;
90188 (E) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old;
90189 (F) Section 76-5-402, rape;
90190 (G) Section 76-5-402.1, rape of a child;
90191 (H) Section 76-5-402.2, object rape;
90192 (I) Section 76-5-402.3, object rape of a child;
90193 (J) a felony violation of Section 76-5-403, forcible sodomy;
90194 (K) Section 76-5-403.1, sodomy on a child;
90195 (L) Section 76-5-404, forcible sexual abuse;
90196 (M) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a child;
90197 (N) Section 76-5-405, aggravated sexual assault;
90198 (O) Section 76-5a-3, sexual exploitation of a minor;
90199 (P) Section 76-7-102, incest;
90200 (Q) Section 76-9-702.5, lewdness involving a child;
90201 (R) Section 76-10-1306, aggravated exploitation of prostitution; or
90202 (S) attempting, soliciting, or conspiring to commit any felony offense listed in
90203 Subsection (1)(f)(i);
90204 (ii) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to
90205 commit a crime in another state or by the United States government that is substantially
90206 equivalent to the offenses listed in Subsection (1)(f)(i) and who is:

90207 (A) a Utah resident; or
90208 (B) not a Utah resident, but who is in the state for ten days, regardless of whether or
90209 not the offender intends to permanently reside in this state;
90210 (iii) who is required to register as a sex offender in any other state or United States
90211 territory, is not a Utah resident, but who is in the state for ten days, regardless of whether or not
90212 the offender intends to permanently reside in this state;
90213 (iv) who is a nonresident regularly employed, working, or a student in this state and
90214 was convicted of one or more offenses listed in Subsection (1)(f)(i), or any substantially
90215 equivalent offense in another state or by the United States government, and as a result of the
90216 conviction, is required to register in the person's state of residence;
90217 (v) who is found not guilty by reason of insanity in this state, any other state, or by the
90218 United States government of one or more offenses listed in Subsection (1)(f)(i); or
90219 (vi) who is adjudicated delinquent based on one or more offenses listed in Subsection
90220 (1)(f)(i) and who has been committed to the division for secure confinement and remains in the
90221 division's custody 30 days prior to the person's 21st birthday.
90222 (2) The department, to assist in investigating sex-related crimes and in apprehending
90223 offenders, shall:
90224 (a) develop and operate a system to collect, analyze, maintain, and disseminate
90225 information on sex offenders and sex offenses; and
90226 (b) make information collected and developed under this section available to the
90227 public.
90228 (3) Any law enforcement agency shall, in the manner prescribed by the department,
90229 inform the department of:
90230 (a) the receipt of a report or complaint of an offense listed in Subsection (1)(f), within
90231 three working days; and
90232 (b) the arrest of a person suspected of any of the offenses listed in Subsection (1)(f),
90233 within five working days.
90234 (4) Upon convicting a person of any of the offenses listed in Subsection (1)(f), the
90235 convicting court shall within three working days forward a copy of the judgment and sentence
90236 to the department.
90237 (5) A sex offender in the custody of the department shall be registered by agents of the

90238 department upon:
90239 (a) being placed on probation;
90240 (b) commitment to a secure correctional facility operated by or under contract to the
90241 department;
90242 (c) release from confinement to parole status, termination or expiration of sentence, or
90243 escape;
90244 (d) entrance to and release from any community-based residential program operated by
90245 or under contract to the department; or
90246 (e) termination of probation or parole.
90247 (6) A sex offender not in the custody of the department and who is confined in a
90248 correctional facility not operated by or under contract to the department shall be registered with
90249 the department by the sheriff of the county in which the offender is confined upon:
90250 (a) commitment to the correctional facility; and
90251 (b) release from confinement.
90252 (7) A sex offender in the custody of the division shall be registered with the department
90253 by the division prior to release from custody.
90254 (8) A sex offender committed to a state mental hospital shall be registered with the
90255 department by the hospital upon admission and upon discharge.
90256 (9) A sex offender convicted by any other state or by the United States government is
90257 required to register under Subsection (1)(f)(ii) and shall register with the department within ten
90258 days of entering the state, regardless of the length of stay.
90259 (10) (a) Except as provided in Subsections (10)(b), (c), and (d), a sex offender shall, for
90260 the duration of the sentence and for ten years after termination of sentence or custody of the
90261 division, register annually during the month of the offender's birth and again within five days of
90262 every change of [~~his~~] the sex offender's place of habitation, vehicle information, or educational
90263 information required to be submitted under Subsection (12).
90264 (b) Except as provided Subsections (10)(c) and (d), a sex offender who is convicted of
90265 an offense listed in Subsection (1)(f)(i) by another state shall register for the time period
90266 required by the state where the offender was convicted if the state's registration period for the
90267 offense that the offender was convicted of is in excess of the ten years from completion of the
90268 sentence registration period that is required under Subsection (10)(a).

90269 (c) (i) A sex offender convicted as an adult of any of the offenses listed in Subsection
90270 (10)(c)(ii) shall, for the offender's lifetime, register annually during the month of the offender's
90271 birth and again within five days of every change of the offender's place of habitation, vehicle
90272 information, or educational information required to be submitted under Subsection (12). This
90273 registration requirement is not subject to exemptions and may not be terminated or altered
90274 during the offender's lifetime.
90275 (ii) Offenses referred to in Subsection (10)(c)(i) are:
90276 (A) any offense listed in Subsection (1)(f) if, at the time of the conviction, the offender
90277 has previously been convicted of an offense listed in Subsection (1)(f) or has previously been
90278 required to register as a sex offender for an offense committed as a juvenile;
90279 (B) Section 76-4-401, enticing a minor over the Internet, if the offense is a class A or
90280 felony violation;
90281 (C) Section 76-5-301.1, child kidnapping;
90282 (D) Section 76-5-402, rape;
90283 (E) Section 76-5-402.1, rape of a child;
90284 (F) Section 76-5-402.2, object rape;
90285 (G) Section 76-5-402.3, object rape of a child;
90286 (H) Section 76-5-403, forcible sodomy;
90287 (I) Section 76-5-403.1, sodomy on a child;
90288 (J) Section 76-5-404.1, sexual abuse of a child;
90289 (K) Subsection 76-5-404.1(4), aggravated sexual abuse of a child;
90290 (L) Section 76-5-405, aggravated sexual assault;
90291 (M) Section 76-5a-3, sexual exploitation of a minor; or
90292 (N) Section 76-7-102, incest.
90293 (d) Notwithstanding Subsections (10)(a), (b), and (c), a sex offender who is confined in
90294 a secure facility or in a state mental hospital is not required to register annually.
90295 (e) A sex offender that is required to register annually under this Subsection (10) shall
90296 surrender the sex offender's license certificate or identification card as required under
90297 Subsection 53-3-216(3) or 53-3-807(4) and may apply for a license certificate or identification
90298 card as provided under Section 53-3-205 or 53-3-804.
90299 (11) An agency in the state that registers a sex offender on probation, a sex offender

90300 who has been released from confinement to parole status or termination, or a sex offender
90301 whose sentence has expired shall inform the offender of the duty to comply with:
90302 (a) the continuing registration requirements of this section during the period of
90303 registration required in Subsection (10), including:
90304 (i) notification to the state agencies in the states where the registrant presently resides
90305 and plans to reside when moving across state lines;
90306 (ii) verification of address at least every 60 days pursuant to a parole agreement for
90307 lifetime parolees; and
90308 (iii) notification to the out-of-state agency where the offender is living, whether or not
90309 the offender is a resident of that state; and
90310 (b) the driver license certificate or identification card surrender requirement under
90311 Subsection 53-3-216(3) or 53-3-807(4) and application provisions under Section 53-3-205 or
90312 53-3-804.
90313 (12) A sex offender shall provide the department with the following information:
90314 (a) all names or aliases the sex offender is or has been known by;
90315 (b) the sex offender's name and residential address;
90316 (c) a physical description, including the sex offender's age, height, weight, eye and hair
90317 color;
90318 (d) the type of vehicle or vehicles the sex offender drives;
90319 (e) a current photograph of the sex offender; and
90320 (f) each educational institution in Utah at which the sex offender is employed, carries
90321 on a vocation, or is a student, and any change of enrollment or employment status of the sex
90322 offender at any educational institution.
90323 (13) The department shall:
90324 (a) provide the following additional information when available:
90325 (i) the crimes the sex offender was convicted of or adjudicated delinquent for; and
90326 (ii) a description of the sex offender's primary and secondary targets; and
90327 (b) ensure that the registration information collected regarding a sex offender's
90328 enrollment or employment at an educational institution is:
90329 (i) (A) promptly made available to any law enforcement agency that has jurisdiction
90330 where the institution is located if the educational institution is an institution of higher

90331 education; or
90332 (B) promptly made available to the district superintendent of the school district where
90333 the offender is enrolled if the educational institution is an institution of primary education; and
90334 (ii) entered into the appropriate state records or data system.
90335 (14) (a) A sex offender who knowingly fails to register under this section is guilty of:
90336 (i) a third degree felony and shall be sentenced to serve a term of incarceration for not
90337 less than 90 days and also at least one year of probation if:
90338 (A) the sex offender is required to register for a felony conviction of an offense listed
90339 in Subsection (1)(f)(i); or
90340 (B) the sex offender is required to register for the offender's lifetime under Subsection
90341 (10)(c); or
90342 (ii) a class A misdemeanor and shall be sentenced to serve a term of incarceration for
90343 not fewer than 90 days and also at least one year of probation if the sex offender is required to
90344 register for a misdemeanor conviction of an offense listed in Subsection (1)(f)(i).
90345 (b) Neither the court nor the Board of Pardons and Parole may release a person who
90346 violates this section from serving the term required under Subsection (14)(a). This Subsection
90347 (14)(b) supersedes any other provision of the law contrary to this section.
90348 (15) Notwithstanding [~~Title 63, Chapter 2~~] Title 63G, Chapter 2, Government Records
90349 Access and Management Act, information in Subsections (12) and (13) collected and released
90350 under this section is public information.
90351 (16) (a) If a sex offender is to be temporarily sent outside a secure facility in which [~~he~~]
90352 the sex offender is confined on any assignment, including, without limitation, firefighting or
90353 disaster control, the official who has custody of the offender shall, within a reasonable time
90354 prior to removal from the secure facility, notify the local law enforcement agencies where the
90355 assignment is to be filled.
90356 (b) This Subsection (16) does not apply to any person temporarily released under guard
90357 from the institution in which [~~he~~] the person is confined.
90358 (17) Notwithstanding Sections 77-18-9 through 77-18-14 regarding expungement, a
90359 person convicted of any offense listed in Subsection (1)(f) is not relieved from the
90360 responsibility to register as required under this section.
90361 (18) Notwithstanding Section 42-1-1, a sex offender:

90362 (a) may not change [~~his~~] the sex offender's name:
90363 (i) while under the jurisdiction of the department; and
90364 (ii) until the registration requirements of this statute have expired; or
90365 (b) may not change [~~his~~] the sex offender's name at any time, if registration is under
90366 Subsection (10)(c).
90367 (19) The department may make rules necessary to implement this section, including:
90368 (a) the method for dissemination of the information; and
90369 (b) instructions to the public regarding the use of the information.
90370 (20) Any information regarding the identity or location of a victim shall be redacted by
90371 the department from information provided under Subsections (12) and (13).
90372 (21) Nothing in this section shall be construed to create or impose any duty on any
90373 person to request or obtain information regarding any sex offender from the department.
90374 (22) The department shall post registry information on the Internet, and the website
90375 shall contain a disclaimer informing the public of the following:
90376 (a) the information contained on the site is obtained from sex offenders and the
90377 department does not guarantee its accuracy;
90378 (b) members of the public are not allowed to use the information to harass or threaten
90379 sex offenders or members of their families; and
90380 (c) harassment, stalking, or threats against sex offenders or their families are prohibited
90381 and doing so may violate Utah criminal laws.
90382 (23) The website shall be indexed by both the surname of the offender and by postal
90383 codes.
90384 (24) The department shall construct the website so that users, before accessing registry
90385 information, must indicate that they have read the disclaimer, understand it, and agree to
90386 comply with its terms.
90387 (25) The department, its personnel, and any individual or entity acting at the request or
90388 upon the direction of the department are immune from civil liability for damages for good faith
90389 compliance with this section and will be presumed to have acted in good faith by reporting
90390 information.
90391 (26) The department shall redact information that, if disclosed, could reasonably
90392 identify a victim.

90393 (27) (a) Each sex offender required to register under Subsection (10), who is not
90394 currently under the jurisdiction of the Department of Corrections, shall pay to the department
90395 an annual fee of $75 each year the sex offender is subject to the registration requirements.
90396 (b) The department shall deposit fees under this Subsection (27) in the General Fund as
90397 a dedicated credit, to be used by the department for maintaining the sex offender registry under
90398 this section and monitoring sex offender registration compliance, including the costs of:
90399 (i) data entry;
90400 (ii) processing registration packets;
90401 (iii) updating registry information;
90402 (iv) ensuring sex offender compliance with registration requirements under this
90403 section; and
90404 (v) apprehending offenders who are in violation of the sex offender registration
90405 requirements under this section.
90406 Section 2204. Section **77-28c-104** is amended to read:
90407 **77-28c-104. Definitions -- Compact transfer application fee.**
90408 (1) As used in this section:
90409 (a) "Department" means the Department of Corrections.
90410 (b) "Offender" has the same meaning as provided in Section 77-28c-103, Article
90411 II(a)(9).
90412 (2) (a) Offenders desiring a transfer of supervision to another state under the Interstate
90413 Compact for Adult Offender Supervision shall apply to the department for transfer.
90414 (b) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
90415 Administrative Rulemaking Act, the department shall make rules governing the transfer of
90416 supervision of an offender.
90417 (3) The department shall collect a fee of $50 from each offender applying for transfer
90418 of supervision to another state under the Interstate Compact for Adult Offender Supervision.
90419 Section 2205. Section **77-37-3** is amended to read:
90420 **77-37-3. Bill of Rights.**
90421 (1) The bill of rights for victims and witnesses is:
90422 (a) Victims and witnesses have a right to be informed as to the level of protection from
90423 intimidation and harm available to them, and from what sources, as they participate in criminal

90424 justice proceedings as designated by Section 76-8-508, regarding witness tampering, and
90425 Section 76-8-509, regarding threats against a victim. Law enforcement, prosecution, and
90426 corrections personnel have the duty to timely provide this information in a form that is useful
90427 to the victim.
90428 (b) Victims and witnesses, including children and their guardians, have a right to be
90429 informed and assisted as to their role in the criminal justice process. All criminal justice
90430 agencies have the duty to provide this information and assistance.
90431 (c) Victims and witnesses have a right to clear explanations regarding relevant legal
90432 proceedings; these explanations shall be appropriate to the age of child victims and witnesses.
90433 All criminal justice agencies have the duty to provide these explanations.
90434 (d) Victims and witnesses should have a secure waiting area that does not require them
90435 to be in close proximity to defendants or the family and friends of defendants. Agencies
90436 controlling facilities shall, whenever possible, provide this area.
90437 (e) Victims are entitled to restitution or reparations, including medical costs, as
90438 provided in [~~Title 63, Chapter 25a~~] Title 63M, Chapter 7, Criminal Justice and Substance
90439 Abuse, and Sections 62A-7-109, 77-38a-302, and 77-27-6. State and local government
90440 agencies that serve victims have the duty to have a functional knowledge of the procedures
90441 established by the Utah Crime Victims' Reparations Board and to inform victims of these
90442 procedures.
90443 (f) Victims and witnesses have a right to have any personal property returned as
90444 provided in Sections 77-24-1 through 77-24-5. Criminal justice agencies shall expeditiously
90445 return the property when it is no longer needed for court law enforcement or prosecution
90446 purposes.
90447 (g) Victims and witnesses have the right to reasonable employer intercession services,
90448 including pursuing employer cooperation in minimizing employees' loss of pay and other
90449 benefits resulting from their participation in the criminal justice process. Officers of the court
90450 shall provide these services and shall consider victims' and witnesses' schedules so that
90451 activities which conflict can be avoided. Where conflicts cannot be avoided, the victim may
90452 request that the responsible agency intercede with employers or other parties.
90453 (h) Victims and witnesses, particularly children, should have a speedy disposition of
90454 the entire criminal justice process. All involved public agencies shall establish policies and

90455 procedures to encourage speedy disposition of criminal cases.
90456 (i) Victims and witnesses have the right to timely notice of judicial proceedings they
90457 are to attend and timely notice of cancellation of any proceedings. Criminal justice agencies
90458 have the duty to provide these notifications. Defense counsel and others have the duty to
90459 provide timely notice to prosecution of any continuances or other changes that may be required.
90460 (j) Victims of sexual offenses have a right to be informed of their right to request
90461 voluntary testing for themselves for HIV infection as provided in Section 76-5-503 and to
90462 request mandatory testing of the convicted sexual offender for HIV infection as provided in
90463 Section 76-5-502. The law enforcement office where the sexual offense is reported shall have
90464 the responsibility to inform victims of this right.
90465 (2) Informational rights of the victim under this chapter are based upon the victim
90466 providing [~~his~~] the victim's current address and telephone number to the criminal justice
90467 agencies involved in the case.
90468 Section 2206. Section **77-37-5** is amended to read:
90469 **77-37-5. Remedies -- Victims' Rights Committee.**
90470 (1) In each judicial district, the presiding district court judge shall appoint a person
90471 who shall establish and chair a victims' rights committee consisting of:
90472 (a) a county attorney or district attorney;
90473 (b) a sheriff;
90474 (c) a corrections field services administrator;
90475 (d) an appointed victim advocate;
90476 (e) a municipal attorney;
90477 (f) a municipal chief of police; and
90478 (g) other representatives as appropriate.
90479 (2) The committee shall meet at least semiannually to review progress and problems
90480 related to this chapter, Title 77, Chapter 38, Rights of Crime Victims Act, and Utah
90481 Constitution Article I, Section 28. Victims and other interested parties may submit matters of
90482 concern to the victims' rights committee. The committee may hold a hearing open to the public
90483 on any appropriate matter of concern and may publish its findings. These matters shall also be
90484 considered at the meetings of the victims' rights committee. The committee shall forward
90485 minutes of all meetings to the Commission on Criminal and Juvenile Justice and the Office of

90486 Crime Victim Reparations for review and other appropriate action.
90487 (3) If a victims' rights committee is unable to resolve a complaint, it may refer the
90488 complaint to the Utah Council on Victims of Crime, established in Section [~~63-25a-601~~]
90489 63M-7-601, for further consideration.
90490 (4) The Office of Crime Victim Reparations shall provide materials to local law
90491 enforcement to inform every victim of a sexual offense of the right to request testing of the
90492 convicted sexual offender and of the victim as provided in Section 76-5-502.
90493 (5) If a person acting under color of state law willfully or wantonly fails to perform
90494 duties so that the rights in this chapter are not provided, an action for injunctive relief may be
90495 brought against the individual and the government entity that employs the individual. The
90496 failure to provide the rights in this chapter or Title 77, Chapter 38, Rights of Crime Victims
90497 Act, does not constitute cause for a judgment against the state or any government entity, or any
90498 individual employed by the state or any government entity, for monetary damages, attorney's
90499 fees, or the costs of exercising any rights under this chapter.
90500 (6) The person accused of and subject to prosecution for the crime or the act which
90501 would be a crime if committed by a competent adult, has no standing to make a claim
90502 concerning any violation of the provisions of this chapter.
90503 Section 2207. Section **77-38-3** is amended to read:
90504 **77-38-3. Notification to victims -- Initial notice, election to receive subsequent**
90505 **notices -- Form of notice -- Protected victim information.**
90506 (1) Within seven days of the filing of felony criminal charges against a defendant, the
90507 prosecuting agency shall provide an initial notice to reasonably identifiable and locatable
90508 victims of the crime contained in the charges, except as otherwise provided in this chapter.
90509 (2) The initial notice to the victim of a crime shall provide information about electing
90510 to receive notice of subsequent important criminal justice hearings listed in Subsections
90511 77-38-2(5)(a) through (f) and rights under this chapter.
90512 (3) The prosecuting agency shall provide notice to a victim of a crime for the important
90513 criminal justice hearings, provided in Subsections 77-38-2(5)(a) through (f) which the victim
90514 has requested.
90515 (4) (a) The responsible prosecuting agency may provide initial and subsequent notices
90516 in any reasonable manner, including telephonically, electronically, orally, or by means of a

90517 letter or form prepared for this purpose.
90518 (b) In the event of an unforeseen important criminal justice hearing, listed in
90519 Subsections 77-38-2(5)(a) through (f) for which a victim has requested notice, a good faith
90520 attempt to contact the victim by telephone shall be considered sufficient notice, provided that
90521 the prosecuting agency subsequently notifies the victim of the result of the proceeding.
90522 (5) (a) The court shall take reasonable measures to ensure that its scheduling practices
90523 for the proceedings provided in Subsections 77-38-2(5)(a) through (f) permit an opportunity for
90524 victims of crimes to be notified.
90525 (b) The court shall also consider whether any notification system that it might use to
90526 provide notice of judicial proceedings to defendants could be used to provide notice of those
90527 same proceedings to victims of crimes.
90528 (6) A defendant or, if it is the moving party, Adult Probation and Parole, shall give
90529 notice to the responsible prosecuting agency of any motion for modification of any
90530 determination made at any of the important criminal justice hearings provided in Subsections
90531 77-38-2(5)(a) through (f) in advance of any requested court hearing or action so that the
90532 prosecuting agency may comply with its notification obligation.
90533 (7) (a) Notice to a victim of a crime shall be provided by the Board of Pardons and
90534 Parole for the important criminal justice hearing provided in Subsection 77-38-2(5)(g).
90535 (b) The board may provide notice in any reasonable manner, including telephonically,
90536 electronically, orally, or by means of a letter or form prepared for this purpose.
90537 (8) Prosecuting agencies and the Board of Pardons and Parole are required to give
90538 notice to a victim of a crime for the proceedings provided in Subsections 77-38-2(5)(a) through
90539 (f) only where the victim has responded to the initial notice, requested notice of subsequent
90540 proceedings, and provided a current address and telephone number if applicable.
90541 (9) (a) Law enforcement and criminal justice agencies shall refer any requests for
90542 notice or information about crime victim rights from victims to the responsible prosecuting
90543 agency.
90544 (b) In a case in which the Board of Pardons and Parole is involved, the responsible
90545 prosecuting agency shall forward any request for notice that it has received from a victim to the
90546 Board of Pardons and Parole.
90547 (10) In all cases where the number of victims exceeds ten, the responsible prosecuting

90548 agency may send any notices required under this chapter in its discretion to a representative
90549 sample of the victims.
90550 (11) (a) A victim's address, telephone number, and victim impact statement maintained
90551 by a peace officer, prosecuting agency, Youth Parole Authority, Division of Juvenile Justice
90552 Services, Department of Corrections, and Board of Pardons and Parole, for purposes of
90553 providing notice under this section, is classified as protected as provided in Subsection
90554 [~~63-2-304~~] 63G-2-305(10).
90555 (b) The victim's address, telephone number, and victim impact statement is available
90556 only to the following persons or entities in the performance of their duties:
90557 (i) a law enforcement agency, including the prosecuting agency;
90558 (ii) a victims' right committee as provided in Section 77-37-5;
90559 (iii) a governmentally sponsored victim or witness program;
90560 (iv) the Department of Corrections;
90561 (v) Office of Crime Victims' Reparations;
90562 (vi) Commission on Criminal and Juvenile Justice; and
90563 (vii) the Board of Pardons and Parole.
90564 (12) The notice provisions as provided in this section do not apply to misdemeanors as
90565 provided in Section 77-38-5 and to important juvenile justice hearings as provided in Section
90566 77-38-2.
90567 Section 2208. Section **77-38a-401** is amended to read:
90568 **77-38a-401. Entry of judgment -- Interest -- Civil actions -- Lien.**
90569 (1) Upon the court determining that a defendant owes restitution, the clerk of the court
90570 shall enter an order of complete restitution as defined in Section 77-38a-302 on the civil
90571 judgment docket and provide notice of the order to the parties.
90572 (2) The order shall be considered a legal judgment, enforceable under the Utah Rules
90573 of Civil Procedure. In addition, the department may, on behalf of the person in whose favor the
90574 restitution order is entered, enforce the restitution order as judgment creditor under the Utah
90575 Rules of Civil Procedure.
90576 (3) If the defendant fails to obey a court order for payment of restitution and the victim
90577 or department elects to pursue collection of the order by civil process, the victim shall be
90578 entitled to recover reasonable attorney's fees.

90579 (4) A judgment ordering restitution when recorded in a registry of judgments docket
90580 shall have the same affect and is subject to the same rules as a judgment in a civil action.
90581 Interest shall accrue on the amount ordered from the time of sentencing, including prejudgment
90582 interest.
90583 (5) The department shall make rules permitting the restitution payments to be credited
90584 to principal first and the remainder of payments credited to interest in accordance with [~~Title~~
90585 ~~63, Chapter 46a~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
90586 Section 2209. Section **78-2-2** is amended to read:
90587 **78-2-2. Supreme Court jurisdiction.**
90588 (1) The Supreme Court has original jurisdiction to answer questions of state law
90589 certified by a court of the United States.
90590 (2) The Supreme Court has original jurisdiction to issue all extraordinary writs and
90591 authority to issue all writs and process necessary to carry into effect its orders, judgments, and
90592 decrees or in aid of its jurisdiction.
90593 (3) The Supreme Court has appellate jurisdiction, including jurisdiction of
90594 interlocutory appeals, over:
90595 (a) a judgment of the Court of Appeals;
90596 (b) cases certified to the Supreme Court by the Court of Appeals prior to final
90597 judgment by the Court of Appeals;
90598 (c) discipline of lawyers;
90599 (d) final orders of the Judicial Conduct Commission;
90600 (e) final orders and decrees in formal adjudicative proceedings originating with:
90601 (i) the Public Service Commission;
90602 (ii) the State Tax Commission;
90603 (iii) the School and Institutional Trust Lands Board of Trustees;
90604 (iv) the Board of Oil, Gas, and Mining;
90605 (v) the state engineer; or
90606 (vi) the executive director of the Department of Natural Resources reviewing actions of
90607 the Division of Forestry, Fire and State Lands;
90608 (f) final orders and decrees of the district court review of informal adjudicative
90609 proceedings of agencies under Subsection (3)(e);

90610 (g) a final judgment or decree of any court of record holding a statute of the United
90611 States or this state unconstitutional on its face under the Constitution of the United States or the
90612 Utah Constitution;
90613 (h) interlocutory appeals from any court of record involving a charge of a first degree
90614 or capital felony;
90615 (i) appeals from the district court involving a conviction or charge of a first degree
90616 felony or capital felony;
90617 (j) orders, judgments, and decrees of any court of record over which the Court of
90618 Appeals does not have original appellate jurisdiction; and
90619 (k) appeals from the district court of orders, judgments, or decrees ruling on legislative
90620 subpoenas.
90621 (4) The Supreme Court may transfer to the Court of Appeals any of the matters over
90622 which the Supreme Court has original appellate jurisdiction, except:
90623 (a) capital felony convictions or an appeal of an interlocutory order of a court of record
90624 involving a charge of a capital felony;
90625 (b) election and voting contests;
90626 (c) reapportionment of election districts;
90627 (d) retention or removal of public officers;
90628 (e) matters involving legislative subpoenas; and
90629 (f) those matters described in Subsections (3)(a) through (d).
90630 (5) The Supreme Court has sole discretion in granting or denying a petition for writ of
90631 certiorari for the review of a Court of Appeals adjudication, but the Supreme Court shall
90632 review those cases certified to it by the Court of Appeals under Subsection (3)(b).
90633 (6) The Supreme Court shall comply with the requirements of [~~Title 63, Chapter 46b~~]
90634 Title 63G, Chapter 4, Administrative Procedures Act, in its review of agency adjudicative
90635 proceedings.
90636 Section 2210. Section **78-2a-3** is amended to read:
90637 **78-2a-3. Court of Appeals jurisdiction.**
90638 (1) The Court of Appeals has jurisdiction to issue all extraordinary writs and to issue
90639 all writs and process necessary:
90640 (a) to carry into effect its judgments, orders, and decrees; or

90641 (b) in aid of its jurisdiction.
90642 (2) The Court of Appeals has appellate jurisdiction, including jurisdiction of
90643 interlocutory appeals, over:
90644 (a) the final orders and decrees resulting from formal adjudicative proceedings of state
90645 agencies or appeals from the district court review of informal adjudicative proceedings of the
90646 agencies, except the Public Service Commission, State Tax Commission, School and
90647 Institutional Trust Lands Board of Trustees, Division of Forestry, Fire and State Lands actions
90648 reviewed by the executive director of the Department of Natural Resources, Board of Oil, Gas,
90649 and Mining, and the state engineer;
90650 (b) appeals from the district court review of:
90651 (i) adjudicative proceedings of agencies of political subdivisions of the state or other
90652 local agencies; and
90653 (ii) a challenge to agency action under Section [~~63-46a-12.1~~] 63G-3-602;
90654 (c) appeals from the juvenile courts;
90655 (d) interlocutory appeals from any court of record in criminal cases, except those
90656 involving a charge of a first degree or capital felony;
90657 (e) appeals from a court of record in criminal cases, except those involving a
90658 conviction or charge of a first degree felony or capital felony;
90659 (f) appeals from orders on petitions for extraordinary writs sought by persons who are
90660 incarcerated or serving any other criminal sentence, except petitions constituting a challenge to
90661 a conviction of or the sentence for a first degree or capital felony;
90662 (g) appeals from the orders on petitions for extraordinary writs challenging the
90663 decisions of the Board of Pardons and Parole except in cases involving a first degree or capital
90664 felony;
90665 (h) appeals from district court involving domestic relations cases, including, but not
90666 limited to, divorce, annulment, property division, child custody, support, parent-time,
90667 visitation, adoption, and paternity;
90668 (i) appeals from the Utah Military Court; and
90669 (j) cases transferred to the Court of Appeals from the Supreme Court.
90670 (3) The Court of Appeals upon its own motion only and by the vote of four judges of
90671 the court may certify to the Supreme Court for original appellate review and determination any

90672 matter over which the Court of Appeals has original appellate jurisdiction.
90673 (4) The Court of Appeals shall comply with the requirements of [~~Title 63, Chapter 46b~~]
90674 Title 63G, Chapter 4, Administrative Procedures Act, in its review of agency adjudicative
90675 proceedings.
90676 Section 2211. Section **78-2a-6** is amended to read:
90677 **78-2a-6. Appellate Mediation Office -- Protected records and information --**
90678 **Governmental immunity.**
90679 (1) Unless a more restrictive rule of court is adopted pursuant to Subsection [~~63-2-201~~]
90680 63G-2-201(3)(b), information and records relating to any matter on appeal received or
90681 generated by the Chief Appellate Mediator or other staff of the Appellate Mediation Office as a
90682 result of any party's participation or lack of participation in the settlement program shall be
90683 maintained as protected records pursuant to Subsections [~~63-2-304~~] 63G-2-305(16), (17), (18),
90684 and (33).
90685 (2) In addition to the access restrictions on protected records provided in Section
90686 [~~63-2-202~~] 63G-2-202, the information and records may not be disclosed to judges, staff, or
90687 employees of any court of this state.
90688 (3) The Chief Appellate Mediator may disclose statistical and other demographic
90689 information as may be necessary and useful to report on the status and to allow supervision and
90690 oversight of the Appellate Mediation Office.
90691 (4) When acting as mediators, the Chief Appellate Mediator and other professional
90692 staff of the Appellate Mediation Office shall be immune from liability pursuant to [~~Title 63,~~
90693 ~~Chapter 30d~~] Title 63G, Chapter 7, Governmental Immunity Act of Utah.
90694 (5) Pursuant to Utah Constitution, Article VIII, Section 4, the Supreme Court may
90695 exercise overall supervision of the Appellate Mediation Office as part of the appellate process.
90696 Section 2212. Section **78-3-4** is amended to read:
90697 **78-3-4. Jurisdiction -- Appeals.**
90698 (1) The district court has original jurisdiction in all matters civil and criminal, not
90699 excepted in the Utah Constitution and not prohibited by law.
90700 (2) The district court judges may issue all extraordinary writs and other writs necessary
90701 to carry into effect their orders, judgments, and decrees.
90702 (3) The district court has jurisdiction over matters of lawyer discipline consistent with

90703 the rules of the Supreme Court.
90704 (4) The district court has jurisdiction over all matters properly filed in the circuit court
90705 prior to July 1, 1996.
90706 (5) The district court has appellate jurisdiction to adjudicate trials de novo of the
90707 judgments of the justice court and of the small claims department of the district court.
90708 (6) Appeals from the final orders, judgments, and decrees of the district court are under
90709 Sections 78-2-2 and 78-2a-3.
90710 (7) The district court has jurisdiction to review:
90711 (a) agency adjudicative proceedings as set forth in [~~Title 63, Chapter 46b~~] Title 63G,
90712 Chapter 4, Administrative Procedures Act, and shall comply with the requirements of that
90713 chapter, in its review of agency adjudicative proceedings; and
90714 (b) municipal administrative proceedings in accordance with Section 10-3-703.7.
90715 (8) Notwithstanding Subsection (1), the district court has subject matter jurisdiction in
90716 class B misdemeanors, class C misdemeanors, infractions, and violations of ordinances only if:
90717 (a) there is no justice court with territorial jurisdiction;
90718 (b) the matter was properly filed in the circuit court prior to July 1, 1996;
90719 (c) the offense occurred within the boundaries of the municipality in which the district
90720 courthouse is located and that municipality has not formed a justice court; or
90721 (d) they are included in an indictment or information covering a single criminal
90722 episode alleging the commission of a felony or a class A misdemeanor.
90723 (9) The district court has jurisdiction of actions under Title 78, Chapter 3h, Child
90724 Protective Orders, if the juvenile court transfers the case to the district court.
90725 Section 2213. Section **78-3-24.1** is amended to read:
90726 **78-3-24.1. Grants to nonprofit legal assistance organization.**
90727 Subject to legislative appropriation, the state court administrator shall, in accordance
90728 with [~~Title 63, Chapter 56~~] Title 63G, Chapter 6, Utah Procurement Code, solicit requests for
90729 proposals and award grants to nonprofit legal assistance providers to provide legal assistance
90730 throughout the state to:
90731 (1) low to moderate income victims of domestic violence; and
90732 (2) low to moderate income individuals in family law matters.
90733 Section 2214. Section **78-3a-104** is amended to read:

90734 **78-3a-104. Jurisdiction of juvenile court -- Original -- Exclusive.**
90735 (1) Except as otherwise provided by law, the juvenile court has exclusive original
90736 jurisdiction in proceedings concerning:
90737 (a) a child who has violated any federal, state, or local law or municipal ordinance or a
90738 person younger than 21 years of age who has violated any law or ordinance before becoming
90739 18 years of age, regardless of where the violation occurred, excluding traffic laws and boating
90740 and ordinances;
90741 (b) a person 21 years of age or older who has failed or refused to comply with an order
90742 of the juvenile court to pay a fine or restitution, if the order was imposed prior to the person's
90743 21st birthday; however, the continuing jurisdiction is limited to causing compliance with
90744 existing orders;
90745 (c) a child who is an abused child, neglected child, or dependent child, as those terms
90746 are defined in Section 78-3a-103;
90747 (d) a protective order for a child pursuant to the provisions of Title 78, Chapter 3h,
90748 Child Protective Orders, which the juvenile court may transfer to the district court if the
90749 juvenile court has entered an ex parte protective order and finds that:
90750 (i) the petitioner and the respondent are the natural parent, adoptive parent, or step
90751 parent of the child who is the object of the petition;
90752 (ii) the district court has a petition pending or an order related to custody or parent-time
90753 entered under Title 30, Chapter 3, Divorce, Title 30, Chapter 6, Cohabitant Abuse Act, or Title
90754 78, Chapter 45g, Utah Uniform Parentage Act, in which the petitioner and the respondent are
90755 parties; and
90756 (iii) the best interests of the child will be better served in the district court;
90757 (e) appointment of a guardian of the person or other guardian of a minor who comes
90758 within the court's jurisdiction under other provisions of this section;
90759 (f) the emancipation of a minor in accordance with Part 10, Emancipation;
90760 (g) the termination of the legal parent-child relationship in accordance with Part 4,
90761 Termination of Parental Rights Act, including termination of residual parental rights and
90762 duties;
90763 (h) the treatment or commitment of a mentally retarded minor;
90764 (i) a minor who is a habitual truant from school;

90765 (j) the judicial consent to the marriage of a child under age 16 upon a determination of
90766 voluntariness or where otherwise required by law, employment, or enlistment of a child when
90767 consent is required by law;
90768 (k) any parent or parents of a child committed to a secure youth corrections facility, to
90769 order, at the discretion of the court and on the recommendation of a secure facility, the parent
90770 or parents of a child committed to a secure facility for a custodial term, to undergo group
90771 rehabilitation therapy under the direction of a secure facility therapist, who has supervision of
90772 that parent's or parents' child, or any other therapist the court may direct, for a period directed
90773 by the court as recommended by a secure facility;
90774 (l) a minor under Title 55, Chapter 12, Interstate Compact for Juveniles;
90775 (m) the treatment or commitment of a mentally ill child. The court may commit a child
90776 to the physical custody of a local mental health authority in accordance with the procedures and
90777 requirements of Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to
90778 Division of Substance Abuse and Mental Health. The court may not commit a child directly to
90779 the Utah State Hospital;
90780 (n) the commitment of a child in accordance with Section 62A-15-301;
90781 (o) de novo review of final agency actions resulting from an informal adjudicative
90782 proceeding as provided in Section [~~63-46b-15~~] 63G-4-402; and
90783 (p) adoptions conducted in accordance with the procedures described in Title 78,
90784 Chapter 30, Adoption, when the juvenile court has previously entered an order terminating the
90785 rights of a parent and finds that adoption is in the best interest of the child.
90786 (2) In addition to the provisions of Subsection (1)(a) the juvenile court has exclusive
90787 jurisdiction over any traffic or boating offense committed by a person under 16 years of age
90788 and concurrent jurisdiction over all other traffic or boating offenses committed by a person 16
90789 years of age or older, except that the court shall have exclusive jurisdiction over the following
90790 offenses committed by a child:
90791 (a) Section 76-5-207, automobile homicide;
90792 (b) Section 41-6a-502, operating a vehicle while under the influence of alcohol or
90793 drugs;
90794 (c) Section 41-6a-528, reckless driving or Section 73-18-12, reckless operation;
90795 (d) Section 41-1a-1314, unauthorized control over a motor vehicle, trailer, or

90796 semitrailer for an extended period of time; and
90797 (e) Section 41-6a-210 or 73-18-20, fleeing a peace officer.
90798 (3) The court also has jurisdiction over traffic and boating offenses that are part of a
90799 single criminal episode filed in a petition that contains an offense over which the court has
90800 jurisdiction.
90801 (4) The juvenile court has jurisdiction over an ungovernable or runaway child who is
90802 referred to it by the Division of Child and Family Services or by public or private agencies that
90803 contract with the division to provide services to that child where, despite earnest and persistent
90804 efforts by the division or agency, the child has demonstrated that the child:
90805 (a) is beyond the control of the child's parent, guardian, lawful custodian, or school
90806 authorities to the extent that the child's behavior or condition endangers the child's own welfare
90807 or the welfare of others; or
90808 (b) has run away from home.
90809 (5) This section does not restrict the right of access to the juvenile court by private
90810 agencies or other persons.
90811 (6) The juvenile court has jurisdiction of all magistrate functions relative to cases
90812 arising under Section 78-3a-602.
90813 (7) The juvenile court has jurisdiction to make a finding of substantiated,
90814 unsubstantiated, or without merit, in accordance with Section 78-3a-320.
90815 Section 2215. Section **78-3a-113** is amended to read:
90816 **78-3a-113. Minor taken into custody by peace officer, private citizen, or**
90817 **probation officer -- Grounds -- Notice requirements -- Release or detention -- Grounds**
90818 **for peace officer to take adult into custody.**
90819 (1) A minor may be taken into custody by a peace officer without order of the court if:
90820 (a) in the presence of the officer the minor has violated a state law, federal law, local
90821 law, or municipal ordinance;
90822 (b) there are reasonable grounds to believe the minor has committed an act which if
90823 committed by an adult would be a felony;
90824 (c) the minor:
90825 (i) (A) is seriously endangered in the minor's surroundings; or
90826 (B) seriously endangers others; and

90827 (ii) immediate removal appears to be necessary for the minor's protection or the
90828 protection of others;
90829 (d) there are reasonable grounds to believe the minor has run away or escaped from the
90830 minor's parents, guardian, or custodian; or
90831 (e) there is reason to believe that the minor is:
90832 (i) subject to the state's compulsory education law; and
90833 (ii) absent from school without legitimate or valid excuse, subject to Section
90834 53A-11-105.
90835 (2) (a) A private citizen or a probation officer may take a minor into custody if under
90836 the circumstances he could make a citizen's arrest if the minor was an adult.
90837 (b) A probation officer may also take a minor into custody under Subsection (1) or if
90838 the minor has violated the conditions of probation, if the minor is under the continuing
90839 jurisdiction of the juvenile court or in emergency situations in which a peace officer is not
90840 immediately available.
90841 (3) (a) (i) If an officer or other person takes a minor into temporary custody, he shall
90842 without unnecessary delay notify the parents, guardian, or custodian.
90843 (ii) The minor shall then be released to the care of the minor's parent or other
90844 responsible adult, unless the minor's immediate welfare or the protection of the community
90845 requires the minor's detention.
90846 (b) If the minor is taken into custody or detention for a violent felony, as defined in
90847 Section 76-3-203.5, or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the
90848 officer or other law enforcement agent taking the minor into custody shall, as soon as
90849 practicable or as established under Subsection 53A-11-1001(2), notify the school
90850 superintendent of the district in which the minor resides or attends school for the purposes of
90851 the minor's supervision and student safety.
90852 (i) The notice shall disclose only:
90853 (A) the name of the minor;
90854 (B) the offense for which the minor was taken into custody or detention; and
90855 (C) if available, the name of the victim, if the victim:
90856 (I) resides in the same school district as the minor; or
90857 (II) attends the same school as the minor.

90858 (ii) The notice shall be classified as a protected record under Section [~~63-2-304~~]
90859 63G-2-305.
90860 (iii) All other records disclosures are governed by [~~Title 63, Chapter 2~~] Title 63G,
90861 Chapter 2, Government Records Access and Management Act and the Federal Family
90862 Educational Rights and Privacy Act.
90863 (c) Employees of a governmental agency are immune from any criminal liability for
90864 providing or failing to provide the information required by this section unless the person acts or
90865 fails to act due to malice, gross negligence, or deliberate indifference to the consequences.
90866 (d) Before the minor is released, the parent or other person to whom the minor is
90867 released shall be required to sign a written promise on forms supplied by the court to bring the
90868 minor to the court at a time set or to be set by the court.
90869 (4) (a) A child may not be held in temporary custody by law enforcement any longer
90870 than is reasonably necessary to obtain the child's name, age, residence, and other necessary
90871 information and to contact the child's parents, guardian, or custodian.
90872 (b) If the minor is not released under Subsection (3), the minor shall be taken to a place
90873 of detention or shelter without unnecessary delay.
90874 (5) (a) The person who takes a minor to a detention or shelter facility shall promptly
90875 file with the detention or shelter facility a written report on a form provided by the division
90876 stating the details of the presently alleged offense, the facts which bring the minor within the
90877 jurisdiction of the juvenile court, and the reason the minor was not released by law
90878 enforcement.
90879 (b) (i) The designated youth corrections facility staff person shall immediately review
90880 the form and determine, based on the guidelines for detention admissions established by the
90881 Division of Juvenile Justice Services under Section 62A-7-202, whether to admit the minor to
90882 secure detention, admit the minor to home detention, place the minor in a placement other than
90883 detention, or return the minor home upon written promise to bring the minor to the court at a
90884 time set, or without restriction.
90885 (ii) If the designated youth corrections facility staff person determines to admit the
90886 minor to home detention, that staff person shall notify the juvenile court of that determination.
90887 The court shall order that notice be provided to the designated persons in the local law
90888 enforcement agency and the school or transferee school, if applicable, which the minor attends

90889 of the home detention. The designated persons may receive the information for purposes of the
90890 minor's supervision and student safety.
90891 (iii) Any employee of the local law enforcement agency and the school which the
90892 minor attends who discloses the notification of home detention is not:
90893 (A) civilly liable except when disclosure constitutes fraud or willful misconduct as
90894 provided in Section [~~63-30d-202~~] 63G-7-202; and
90895 (B) civilly or criminally liable except when disclosure constitutes a knowing violation
90896 of Section [~~63-2-801~~] 63G-2-801.
90897 (c) A minor may not be admitted to detention unless the minor is detainable based on
90898 the guidelines or the minor has been brought to detention pursuant to a judicial order or
90899 division warrant pursuant to Section 62A-7-504.
90900 (d) If a minor taken to detention does not qualify for admission under the guidelines
90901 established by the division under Section 62A-7-104, detention staff shall arrange appropriate
90902 placement.
90903 (e) If a minor is taken into custody and admitted to a secure detention or shelter
90904 facility, facility staff shall:
90905 (i) immediately notify the minor's parents, guardian, or custodian; and
90906 (ii) promptly notify the court of the placement.
90907 (f) If the minor is admitted to a secure detention or shelter facility outside the county of
90908 the minor's residence and it is determined in the hearing held under Subsection 78-3a-114(3)
90909 that detention shall continue, the judge or commissioner shall direct the sheriff of the county of
90910 the minor's residence to transport the minor to a detention or shelter facility as provided in this
90911 section.
90912 (6) A person may be taken into custody by a peace officer without a court order if the
90913 person is in apparent violation of a protective order or if there is reason to believe that a child is
90914 being abused by the person and any of the situations outlined in Section 77-7-2 exist.
90915 Section 2216. Section **78-3a-114** is amended to read:
90916 **78-3a-114. Placement of minor in detention or shelter facility -- Grounds --**
90917 **Detention hearings -- Period of detention -- Notice -- Confinement for criminal**
90918 **proceedings -- Bail laws inapplicable, exception.**
90919 (1) (a) A minor may not be placed or kept in a secure detention facility pending court

90920 proceedings unless it is unsafe for the public to leave the minor with the minor's parents,
90921 guardian, or custodian and the minor is detainable based on guidelines promulgated by the
90922 Division of Juvenile Justice Services.
90923 (b) A child who must be taken from the child's home but who does not require physical
90924 restriction shall be given temporary care in a shelter facility and may not be placed in a
90925 detention facility.
90926 (c) A child may not be placed or kept in a shelter facility pending court proceedings
90927 unless it is unsafe to leave the child with the child's parents, guardian, or custodian.
90928 (2) After admission of a child to a detention facility pursuant to the guidelines
90929 established by the Division of Juvenile Justice Services and immediate investigation by an
90930 authorized officer of the court, the judge or the officer shall order the release of the child to the
90931 child's parents, guardian, or custodian if it is found the child can be safely returned to their care,
90932 either upon written promise to bring the child to the court at a time set or without restriction.
90933 (a) If a child's parent, guardian, or custodian fails to retrieve the child from a facility
90934 within 24 hours after notification of release, the parent, guardian, or custodian is responsible
90935 for the cost of care for the time the child remains in the facility.
90936 (b) The facility shall determine the cost of care.
90937 (c) Any money collected under this Subsection (2) shall be retained by the Division of
90938 Juvenile Justice Services to recover the cost of care for the time the child remains in the
90939 facility.
90940 (3) (a) When a child is detained in a detention or shelter facility, the parents or
90941 guardian shall be informed by the person in charge of the facility that they have the right to a
90942 prompt hearing in court to determine whether the child is to be further detained or released.
90943 (b) When a minor is detained in a detention facility, the minor shall be informed by the
90944 person in charge of the facility that the minor has the right to a prompt hearing in court to
90945 determine whether the minor is to be further detained or released.
90946 (c) Detention hearings shall be held by the judge or by a commissioner.
90947 (d) The court may, at any time, order the release of the minor, whether a detention
90948 hearing is held or not.
90949 (e) If a child is released, and the child remains in the facility, because the parents,
90950 guardian, or custodian fails to retrieve the child, the parents, guardian, or custodian shall be

90951 responsible for the cost of care as provided in Subsections (2)(a), (b), and (c).
90952 (4) (a) A minor may not be held in a detention facility longer than 48 hours prior to a
90953 detention hearing, excluding weekends and holidays, unless the court has entered an order for
90954 continued detention.
90955 (b) A child may not be held in a shelter facility longer than 48 hours prior to a shelter
90956 hearing, excluding weekends and holidays, unless a court order for extended shelter has been
90957 entered by the court after notice to all parties described in Section 78-3a-306.
90958 (c) A hearing for detention or shelter may not be waived. Detention staff shall provide
90959 the court with all information received from the person who brought the minor to the detention
90960 facility.
90961 (d) If the court finds at a detention hearing that it is not safe to release the minor, the
90962 judge or commissioner may order the minor to be held in the facility or be placed in another
90963 appropriate facility, subject to further order of the court.
90964 (e) (i) After a detention hearing has been held, only the court may release a minor from
90965 detention. If a minor remains in a detention facility, periodic reviews shall be held pursuant to
90966 the Utah State Juvenile Court Rules of Practice and Procedure to ensure that continued
90967 detention is necessary.
90968 (ii) After a detention hearing for a violent felony, as defined in Section 76-3-203.5, or
90969 an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the court shall direct that
90970 notice of its decision, including any disposition, order, or no contact orders, be provided to
90971 designated persons in the appropriate local law enforcement agency and district superintendent
90972 or the school or transferee school, if applicable, that the minor attends. The designated persons
90973 may receive the information for purposes of the minor's supervision and student safety.
90974 (iii) Any employee of the local law enforcement agency, school district, and the school
90975 that the minor attends who discloses the court's order of probation is not:
90976 (A) civilly liable except when the disclosure constitutes fraud or willful misconduct as
90977 provided in Section [~~63-30d-202~~] 63G-7-202; and
90978 (B) civilly or criminally liable except when disclosure constitutes a knowing violation
90979 of Section [~~63-2-801~~] 63G-2-801.
90980 (5) A minor may not be held in a detention facility, following a dispositional order of
90981 the court for nonsecure substitute care as defined in Section 62A-4a-101, or for

90982 community-based placement under Section 62A-7-101 for longer than 72 hours, excluding
90983 weekends and holidays. The period of detention may be extended by the court for one period
90984 of seven calendar days if:
90985 (a) the Division of Juvenile Justice Services or another agency responsible for
90986 placement files a written petition with the court requesting the extension and setting forth good
90987 cause; and
90988 (b) the court enters a written finding that it is in the best interests of both the minor and
90989 the community to extend the period of detention.
90990 (6) The agency requesting an extension shall promptly notify the detention facility that
90991 a written petition has been filed.
90992 (7) The court shall promptly notify the detention facility regarding its initial disposition
90993 and any ruling on a petition for an extension, whether granted or denied.
90994 (8) (a) A child under 16 years of age may not be held in a jail, lockup, or other place
90995 for adult detention except as provided by Section 62A-7-201 or unless certified as an adult
90996 pursuant to Section 78-3a-603. The provisions of Section 62A-7-201 regarding confinement
90997 facilities apply to this Subsection (8).
90998 (b) A child 16 years of age or older whose conduct or condition endangers the safety or
90999 welfare of others in the detention facility for children may, by court order that specifies the
91000 reasons, be detained in another place of confinement considered appropriate by the court,
91001 including a jail or other place of confinement for adults. However, a secure youth corrections
91002 facility is not an appropriate place of confinement for detention purposes under this section.
91003 (9) A sheriff, warden, or other official in charge of a jail or other facility for the
91004 detention of adult offenders or persons charged with crime shall immediately notify the
91005 juvenile court when a person who is or appears to be under 18 years of age is received at the
91006 facility and shall make arrangements for the transfer of the person to a detention facility, unless
91007 otherwise ordered by the juvenile court.
91008 (10) This section does not apply to a minor who is brought to the adult facility under
91009 charges pursuant to Section 78-3a-602 or by order of the juvenile court to be held for criminal
91010 proceedings in the district court under Section 78-3a-603.
91011 (11) A minor held for criminal proceedings under Section 78-3a-602 or 78-3a-603 may
91012 be detained in a jail or other place of detention used for adults charged with crime.

91013 (12) Provisions of law regarding bail are not applicable to minors detained or taken
91014 into custody under this chapter, except that bail may be allowed:
91015 (a) if a minor who need not be detained lives outside this state; or
91016 (b) when a minor who need not be detained comes within one of the classes in
91017 Subsection 78-3a-503(11).
91018 (13) Section 76-8-418 is applicable to a child who willfully and intentionally commits
91019 an act against a jail or other place of confinement, including a Division of Juvenile Justice
91020 Services detention, shelter, or secure confinement facility which would be a third degree felony
91021 if committed by an adult.
91022 Section 2217. Section **78-3a-116** is amended to read:
91023 **78-3a-116. Hearings -- Record -- County attorney or district attorney**
91024 **responsibilities -- Attorney general responsibilities -- Disclosure -- Admissibility of**
91025 **evidence.**
91026 (1) (a) A verbatim record of the proceedings shall be taken by an official court reporter
91027 or by means of a mechanical recording device in all cases that might result in deprivation of
91028 custody as defined in this chapter. In all other cases a verbatim record shall also be made
91029 unless dispensed with by the court.
91030 (b) (i) Notwithstanding any other provision, including [~~Title 63, Chapter 2~~] Title 63G,
91031 Chapter 2, Government Records Access and Management Act, a record of a proceeding made
91032 under Subsection (1)(a) shall be released by the court to any person upon a finding on the
91033 record for good cause.
91034 (ii) Following a petition for a record of a proceeding made under Subsection (1)(a), the
91035 court shall:
91036 (A) provide notice to all subjects of the record that a request for release of the record
91037 has been made; and
91038 (B) allow sufficient time for the subjects of the record to respond before making a
91039 finding on the petition.
91040 (iii) A record of a proceeding may not be released under this Subsection (1)(b) if the
91041 court's jurisdiction over the subjects of the proceeding ended more than 12 months prior to the
91042 request.
91043 (iv) For purposes of this Subsection (1)(b):

91044 (A) "record of a proceeding" does not include documentary materials of any type
91045 submitted to the court as part of the proceeding, including items submitted under Subsection
91046 (4)(a); and
91047 (B) "subjects of the record" includes the child's guardian ad litem, the child's legal
91048 guardian, the Division of Child and Family Services, and any other party to the proceeding.
91049 (v) This Subsection (1)(b) applies:
91050 (A) to records of proceedings made on or after November 1, 2003 in districts selected
91051 by the Judicial Council as pilot districts under Subsection 78-3-21(15)(a); and
91052 (B) to records of proceedings made on or after July 1, 2004 in all other districts.
91053 (2) (a) Except as provided in Subsection (2)(b), the county attorney or, if within a
91054 prosecution district, the district attorney shall represent the state in any proceeding in a minor's
91055 case.
91056 (b) The attorney general shall enforce all provisions of Title 62A, Chapter 4a, Child
91057 and Family Services, and Title 78, Chapter 3a, Juvenile Court Act of 1996, relating to:
91058 (i) protection or custody of an abused, neglected, or dependent child; and
91059 (ii) petitions for termination of parental rights.
91060 (c) The attorney general shall represent the Division of Child and Family Services in
91061 actions involving a minor who is not adjudicated as abused or neglected, but who is otherwise
91062 committed to the custody of that division by the juvenile court, and who is classified in the
91063 division's management information system as having been placed in custody primarily on the
91064 basis of delinquent behavior or a status offense. Nothing in this Subsection (2)(c) may be
91065 construed to affect the responsibility of the county attorney or district attorney to represent the
91066 state in those matters, in accordance with the provisions of Subsection (2)(a).
91067 (3) The board may adopt special rules of procedure to govern proceedings involving
91068 violations of traffic laws or ordinances, fish and game laws, and boating laws. However,
91069 proceedings involving offenses under Section 78-3a-506 are governed by that section regarding
91070 suspension of driving privileges.
91071 (4) (a) For the purposes of determining proper disposition of the minor in dispositional
91072 hearings and establishing the fact of abuse, neglect, or dependency in adjudication hearings and
91073 in hearings upon petitions for termination of parental rights, written reports and other material
91074 relating to the minor's mental, physical, and social history and condition may be received in

91075 evidence and may be considered by the court along with other evidence. The court may require
91076 that the person who wrote the report or prepared the material appear as a witness if the person
91077 is reasonably available.
91078 (b) For the purpose of determining proper disposition of a minor alleged to be or
91079 adjudicated as abused, neglected, or dependent, dispositional reports prepared by Foster Care
91080 Citizen Review Boards pursuant to Section 78-3g-103 may be received in evidence and may be
91081 considered by the court along with other evidence. The court may require any person who
91082 participated in preparing the dispositional report to appear as a witness, if the person is
91083 reasonably available.
91084 (5) (a) In an abuse, neglect, or dependency proceeding occurring after the
91085 commencement of a shelter hearing under Section 78-3a-306 or the filing of a petition under
91086 Section 78-3a-305, each party to the proceeding shall provide in writing to the other parties or
91087 their counsel any information which the party:
91088 (i) plans to report to the court at the proceeding; or
91089 (ii) could reasonably expect would be requested of the party by the court at the
91090 proceeding.
91091 (b) The disclosure required under Subsection (5)(a) shall be made:
91092 (i) for dispositional hearings under Sections 78-3a-310 and 78-3a-311, no less than five
91093 days before the proceeding;
91094 (ii) for proceedings under Title 78, Chapter 3a, Part 4, Termination of Parental Rights
91095 Act, in accordance with Utah Rules of Civil Procedure; and
91096 (iii) for all other proceedings, no less than five days before the proceeding.
91097 (c) If a party to a proceeding obtains information after the deadline in Subsection
91098 (5)(b), the information is exempt from the disclosure required under Subsection (5)(a) if the
91099 party certifies to the court that the information was obtained after the deadline.
91100 (d) Subsection (5)(a) does not apply to:
91101 (i) pretrial hearings; and
91102 (ii) the frequent, periodic review hearings held in a dependency drug court case to
91103 assess and promote the parent's progress in substance abuse treatment.
91104 (6) For the purpose of establishing the fact of abuse, neglect, or dependency, the court
91105 may, in its discretion, consider evidence of statements made by a child under eight years of age

91106 to a person in a trust relationship.
91107 Section 2218. Section **78-3a-118** is amended to read:
91108 **78-3a-118. Adjudication of jurisdiction of juvenile court -- Disposition of cases --**
91109 **Enumeration of possible court orders -- Considerations of court -- Obtaining DNA**
91110 **sample.**
91111 (1) (a) When a minor is found to come within the provisions of Section 78-3a-104, the
91112 court shall so adjudicate. The court shall make a finding of the facts upon which it bases its
91113 jurisdiction over the minor. However, in cases within the provisions of Subsection
91114 78-3a-104(1), findings of fact are not necessary.
91115 (b) If the court adjudicates a minor for a crime of violence or an offense in violation of
91116 Title 76, Chapter 10, Part 5, Weapons, it shall order that notice of the adjudication be provided
91117 to the school superintendent of the district in which the minor resides or attends school. Notice
91118 shall be made to the district superintendent within three days of the adjudication and shall
91119 include:
91120 (i) the specific offenses for which the minor was adjudicated; and
91121 (ii) if available, if the victim:
91122 (A) resides in the same school district as the minor; or
91123 (B) attends the same school as the minor.
91124 (2) Upon adjudication the court may make the following dispositions by court order:
91125 (a) (i) The court may place the minor on probation or under protective supervision in
91126 the minor's own home and upon conditions determined by the court, including compensatory
91127 service as provided in Section 78-11-20.7.
91128 (ii) The court may place the minor in state supervision with the probation department
91129 of the court, under the legal custody of:
91130 (A) the minor's parent or guardian;
91131 (B) the Division of Juvenile Justice Services; or
91132 (C) the Division of Child and Family Services.
91133 (iii) If the court orders probation or state supervision, the court shall direct that notice
91134 of its order be provided to designated persons in the local law enforcement agency and the
91135 school or transferee school, if applicable, that the minor attends. The designated persons may
91136 receive the information for purposes of the minor's supervision and student safety.

91137 (iv) Any employee of the local law enforcement agency and the school that the minor
91138 attends who discloses the court's order of probation is not:
91139 (A) civilly liable except when the disclosure constitutes fraud or willful misconduct as
91140 provided in Section [~~63-30d-202~~] 63G-7-202; and
91141 (B) civilly or criminally liable except when the disclosure constitutes a knowing
91142 violation of Section [~~63-2-801~~] 63G-2-801.
91143 (b) The court may place the minor in the legal custody of a relative or other suitable
91144 person, with or without probation or protective supervision, but the juvenile court may not
91145 assume the function of developing foster home services.
91146 (c) (i) The court may:
91147 (A) vest legal custody of the minor in the Division of Child and Family Services,
91148 Division of Juvenile Justice Services, or the Division of Substance Abuse and Mental Health;
91149 and
91150 (B) order the Department of Human Services to provide dispositional
91151 recommendations and services.
91152 (ii) For minors who may qualify for services from two or more divisions within the
91153 Department of Human Services, the court may vest legal custody with the department.
91154 (iii) (A) A minor who is committed to the custody of the Division of Child and Family
91155 Services on grounds other than abuse or neglect is subject to the provisions of Title 78, Chapter
91156 3a, Part 3A, Minors in Custody on Grounds Other Than Abuse or Neglect, and Title 62A,
91157 Chapter 4a, Part 2A, Minors in Custody on Grounds Other Than Abuse or Neglect.
91158 (B) Prior to the court entering an order to place a minor in the custody of the Division
91159 of Child and Family Services on grounds other than abuse or neglect, the court shall provide
91160 the division with notice of the hearing no later than five days before the time specified for the
91161 hearing so the division may attend the hearing.
91162 (C) Prior to committing a child to the custody of the Division of Child and Family
91163 Services, the court shall make a finding as to what reasonable efforts have been attempted to
91164 prevent the child's removal from the child's home.
91165 (d) (i) The court may commit a minor to the Division of Juvenile Justice Services for
91166 secure confinement.
91167 (ii) A minor under the jurisdiction of the court solely on the ground of abuse, neglect,

91168 or dependency under Subsection 78-3a-104(1)(c) may not be committed to the Division of
91169 Juvenile Justice Services.
91170 (e) The court may commit a minor, subject to the court retaining continuing
91171 jurisdiction over the minor, to the temporary custody of the Division of Juvenile Justice
91172 Services for observation and evaluation for a period not to exceed 45 days, which period may
91173 be extended up to 15 days at the request of the director of the Division of Juvenile Justice
91174 Services.
91175 (f) (i) The court may commit a minor to a place of detention or an alternative to
91176 detention for a period not to exceed 30 days subject to the court retaining continuing
91177 jurisdiction over the minor. This commitment may be stayed or suspended upon conditions
91178 ordered by the court.
91179 (ii) This Subsection (2)(f) applies only to a minor adjudicated for:
91180 (A) an act which if committed by an adult would be a criminal offense; or
91181 (B) contempt of court under Section 78-3a-901.
91182 (g) The court may vest legal custody of an abused, neglected, or dependent minor in
91183 the Division of Child and Family Services or any other appropriate person in accordance with
91184 the requirements and procedures of Title 78, Chapter 3a, Part 3, Abuse, Neglect, and
91185 Dependency Proceedings.
91186 (h) The court may place a minor on a ranch or forestry camp, or similar facility for care
91187 and also for work, if possible, if the person, agency, or association operating the facility has
91188 been approved or has otherwise complied with all applicable state and local laws. A minor
91189 placed in a forestry camp or similar facility may be required to work on fire prevention,
91190 forestation and reforestation, recreational works, forest roads, and on other works on or off the
91191 grounds of the facility and may be paid wages, subject to the approval of and under conditions
91192 set by the court.
91193 (i) (i) The court may order a minor to repair, replace, or otherwise make restitution for
91194 damage or loss caused by the minor's wrongful act, including costs of treatment as stated in
91195 Section 78-3a-318 and impose fines in limited amounts.
91196 (ii) The court may also require a minor to reimburse an individual, entity, or
91197 governmental agency who offered and paid a reward to a person or persons for providing
91198 information resulting in a court adjudication that the minor is within the jurisdiction of the

91199 juvenile court due to the commission of a criminal offense.
91200 (iii) If a minor is returned to this state under the Interstate Compact on Juveniles, the
91201 court may order the minor to make restitution for costs expended by any governmental entity
91202 for the return.
91203 (j) The court may issue orders necessary for the collection of restitution and fines
91204 ordered by the court, including garnishments, wage withholdings, and executions.
91205 (k) (i) The court may through its probation department encourage the development of
91206 employment or work programs to enable minors to fulfill their obligations under Subsection
91207 (2)(i) and for other purposes considered desirable by the court.
91208 (ii) Consistent with the order of the court, the probation officer may permit a minor
91209 found to be within the jurisdiction of the court to participate in a program of work restitution or
91210 compensatory service in lieu of paying part or all of the fine imposed by the court.
91211 (l) (i) In violations of traffic laws within the court's jurisdiction, the court may, in
91212 addition to any other disposition authorized by this section:
91213 (A) restrain the minor from driving for periods of time the court considers necessary;
91214 and
91215 (B) take possession of the minor's driver license.
91216 (ii) The court may enter any other disposition under Subsection (2)(l)(i); however, the
91217 suspension of driving privileges for an offense under Section 78-3a-506 are governed only by
91218 Section 78-3a-506.
91219 (m) (i) When a minor is found within the jurisdiction of the juvenile court under
91220 Section 78-3a-104 because of violating Section 58-37-8, Title 58, Chapter 37a, Utah Drug
91221 Paraphernalia Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, the court
91222 shall, in addition to any fines or fees otherwise imposed, order that the minor perform a
91223 minimum of 20 hours, but no more than 100 hours, of compensatory service. Satisfactory
91224 completion of an approved substance abuse prevention or treatment program may be credited
91225 by the court as compensatory service hours.
91226 (ii) When a minor is found within the jurisdiction of the juvenile court under Section
91227 78-3a-104 because of a violation of Section 32A-12-209 or Subsection 76-9-701(1), the court
91228 may, upon the first adjudication, and shall, upon a second or subsequent adjudication, order
91229 that the minor perform a minimum of 20 hours, but no more than 100 hours of compensatory

91230 service, in addition to any fines or fees otherwise imposed. Satisfactory completion of an
91231 approved substance abuse prevention or treatment program may be credited by the court as
91232 compensatory service hours.
91233 (n) (i) Subject to Subsection (2)(n)(iii), the court may order that a minor:
91234 (A) be examined or treated by a physician, surgeon, psychiatrist, or psychologist; or
91235 (B) receive other special care.
91236 (ii) For purposes of receiving the examination, treatment, or care described in
91237 Subsection (2)(n)(i), the court may place the minor in a hospital or other suitable facility.
91238 (iii) In determining whether to order the examination, treatment, or care described in
91239 Subsection (2)(n)(i), the court shall consider:
91240 (A) the desires of the minor;
91241 (B) if the minor is under the age of 18, the desires of the parents or guardian of the
91242 minor; and
91243 (C) whether the potential benefits of the examination, treatment, or care outweigh the
91244 potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain
91245 function impairment, or emotional or physical harm resulting from the compulsory nature of
91246 the examination, treatment, or care.
91247 (o) (i) The court may appoint a guardian for the minor if it appears necessary in the
91248 interest of the minor, and may appoint as guardian a public or private institution or agency in
91249 which legal custody of the minor is vested.
91250 (ii) In placing a minor under the guardianship or legal custody of an individual or of a
91251 private agency or institution, the court shall give primary consideration to the welfare of the
91252 minor. When practicable, the court may take into consideration the religious preferences of the
91253 minor and of a child's parents.
91254 (p) (i) In support of a decree under Section 78-3a-104, the court may order reasonable
91255 conditions to be complied with by a minor's parents or guardian, a minor, a minor's custodian,
91256 or any other person who has been made a party to the proceedings. Conditions may include:
91257 (A) parent-time by the parents or one parent;
91258 (B) restrictions on the minor's associates;
91259 (C) restrictions on the minor's occupation and other activities; and
91260 (D) requirements to be observed by the parents or custodian.

91261 (ii) A minor whose parents or guardians successfully complete a family or other
91262 counseling program may be credited by the court for detention, confinement, or probation time.
91263 (q) The court may order the child to be committed to the physical custody of a local
91264 mental health authority, in accordance with the procedures and requirements of Title 62A,
91265 Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and
91266 Mental Health.
91267 (r) (i) The court may make an order committing a minor within the court's jurisdiction
91268 to the Utah State Developmental Center if the minor has mental retardation in accordance with
91269 the provisions of Title 62A, Chapter 5, Part 3, Admission to Mental Retardation Facility.
91270 (ii) The court shall follow the procedure applicable in the district courts with respect to
91271 judicial commitments to the Utah State Developmental Center when ordering a commitment
91272 under Subsection (2)(r)(i).
91273 (s) The court may terminate all parental rights upon a finding of compliance with the
91274 provisions of Title 78, Chapter 3a, Part 4, Termination of Parental Rights Act.
91275 (t) The court may make any other reasonable orders for the best interest of the minor or
91276 as required for the protection of the public, except that a child may not be committed to jail or
91277 prison.
91278 (u) The court may combine the dispositions listed in this section if they are compatible.
91279 (v) Before depriving any parent of custody, the court shall give due consideration to the
91280 rights of parents concerning their child. The court may transfer custody of a minor to another
91281 person, agency, or institution in accordance with the requirements and procedures of Title 78,
91282 Chapter 3a, Part 3, Abuse, Neglect, and Dependency Proceedings.
91283 (w) Except as provided in Subsection (2)(y)(i), an order under this section for
91284 probation or placement of a minor with an individual or an agency shall include a date certain
91285 for a review of the case by the court. A new date shall be set upon each review.
91286 (x) In reviewing foster home placements, special attention shall be given to making
91287 adoptable children available for adoption without delay.
91288 (y) (i) The juvenile court may enter an order of permanent custody and guardianship
91289 with an individual or relative of a child where the court has previously acquired jurisdiction as
91290 a result of an adjudication of abuse, neglect, or dependency. The juvenile court may enter an
91291 order for child support on behalf of the child against the natural or adoptive parents of the

91292 child.
91293 (ii) Orders under Subsection (2)(y)(i):
91294 (A) shall remain in effect until the child reaches majority;
91295 (B) are not subject to review under Section 78-3a-119; and
91296 (C) may be modified by petition or motion as provided in Section 78-3a-903.
91297 (iii) Orders permanently terminating the rights of a parent, guardian, or custodian and
91298 permanent orders of custody and guardianship do not expire with a termination of jurisdiction
91299 of the juvenile court.
91300 (3) In addition to the dispositions described in Subsection (2), when a minor comes
91301 within the court's jurisdiction, the minor may be given a choice by the court to serve in the
91302 National Guard in lieu of other sanctions, provided:
91303 (a) the minor meets the current entrance qualifications for service in the National
91304 Guard as determined by a recruiter, whose determination is final;
91305 (b) the minor is not under the jurisdiction of the court for any act that:
91306 (i) would be a felony if committed by an adult;
91307 (ii) is a violation of Title 58, Chapter 37, Utah Controlled Substances Act; or
91308 (iii) was committed with a weapon; and
91309 (c) the court retains jurisdiction over the minor under conditions set by the court and
91310 agreed upon by the recruiter or the unit commander to which the minor is eventually assigned.
91311 (4) (a) A DNA specimen shall be obtained from a minor who is under the jurisdiction
91312 of the court as described in Subsection 53-10-403(3). The specimen shall be obtained by
91313 designated employees of the court or, if the minor is in the legal custody of the Division of
91314 Juvenile Justice Services, then by designated employees of the division under Subsection
91315 53-10-404(5)(b).
91316 (b) The responsible agency shall ensure that employees designated to collect the saliva
91317 DNA specimens receive appropriate training and that the specimens are obtained in accordance
91318 with accepted protocol.
91319 (c) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the DNA
91320 Specimen Restricted Account created in Section 53-10-407.
91321 (d) Payment of the reimbursement is second in priority to payments the minor is
91322 ordered to make for restitution under this section and treatment under Section 78-3a-318.

91323 Section 2219. Section **78-3a-504** is amended to read:
91324 **78-3a-504. Minor held in detention -- Credit for good behavior.**
91325 (1) The judge may order whether a minor held in detention under Subsection
91326 78-3a-118(2)(f) or 78-3a-901(3) is eligible to receive credit for good behavior against the
91327 period of detention. The rate of credit is one day for every three days served. The Division of
91328 Juvenile Justice Services shall, in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter
91329 3, Utah Administrative Rulemaking Act, establish rules describing good behavior for which
91330 credit may be earned.
91331 (2) Any disposition including detention under Subsection 78-3a-118(2)(f) or
91332 78-3a-901(3) shall be concurrent with any other order of detention.
91333 Section 2220. Section **78-3a-505** is amended to read:
91334 **78-3a-505. Dispositional report required in minor's cases -- Exceptions.**
91335 (1) The probation department or other agency designated by the court shall make a
91336 dispositional report in writing in all minor's cases in which a petition has been filed, except that
91337 the court may dispense with the study and report in cases involving violations of traffic laws or
91338 ordinances, violations of fish and game laws, boating laws, and other minor cases.
91339 (2) When preparing a dispositional report and recommendation in a delinquency action,
91340 the probation department or other agency designated by the court shall consider the juvenile
91341 sentencing guidelines developed in accordance with Section [~~63-25a-304~~] 63M-7-404 and any
91342 aggravating or mitigating circumstances.
91343 (3) Where the allegations of a petition filed under Subsection 78-3a-104(1) are denied,
91344 the investigation may not be made until the court has made an adjudication.
91345 Section 2221. Section **78-3a-904** is amended to read:
91346 **78-3a-904. When photographs, fingerprints, or HIV infection tests may be taken**
91347 **-- Distribution -- Expungement.**
91348 (1) Photographs may be taken of a minor 14 years of age or older who:
91349 (a) is taken into custody for the alleged commission of an offense under Sections
91350 78-3a-104, 78-3a-601, and 78-3a-602 that would also be an offense if the minor were 18 years
91351 of age or older; or
91352 (b) has been determined to be a serious habitual offender for tracking under Section
91353 [~~63-92-2~~] 63M-10-201 and is under the continuing jurisdiction of the Juvenile Court or the

91354 Division of Juvenile Justice Services.
91355 (2) (a) Fingerprints may be taken of a minor 14 years of age or older who:
91356 (i) is taken into custody for the alleged commission of an offense that would be a
91357 felony if the minor were 18 years of age or older;
91358 (ii) has been determined to be a serious habitual offender for tracking under Section
91359 [~~63-92-2~~] 63M-10-201 and is under the continuing jurisdiction of the Juvenile Court or the
91360 Division of Juvenile Justice Services; or
91361 (iii) is required to provide a DNA specimen under Section 53-10-403.
91362 (b) Fingerprints shall be forwarded to the Bureau of Criminal Identification and may be
91363 stored by electronic medium.
91364 (3) HIV testing may be conducted on a minor who is taken into custody after having
91365 been adjudicated to have violated state law prohibiting a sexual offense under Title 76, Chapter
91366 5, Part 4, Sexual Offenses, upon the request of the victim or the parent or guardian of a child
91367 victim.
91368 (4) HIV tests, photographs, and fingerprints may not be taken of a child younger than
91369 14 years of age without the consent of the court.
91370 (5) (a) Photographs may be distributed or disbursed to individuals or agencies other
91371 than state or local law enforcement agencies only when a minor 14 years of age or older is
91372 charged with an offense which would be a felony if committed by an adult.
91373 (b) Fingerprints may be distributed or disbursed to individuals or agencies other than
91374 state or local law enforcement agencies.
91375 (6) When a minor's juvenile record is expunged, all photographs and other records as
91376 ordered shall upon court order be destroyed by the law enforcement agency. Fingerprint records
91377 may not be destroyed.
91378 Section 2222. Section **78-3a-912** is amended to read:
91379 **78-3a-912. Appointment of attorney guardian ad litem -- Right of refusal --**
91380 **Duties and responsibilities -- Training -- Trained staff and court-appointed special**
91381 **advocate volunteers -- Costs -- Immunity -- Annual report.**
91382 (1) (a) The court:
91383 (i) may appoint an attorney guardian ad litem to represent the best interest of a minor
91384 involved in any case before the court; and

91385 (ii) shall consider the best interest of a minor, consistent with the provisions of Section
91386 62A-4a-201, in determining whether to appoint a guardian ad litem.
91387 (b) In all cases where an attorney guardian ad litem is appointed, the court shall make a
91388 finding that establishes the necessity of the appointment.
91389 (2) An attorney guardian ad litem shall represent the best interest of each child who
91390 may become the subject of a petition alleging abuse, neglect, or dependency, from the earlier of
91391 the day that:
91392 (a) the child is removed from the child's home by the division; or
91393 (b) the petition is filed.
91394 (3) The Office of the Guardian Ad Litem Director, through an attorney guardian ad
91395 litem, shall:
91396 (a) represent the best interest of the minor in all proceedings;
91397 (b) prior to representing any minor before the court, be trained in:
91398 (i) applicable statutory, regulatory, and case law; and
91399 (ii) accordance with the United States Department of Justice National Court Appointed
91400 Special Advocate Association guidelines;
91401 (c) conduct or supervise an independent investigation in order to obtain first-hand, a
91402 clear understanding of the situation and needs of the minor;
91403 (d) (i) personally meet with the minor;
91404 (ii) personally interview the minor if the minor is old enough to communicate;
91405 (iii) determine the minor's goals and concerns regarding placement; and
91406 (iv) personally assess or supervise an assessment of the appropriateness and safety of
91407 the minor's environment in each placement;
91408 (e) file written motions, responses, or objections at all stages of a proceeding when
91409 necessary to protect the best interest of a minor;
91410 (f) personally or through a trained volunteer, paralegal, or other trained staff, attend all
91411 administrative and foster care citizen review board hearings pertaining to the minor's case;
91412 (g) participate in all appeals unless excused by order of the court;
91413 (h) be familiar with local experts who can provide consultation and testimony
91414 regarding the reasonableness and appropriateness of efforts made by the Division of Child and
91415 Family Services to:

91416 (i) maintain a minor in the minor's home; or
91417 (ii) reunify a child with the child's parent;
91418 (i) to the extent possible, and unless it would be detrimental to the minor, personally or
91419 through a trained volunteer, paralegal, or other trained staff, keep the minor advised of:
91420 (i) the status of the minor's case;
91421 (ii) all court and administrative proceedings;
91422 (iii) discussions with, and proposals made by, other parties;
91423 (iv) court action; and
91424 (v) the psychiatric, medical, or other treatment or diagnostic services that are to be
91425 provided to the minor;
91426 (j) review proposed orders for, and as requested by the court;
91427 (k) prepare proposed orders with clear and specific directions regarding services,
91428 treatment, evaluation, assessment, and protection of the minor and the minor's family; and
91429 (l) personally or through a trained volunteer, paralegal, or other trained staff, monitor
91430 implementation of a minor's child and family plan and any dispositional orders to:
91431 (i) determine whether services ordered by the court:
91432 (A) are actually provided; and
91433 (B) are provided in a timely manner; and
91434 (ii) attempt to assess whether services ordered by the court are accomplishing the
91435 intended goal of the services.
91436 (4) (a) Consistent with this Subsection (4), an attorney guardian ad litem may use
91437 trained volunteers, in accordance with Title 67, Chapter 20, Volunteer Government Workers
91438 Act, trained paralegals, and other trained staff to assist in investigation and preparation of
91439 information regarding the cases of individual minors before the court.
91440 (b) The attorney guardian ad litem described in Subsection (4)(a) may not delegate the
91441 attorney's responsibilities described in Subsection (3).
91442 (c) All volunteers, paralegals, and staff utilized pursuant to this section shall be trained
91443 in and follow, at a minimum, the guidelines established by the United States Department of
91444 Justice Court Appointed Special Advocate Association.
91445 (d) The court may use volunteers trained in accordance with the requirements of
91446 Subsection (4)(c) to assist in investigation and preparation of information regarding the cases

91447 of individual minors within the jurisdiction.
91448 (e) When possible and appropriate, the court may use a volunteer who is a peer of the
91449 minor appearing before the court, in order to provide assistance to that minor, under the
91450 supervision of an attorney guardian ad litem or the attorney's trained volunteer, paralegal, or
91451 other trained staff.
91452 (5) The attorney guardian ad litem shall continue to represent the best interest of the
91453 minor until released from that duty by the court.
91454 (6) (a) Consistent with Subsection (6)(b), the juvenile court is responsible for:
91455 (i) all costs resulting from the appointment of an attorney guardian ad litem; and
91456 (ii) the costs of volunteer, paralegal, and other staff appointment and training.
91457 (b) The court shall use funds appropriated by the Legislature for the guardian ad litem
91458 program to cover the costs described in Subsection (6)(a).
91459 (c) (i) When the court appoints an attorney guardian ad litem under this section, the
91460 court may assess all or part of the attorney's fees, court costs, and paralegal, staff, and volunteer
91461 expenses against the child's parents, parent, or legal guardian in a proportion that the court
91462 determines to be just and appropriate.
91463 (ii) The court may not assess those fees or costs against:
91464 (A) a legal guardian, when that guardian is the state; or
91465 (B) consistent with Subsection (6)(d), a parent who is found to be impecunious.
91466 (d) For purposes of Subsection (6)(c)(ii)(B), if a person claims to be impecunious, the
91467 court shall:
91468 (i) require that person to submit an affidavit of impecuniosity as provided in Section
91469 78-7-36; and
91470 (ii) follow the procedures and make the determinations as provided in Section 78-7-37.
91471 (7) An attorney guardian ad litem appointed under this section, when serving in the
91472 scope of the attorney guardian ad litem's duties as guardian ad litem is considered an employee
91473 of the state for purposes of indemnification under [~~Title 63, Chapter 30d~~] Title 63G, Chapter 7,
91474 Governmental Immunity Act of Utah.
91475 (8) (a) An attorney guardian ad litem shall represent the best interest of a minor.
91476 (b) If the minor's wishes differ from the attorney's determination of the minor's best
91477 interest, the attorney guardian ad litem shall communicate the minor's wishes to the court in

91478 addition to presenting the attorney's determination of the minor's best interest.
91479 (c) A difference between the minor's wishes and the attorney's determination of best
91480 interest may not be considered a conflict of interest for the attorney.
91481 (d) The court may appoint one attorney guardian ad litem to represent the best interests
91482 of more than one child of a marriage.
91483 (9) An attorney guardian ad litem shall be provided access to all Division of Child and
91484 Family Services records regarding the minor at issue and the minor's family.
91485 (10) An attorney guardian ad litem shall maintain current and accurate records
91486 regarding:
91487 (a) the number of times the attorney has had contact with each minor; and
91488 (b) the actions the attorney has taken in representation of the minor's best interest.
91489 (11) (a) Except as provided in Subsection (11)(b), all records of an attorney guardian
91490 ad litem are confidential and may not be released or made public upon subpoena, search
91491 warrant, discovery proceedings, or otherwise. This subsection supersedes [~~Title 63, Chapter 2~~]
91492 Title 63G, Chapter 2, Government Records Access and Management Act.
91493 (b) Consistent with Subsection (11)(d), all records of an attorney guardian ad litem:
91494 (i) are subject to legislative subpoena, under Title 36, Chapter 14, Legislative
91495 Subpoena Powers; and
91496 (ii) shall be released to the Legislature.
91497 (c) (i) Except as provided in Subsection (11)(c)(ii), records released in accordance with
91498 Subsection (11)(b) shall be maintained as confidential by the Legislature.
91499 (ii) Notwithstanding Subsection (11)(c)(i), the Office of the Legislative Auditor
91500 General may include summary data and nonidentifying information in its audits and reports to
91501 the Legislature.
91502 (d) (i) Subsection (11)(b) constitutes an exception to Rules of Professional Conduct,
91503 Rule 1.6, as provided by Rule 1.6(b)(4), because of:
91504 (A) the unique role of an attorney guardian ad litem described in Subsection (8); and
91505 (B) the state's role and responsibility:
91506 (I) to provide a guardian ad litem program; and
91507 (II) as parens patriae, to protect minors.
91508 (ii) A claim of attorney-client privilege does not bar access to the records of an attorney

91509 guardian ad litem by the Legislature, through legislative subpoena.
91510 (e) The Office of the Guardian Ad Litem shall present an annual report to the Child
91511 Welfare Legislative Oversight Panel detailing:
91512 (i) the development, policy, and management of the statewide guardian ad litem
91513 program;
91514 (ii) the training and evaluation of attorney guardians ad litem and volunteers; and
91515 (iii) the number of minors served by the Office of the Guardian Ad Litem.
91516 Section 2223. Section **78-3g-102** is amended to read:
91517 **78-3g-102. Foster Care Citizen Review Board Steering Committee -- Membership**
91518 **-- Chair -- Compensation -- Duties.**
91519 (1) There is created within state government the Foster Care Citizen Review Board
91520 Steering Committee composed of the following members:
91521 (a) a member of the Board of Child and Family Services, within the Department of
91522 Human Services, appointed by the chair of that board;
91523 (b) the director of the division, or his designee;
91524 (c) a juvenile court judge, appointed by the presiding officer of the Judicial Council;
91525 (d) a juvenile court administrator, appointed by the administrator of the courts;
91526 (e) a representative of the Utah Foster Parents Association, appointed by the president
91527 of that organization;
91528 (f) a representative of a statewide advocacy organization for children, appointed by the
91529 chair of the committee;
91530 (g) a representative of an agency or organization that provides services to children who
91531 have been adjudicated to be under the jurisdiction of the juvenile court, appointed by the chair
91532 of the committee;
91533 (h) the guardian ad litem director, appointed pursuant to Section 78-3a-911, or the
91534 director's designee;
91535 (i) the director or chief of the child protection unit within the Office of the Attorney
91536 General, or his designee;
91537 (j) one person from each region who is a member of a board, appointed by the chair of
91538 the committee; and
91539 (k) a private citizen, appointed by the chair of the committee.

91540 (2) The persons described in Subsection (1) shall annually elect a chair of the
91541 committee from among themselves.
91542 (3) A majority of the members of the committee constitutes a quorum. The action of
91543 the majority of a quorum represents the action of the committee.
91544 (4) (a) Members of the committee who are not government employees shall receive no
91545 compensation or benefits for their services, but may receive per diem and expenses incurred in
91546 the performance of the member's official duties at the rates established by the Division of
91547 Finance under Sections 63A-3-106 and 63A-3-107.
91548 (b) State government officer and employee members who do not receive salary, per
91549 diem, or expenses from their agency for their service may receive per diem and expenses
91550 incurred in the performance of their official duties from the board at the rates established by the
91551 Division of Finance under Sections 63A-3-106 and 63A-3-107.
91552 (c) Local government members who do not receive salary, per diem, or expenses from
91553 the entity that they represent for their service may receive per diem and expenses incurred in
91554 the performance of their official duties at the rates established by the Division of Finance under
91555 Sections 63A-3-106 and 63A-3-107.
91556 (d) Members of the committee may decline to receive per diem and expenses for their
91557 services.
91558 (5) The committee shall:
91559 (a) within appropriations from the Legislature, appoint members of boards in each
91560 juvenile court district;
91561 (b) supervise the recruitment, training, and retention of board members;
91562 (c) supervise and evaluate the boards;
91563 (d) establish and approve policies for the boards; and
91564 (e) submit a report detailing the results of the boards to the Child Welfare Legislative
91565 Oversight Panel, the Judiciary Interim Committee, and the Board of Juvenile Court Judges on
91566 or before December 31 of each year.
91567 (6) (a) The Department of Human Services shall provide fiscal management services,
91568 including payroll and accounting services, to the committee.
91569 (b) Within appropriations from the Legislature, the committee may hire professional
91570 and clerical staff as it considers necessary and appropriate.

91571 (7) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
91572 Administrative Rulemaking Act, the committee may make rules necessary for:
91573 (a) recruitment, appointment, and training of board members;
91574 (b) supervision and evaluation of boards; and
91575 (c) establishment of policy for boards.
91576 (8) The committee may receive gifts, grants, devises, and donations. If the donor
91577 designates a specific purpose or use for the gift, grant, devise, or donation, it shall be used
91578 solely for that purpose. Undesignated gifts, grants, devises, and donations shall be used for
91579 foster care citizen review boards in accordance with the requirements and provisions of this
91580 chapter.
91581 Section 2224. Section **78-5-116** is amended to read:
91582 **78-5-116. Disposition of fines.**
91583 (1) Except as otherwise specified by this section, fines and forfeitures collected by a
91584 justice court shall be remitted, 1/2 to the treasurer of the local government responsible for the
91585 court and 1/2 to the treasurer of the local government which prosecutes or which would
91586 prosecute the violation.
91587 (2) (a) For violation of Title 23, the court shall allocate 85% to the Division of Wildlife
91588 Resources and 15% to the general fund of the city or county government responsible for the
91589 justice court.
91590 (b) For violation of Title 41, Chapter 22, Off-highway Vehicles, or Title 73, Chapter
91591 18, State Boating Act, the court shall allocate 85% to the Division of Parks and Recreation and
91592 15% to the general fund of the city or county government responsible for the justice court.
91593 (3) The surcharge established by Section [~~63-63a-1~~] 51-9-401 shall be paid to the state
91594 treasurer.
91595 (4) Fines, fees, court costs, and forfeitures collected by a municipal or county justice
91596 court for a violation of Section 72-7-404 or 72-7-406 regarding maximum weight limitations
91597 and overweight permits, minus court costs not to exceed the schedule adopted by the Judicial
91598 Council, shall be paid to the state treasurer and distributed to the class B and C road account.
91599 (5) Revenue deposited in the class B and C road account pursuant to Subsection (4) is
91600 supplemental to the money appropriated under Section 72-2-107 but shall be expended in the
91601 same manner as other class B and C road funds.

91602 (6) Until July 1, 2007, fines and forfeitures collected by the court for a violation of
91603 Subsection 41-1a-1303(2) related to registration of vehicles after establishing residency shall
91604 be remitted:
91605 (a) 50% to the state or local governmental entity which issued the citation for a
91606 violation to be used for law enforcement purposes; and
91607 (b) 50% in accordance with Subsection (1).
91608 Section 2225. Section **78-5-116.5** is amended to read:
91609 **78-5-116.5. Security surcharge -- Application -- Deposit in restricted accounts.**
91610 (1) In addition to any fine, penalty, forfeiture, or other surcharge, a security surcharge
91611 of $32 shall be assessed on all convictions for offenses listed in the uniform bail schedule
91612 adopted by the Judicial Council and moving traffic violations.
91613 (2) The security surcharge shall be collected and distributed pro rata with any fine
91614 collected. A fine that would otherwise have been charged may not be reduced due to the
91615 imposition of the security surcharge.
91616 (3) The security surcharge shall be allocated as follows:
91617 (a) the assessing court shall retain 20% of the amount collected for deposit into the
91618 general fund of the governmental entity; and
91619 (b) 80% shall be remitted to the state treasurer to be distributed as follows:
91620 (i) 62.5% to the treasurer of the county in which the justice court which remitted the
91621 amount is located;
91622 (ii) 25% to the Court Security Account created in Section 63-63c-102; and
91623 (iii) 12.5% to the Justice Court Technology, Security, and Training Account created in
91624 Section 78-5-116.7.
91625 (4) The court shall remit money collected in accordance with Title 51, Chapter 7, State
91626 Money Management Act.
91627 Section 2226. Section **78-6-14** is amended to read:
91628 **78-6-14. Civil filing fees.**
91629 (1) Except as provided in this section, the fees for a small claims action in justice court
91630 shall be the same as provided in Section 78-7-35.
91631 (2) Fees collected in small claims actions filed in municipal justice court are remitted
91632 to the municipal treasurer. Fees collected in small claims actions filed in a county justice court

91633 are remitted to the county treasurer.
91634 (3) (a) Seven dollars and 50 cents shall be withheld from the fee for the small claims
91635 affidavit and allocated to the Judges' Retirement Trust Fund. Five dollars shall be withheld
91636 from the fee for a small claims counter affidavit and allocated to the Judges' Retirement Trust
91637 Fund.
91638 (b) Two dollars withheld from the civil filing fee in a court of record as provided in
91639 Subsection [~~63-63a-8~~] 51-9-408(4)(b) shall not apply to the fees collected for small claims
91640 actions in justice court.
91641 (4) The fee in the justice court for filing a notice of appeal for trial de novo in a court
91642 of record is $10. The fee covers all services of the justice court on appeal but does not satisfy
91643 the trial de novo filing fee in the court of record.
91644 Section 2227. Section **78-7-35** is amended to read:
91645 **78-7-35. Civil fees of the courts of record -- Courts complex design.**
91646 (1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a
91647 court of record not governed by another subsection is $155.
91648 (b) The fee for filing a complaint or petition is:
91649 (i) $50 if the claim for damages or amount in interpleader exclusive of court costs,
91650 interest, and attorney fees is $2,000 or less;
91651 (ii) $95 if the claim for damages or amount in interpleader exclusive of court costs,
91652 interest, and attorney fees is greater than $2,000 and less than $10,000;
91653 (iii) $155 if the claim for damages or amount in interpleader is $10,000 or more;
91654 (iv) $155 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter
91655 4, Separate Maintenance; and
91656 (v) $25 for a motion for temporary separation order filed under Section 30-3-4.5.
91657 (c) The fee for filing a small claims affidavit is:
91658 (i) $45 if the claim for damages or amount in interpleader exclusive of court costs,
91659 interest, and attorney fees is $2,000 or less; and
91660 (ii) $70 if the claim for damages or amount in interpleader exclusive of court costs,
91661 interest, and attorney fees is greater than $2,000.
91662 (d) The fee for filing a counter claim, cross claim, complaint in intervention, third party
91663 complaint, or other claim for relief against an existing or joined party other than the original

91664 complaint or petition is:
91665 (i) $45 if the claim for relief exclusive of court costs, interest, and attorney fees is
91666 $2,000 or less;
91667 (ii) $75 if the claim for relief exclusive of court costs, interest, and attorney fees is
91668 greater than $2,000 and less than $10,000;
91669 (iii) $105 if the original petition is filed under Subsection (1)(a), the claim for relief is
91670 $10,000 or more, or the party seeks relief other than monetary damages; and
91671 (iv) $85 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30,
91672 Chapter 4, Separate Maintenance.
91673 (e) The fee for filing a small claims counter affidavit is:
91674 (i) $35 if the claim for relief exclusive of court costs, interest, and attorney fees is
91675 $2,000 or less; and
91676 (ii) $50 if the claim for relief exclusive of court costs, interest, and attorney fees is
91677 greater than $2,000.
91678 (f) The fee for depositing funds under Section 57-1-29 when not associated with an
91679 action already before the court is determined under Subsection (1)(b) based on the amount
91680 deposited.
91681 (g) The fee for filing a petition is:
91682 (i) $75 for trial de novo of an adjudication of the justice court or of the small claims
91683 department; and
91684 (ii) $55 for an appeal of a municipal administrative determination in accordance with
91685 Section 10-3-703.7.
91686 (h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or
91687 petition for writ of certiorari is $205.
91688 (i) (i) Except for a petition filed under Subsection 77-18-10(2), the fee for filing a
91689 petition for expungement is $65.
91690 (ii) There is no fee for a petition filed under Subsection 77-18-10(2).
91691 (j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be
91692 allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges'
91693 Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges'
91694 Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement

91695 Act.
91696 (ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be
91697 allocated by the state treasurer to be deposited in the restricted account, Children's Legal
91698 Defense Account, as provided in Section [~~63-63a-8~~] 51-9-408.
91699 (iii) Three dollars of the fees established under Subsections (1)(a) through (e), (1)(g),
91700 and (1)(r) shall be allocated to and deposited with the Dispute Resolution Fund as provided in
91701 Section 78-31b-9.
91702 (iv) Fifteen dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv),
91703 (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be
91704 deposited in the restricted account, Court Security Account, as provided in Section 63-63c-102.
91705 (v) Five dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii) and
91706 (1)(g)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court
91707 Security Account, as provided in Section 63-63c-102.
91708 (k) The fee for filing a judgment, order, or decree of a court of another state or of the
91709 United States is $25.
91710 (l) The fee for filing probate or child custody documents from another state is $25.
91711 (m) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the
91712 Utah State Tax Commission is $30.
91713 (ii) The fee for filing an abstract or transcript of judgment of a court of law of this state
91714 or a judgment, order, or decree of an administrative agency, commission, board, council, or
91715 hearing officer of this state or of its political subdivisions other than the Utah State Tax
91716 Commission, is $40.
91717 (n) The fee for filing a judgment by confession without action under Section 78-22-3 is
91718 $25.
91719 (o) The fee for filing an award of arbitration for confirmation, modification, or
91720 vacation under Title 78, Chapter 31a, Utah Uniform Arbitration Act, that is not part of an
91721 action before the court is $25.
91722 (p) The fee for filing a petition or counter-petition to modify a decree of divorce is $40.
91723 (q) The fee for filing any accounting required by law is:
91724 (i) $10 for an estate valued at $50,000 or less;
91725 (ii) $20 for an estate valued at $75,000 or less but more than $50,000;

91726 (iii) $40 for an estate valued at $112,000 or less but more than $75,000;
91727 (iv) $80 for an estate valued at $168,000 or less but more than $112,000; and
91728 (v) $150 for an estate valued at more than $168,000.
91729 (r) The fee for filing a demand for a civil jury is $75.
91730 (s) The fee for filing a notice of deposition in this state concerning an action pending in
91731 another state under Utah Rule of Civil Procedure 26 is $25.
91732 (t) The fee for filing documents that require judicial approval but are not part of an
91733 action before the court is $25.
91734 (u) The fee for a petition to open a sealed record is $25.
91735 (v) The fee for a writ of replevin, attachment, execution, or garnishment is $35 in
91736 addition to any fee for a complaint or petition.
91737 (w) (i) The fee for a petition for authorization for a minor to marry required by Section
91738 30-1-9 is $5.
91739 (ii) The fee for a petition for emancipation of a minor provided in Title 78, Chapter 3a,
91740 Part 10, Emancipation, is $50.
91741 (x) The fee for a certificate issued under Section 26-2-25 is $2.
91742 (y) The fee for a certified copy of a document is $4 per document plus 50 cents per
91743 page.
91744 (z) The fee for an exemplified copy of a document is $6 per document plus 50 cents
91745 per page.
91746 (aa) The Judicial Council shall by rule establish a schedule of fees for copies of
91747 documents and forms and for the search and retrieval of records under [~~Title 63, Chapter 2~~]
91748 Title 63G, Chapter 2, Government Records Access and Management Act. Fees under this
91749 Subsection (1)(aa) shall be credited to the court as a reimbursement of expenditures.
91750 (bb) There is no fee for services or the filing of documents not listed in this section or
91751 otherwise provided by law.
91752 (cc) Except as provided in this section, all fees collected under this section are paid to
91753 the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk
91754 accepts the pleading for filing or performs the requested service.
91755 (dd) The filing fees under this section may not be charged to the state, its agencies, or
91756 political subdivisions filing or defending any action. In judgments awarded in favor of the

91757 state, its agencies, or political subdivisions, except the Office of Recovery Services, the court
91758 shall order the filing fees and collection costs to be paid by the judgment debtor. The sums
91759 collected under this Subsection (1)(dd) shall be applied to the fees after credit to the judgment,
91760 order, fine, tax, lien, or other penalty and costs permitted by law.
91761 (2) (a) (i) From March 17, 1994 until June 30, 1998, the administrator of the courts
91762 shall transfer all revenues representing the difference between the fees in effect after May 2,
91763 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of
91764 Facilities Construction and Management Capital Projects Fund.
91765 (ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities
91766 Construction and Management shall use up to $3,750,000 of the revenue deposited in the
91767 Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to
91768 initiate the development of a courts complex in Salt Lake City.
91769 (B) If the Legislature approves funding for construction of a courts complex in Salt
91770 Lake City in the 1995 Annual General Session, the Division of Facilities Construction and
91771 Management shall use the revenue deposited in the Capital Projects Fund under this Subsection
91772 (2)(a)(ii) to construct a courts complex in Salt Lake City.
91773 (C) After the courts complex is completed and all bills connected with its construction
91774 have been paid, the Division of Facilities Construction and Management shall use any monies
91775 remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal
91776 District Court building.
91777 (iii) The Division of Facilities Construction and Management may enter into
91778 agreements and make expenditures related to this project before the receipt of revenues
91779 provided for under this Subsection (2)(a)(iii).
91780 (iv) The Division of Facilities Construction and Management shall:
91781 (A) make those expenditures from unexpended and unencumbered building funds
91782 already appropriated to the Capital Projects Fund; and
91783 (B) reimburse the Capital Projects Fund upon receipt of the revenues provided for
91784 under this Subsection (2).
91785 (b) After June 30, 1998, the administrator of the courts shall ensure that all revenues
91786 representing the difference between the fees in effect after May 2, 1994, and the fees in effect
91787 before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted

91788 account.
91789 (c) The Division of Finance shall deposit all revenues received from the court
91790 administrator into the restricted account created by this section.
91791 (d) (i) From May 1, 1995 until June 30, 1998, the administrator of the courts shall
91792 transfer $7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor
91793 Vehicles, in a court of record to the Division of Facilities Construction and Management
91794 Capital Projects Fund. The division of money pursuant to Section 78-3-14.5 shall be calculated
91795 on the balance of the fine or bail forfeiture paid.
91796 (ii) After June 30, 1998, the administrator of the courts or a municipality shall transfer
91797 $7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in
91798 a court of record to the Division of Finance for deposit in the restricted account created by this
91799 section. The division of money pursuant to Section 78-3-14.5 shall be calculated on the
91800 balance of the fine or bail forfeiture paid.
91801 (3) (a) There is created within the General Fund a restricted account known as the State
91802 Courts Complex Account.
91803 (b) The Legislature may appropriate monies from the restricted account to the
91804 administrator of the courts for the following purposes only:
91805 (i) to repay costs associated with the construction of the court complex that were
91806 funded from sources other than revenues provided for under this Subsection (3)(b)(i); and
91807 (ii) to cover operations and maintenance costs on the court complex.
91808 Section 2228. Section **78-8-107** is amended to read:
91809 **78-8-107. Authority of Judicial Conduct Commission -- Disclosure of criminal**
91810 **misconduct or information -- Procedure for reprimand, censure, suspension, removal, or**
91811 **involuntary retirement -- Certain orders made public.**
91812 (1) (a) The commission shall receive and investigate any complaint against a judge.
91813 (b) (i) If the commission receives a complaint that alleges conduct that may be a
91814 misdemeanor or felony under state or federal law, it shall, unless the allegation is plainly
91815 frivolous, immediately refer the allegation of criminal misconduct and any information
91816 relevant to the potential criminal violation to the local prosecuting attorney having jurisdiction
91817 to investigate and prosecute the crime.
91818 (ii) If the local prosecuting attorney receiving the allegation of criminal misconduct of

91819 a judge practices before that judge on a regular basis, or has a conflict of interest in
91820 investigating the crime, the local prosecuting attorney shall refer this allegation of criminal
91821 misconduct to another local or state prosecutor who would not have that same disability or
91822 conflict.
91823 (iii) The commission may concurrently proceed with its investigation of the complaint
91824 without waiting for the resolution of the criminal investigation by the prosecuting attorney.
91825 (2) During the course of any investigation, the commission:
91826 (a) shall refer any information relating to the criminal conduct alleged and any
91827 evidence which relates to the allegation to which the judge has been accused, unless plainly
91828 frivolous, to the local prosecuting attorney as provided in Subsection (1)(b); and
91829 (b) may order a hearing to be held concerning the reprimand, censure, suspension,
91830 removal, or involuntary retirement of a judge.
91831 (3) The commission shall provide the judge with all information necessary to prepare
91832 an adequate response or defense, which may include the identity of the complainant.
91833 (4) (a) A hearing may be conducted before a quorum of the commission.
91834 (b) Any finding or order shall be made upon a majority vote of the quorum.
91835 (5) Alternatively, the commission may appoint three special masters, who are judges of
91836 courts of record, to hear and take evidence in the matter and to report to the commission.
91837 (6) (a) After the hearing or after considering the record and report of the masters, if the
91838 commission finds by a preponderance of the evidence that misconduct occurred, it shall order
91839 the reprimand, censure, suspension, removal, or involuntary retirement of the judge.
91840 (b) When a commission order is sent to the Supreme Court, it shall also be:
91841 (i) publicly disclosed; and
91842 (ii) sent to the entity that appointed the judge.
91843 (7) When the commission issues any order, including a stipulated order, that is sent to
91844 the Supreme Court, the record shall include:
91845 (a) the original complaint and any other information regarding violations, or potential
91846 violations, of the Code of Judicial Conduct;
91847 (b) the charges;
91848 (c) all correspondence and other documents which passed between the commission and
91849 the judge;

91850 (d) all letters which may explain the charges;
91851 (e) all affidavits, subpoenas, and testimony of witnesses;
91852 (f) the commission's findings of fact and conclusions of law;
91853 (g) a transcript of any proceedings, including hearings on motions;
91854 (h) a copy of each exhibit admitted into evidence;
91855 (i) a summary of all the complaints dismissed by the commission against the judge
91856 which contained allegations or information similar in nature to the misconduct under review by
91857 the Supreme Court;
91858 (j) a summary of all the orders implemented, rejected, or modified by the Supreme
91859 Court against the judge; and
91860 (k) all information in the commission's files on any informal resolution, including any
91861 letter of admonition, comment, or caution, that the commission issued against the judge prior to
91862 May 1, 2000.
91863 (8) (a) Before the implementation, rejection, or modification of any commission order
91864 the Supreme Court shall:
91865 (i) review the commission's proceedings as to both law and fact and may permit the
91866 introduction of additional evidence; and
91867 (ii) consider the number and nature of previous orders issued by the Supreme Court
91868 and may increase the severity of the order based on a pattern or practice of misconduct or for
91869 any other reason that the Supreme Court finds just and proper.
91870 (b) In recommending any order, including stipulated orders, the commission may not
91871 place, or attempt to place, any condition or limitation upon the Supreme Court's constitutional
91872 power to:
91873 (i) review the commission's proceedings as to both law and fact; or
91874 (ii) implement, reject, or modify a commission order.
91875 (c) After briefs have been submitted and any oral argument made, the Supreme Court
91876 shall, within 90 days, issue its order implementing, rejecting, or modifying the commission's
91877 order.
91878 (9) (a) Upon an order for involuntary retirement, the judge shall retire with the same
91879 rights and privileges as if the judge retired pursuant to statute.
91880 (b) Upon an order for removal, the judge shall be removed from office and his salary or

91881 compensation ceases from the date of the order.
91882 (c) Upon an order for suspension from office, the judge may not perform any judicial
91883 functions and may not receive a salary for the period of suspension.
91884 (10) (a) The transmission, production, or disclosure of any complaints, papers, or
91885 testimony in the course of proceedings before the commission, the masters appointed under
91886 Subsection (5), or the Supreme Court may not be introduced in any civil action.
91887 (b) The transmission, production, or disclosure of any complaints, papers, or testimony
91888 in the course of proceedings before the commission or the masters appointed under Subsection
91889 (5) may be introduced in any criminal action, consistent with the Utah Rules of Evidence. This
91890 information shall be shared with the prosecutor conducting a criminal investigation or
91891 prosecution of a judge as provided in Subsections (1) and (2).
91892 (c) Complaints, papers, testimony, or the record of the commission's confidential
91893 hearing may not be disclosed by the commission, masters, or any court until the Supreme Court
91894 has entered its final order in accordance with this section, except:
91895 (i) upon order of the Supreme Court;
91896 (ii) upon the request of the judge who is the subject of the complaint;
91897 (iii) as provided in Subsection (10)(d);
91898 (iv) to aid in a criminal investigation or prosecution as provided in Subsections (1) and
91899 (2); or
91900 (v) this information is subject to audit by the Office of Legislative Auditor General,
91901 and any records released to the Office of Legislative Auditor General shall be maintained as
91902 confidential, except:
91903 (A) for information that has already been made public; and
91904 (B) the final written and oral audit report of the Legislative Auditor General may
91905 present information about the commission as long as it contains no specific information that
91906 would easily identify a judge, witness, or complainant.
91907 (d) Upon the dismissal of a complaint or allegation against a judge, the dismissal shall
91908 be disclosed without consent of the judge to the person who filed the complaint.
91909 (11) The commission shall make rules in accordance with [~~Title 63, Chapter 46a~~] Title
91910 63G, Chapter 3, Utah Administrative Rulemaking Act, outlining its procedures and the
91911 appointment of masters.

91912 (12) A judge who is a member of the commission or the Supreme Court may not
91913 participate in any proceedings involving the judge's own removal or retirement.
91914 (13) Retirement for involuntary retirement as provided in this chapter shall be
91915 processed through the Utah State Retirement Office, and the judge retiring shall meet the
91916 requirements for retirement as specified in this chapter.
91917 Section 2229. Section **78-12-29** is amended to read:
91918 **78-12-29. Within one year.**
91919 An action may be brought within one year:
91920 (1) for liability created by the statutes of a foreign state;
91921 (2) upon a statute for a penalty or forfeiture where the action is given to an individual,
91922 or to an individual and the state, except when the statute imposing it prescribes a different
91923 limitation;
91924 (3) upon a statute, or upon an undertaking in a criminal action, for a forfeiture or
91925 penalty to the state;
91926 (4) for libel, slander, false imprisonment, or seduction;
91927 (5) against a sheriff or other officer for the escape of a prisoner arrested or imprisoned
91928 upon either civil or criminal process;
91929 (6) against a municipal corporation for damages or injuries to property caused by a
91930 mob or riot;
91931 (7) on a claim for relief or a cause of action under the following sections of Title 25,
91932 Chapter 6, Uniform Fraudulent Transfer Act:
91933 (a) Subsection 25-6-5(1)(a), which in specific situations limits the time for action to
91934 four years, under Section 25-6-10; or
91935 (b) Subsection 25-6-6(2);
91936 (8) except as otherwise expressly provided by statute, against a county legislative body
91937 or a county executive to challenge a decision of the county legislative body or county
91938 executive, respectively; or
91939 (9) on a claim for relief or a cause of action under [~~Title 63, Chapter 90b~~] Title 63L,
91940 Chapter 5, Utah Religious Land Use Act.
91941 Section 2230. Section **78-14-12** is amended to read:
91942 **78-14-12. Division to provide panel -- Exemption -- Procedures -- Statute of**

91943 **limitations tolled -- Composition of panel -- Expenses -- Division authorized to set license**
91944 **fees.**
91945 (1) (a) The division shall provide a hearing panel in alleged medical liability cases
91946 against health care providers as defined in Section 78-14-3, except dentists.
91947 (b) (i) The division shall establish procedures for prelitigation consideration of medical
91948 liability claims for damages arising out of the provision of or alleged failure to provide health
91949 care.
91950 (ii) The division may establish rules necessary to administer the process and
91951 procedures related to prelitigation hearings and the conduct of prelitigation hearings in
91952 accordance with Sections 78-14-12 through 78-14-16.
91953 (c) The proceedings are informal, nonbinding, and are not subject to [~~Title 63, Chapter~~
91954 ~~46b~~] Title 63G, Chapter 4, Administrative Procedures Act, but are compulsory as a condition
91955 precedent to commencing litigation.
91956 (d) Proceedings conducted under authority of this section are confidential, privileged,
91957 and immune from civil process.
91958 (2) (a) The party initiating a medical liability action shall file a request for prelitigation
91959 panel review with the division within 60 days after the service of a statutory notice of intent to
91960 commence action under Section 78-14-8.
91961 (b) The request shall include a copy of the notice of intent to commence action. The
91962 request shall be mailed to all health care providers named in the notice and request.
91963 (3) (a) The filing of a request for prelitigation panel review under this section tolls the
91964 applicable statute of limitations until the earlier of 60 days following the division's issuance of
91965 an opinion by the prelitigation panel, or 60 days following the termination of jurisdiction by the
91966 division as provided in this subsection. The division shall send any opinion issued by the panel
91967 to all parties by regular mail.
91968 (b) (i) The division shall complete a prelitigation hearing under this section within 180
91969 days after the filing of the request for prelitigation panel review, or within any longer period as
91970 agreed upon in writing by all parties to the review.
91971 (ii) If the prelitigation hearing has not been completed within the time limits
91972 established in Subsection (3)(b)(i), the division has no further jurisdiction over the matter
91973 subject to review and the claimant is considered to have complied with all conditions precedent

91974 required under this section prior to the commencement of litigation.
91975 (c) (i) The claimant and any respondent may agree by written stipulation that no useful
91976 purpose would be served by convening a prelitigation panel under this section.
91977 (ii) When the stipulation is filed with the division, the division shall within ten days
91978 after receipt enter an order divesting itself of jurisdiction over the claim, as it concerns the
91979 stipulating respondent, and stating that the claimant has complied with all conditions precedent
91980 to the commencement of litigation regarding the claim.
91981 (4) The division shall provide for and appoint an appropriate panel or panels to hear
91982 complaints of medical liability and damages, made by or on behalf of any patient who is an
91983 alleged victim of medical liability. The panels are composed of:
91984 (a) one member who is a resident lawyer currently licensed and in good standing to
91985 practice law in this state and who shall serve as chairman of the panel, who is appointed by the
91986 division from among qualified individuals who have registered with the division indicating a
91987 willingness to serve as panel members, and a willingness to comply with the rules of
91988 professional conduct governing lawyers in the state of Utah, and who has completed division
91989 training regarding conduct of panel hearings;
91990 (b) (i) one member who is a licensed health care provider listed under Section 78-14-3,
91991 who is practicing and knowledgeable in the same specialty as the proposed defendant, and who
91992 is appointed by the division in accordance with Subsection (5); or
91993 (ii) in claims against only hospitals or their employees, one member who is an
91994 individual currently serving in a hospital administration position directly related to hospital
91995 operations or conduct that includes responsibility for the area of practice that is the subject of
91996 the liability claim, and who is appointed by the division; and
91997 (c) a lay panelist who is not a lawyer, doctor, hospital employee, or other health care
91998 provider, and who is a responsible citizen of the state, selected and appointed by the division
91999 from among individuals who have completed division training with respect to panel hearings.
92000 (5) (a) Each person listed as a health care provider in Section 78-14-3 and practicing
92001 under a license issued by the state, is obligated as a condition of holding that license to
92002 participate as a member of a medical liability prelitigation panel at reasonable times, places,
92003 and intervals, upon issuance, with advance notice given in a reasonable time frame, by the
92004 division of an Order to Participate as a Medical Liability Prelitigation Panel Member.

92005 (b) A licensee may be excused from appearance and participation as a panel member
92006 upon the division finding participation by the licensee will create an unreasonable burden or
92007 hardship upon the licensee.
92008 (c) A licensee whom the division finds failed to appear and participate as a panel
92009 member when so ordered, without adequate explanation or justification and without being
92010 excused for cause by the division, may be assessed an administrative fine not to exceed $5,000.
92011 (d) A licensee whom the division finds intentionally or repeatedly failed to appear and
92012 participate as a panel member when so ordered, without adequate explanation or justification
92013 and without being excused for cause by the division, may be assessed an administrative fine not
92014 to exceed $5,000, and is guilty of unprofessional conduct.
92015 (e) All fines collected under Subsections (5)(c) and (d) shall be deposited in the
92016 Physicians Education Fund created in Section 58-67a-1.
92017 (6) Each person selected as a panel member shall certify, under oath, that he has no
92018 bias or conflict of interest with respect to any matter under consideration.
92019 (7) Members of the prelitigation hearing panels shall receive per diem compensation
92020 and travel expenses for attending panel hearings as established by rules of the division.
92021 (8) (a) In addition to the actual cost of administering the licensure of health care
92022 providers, the division may set license fees of health care providers within the limits
92023 established by law equal to their proportionate costs of administering prelitigation panels.
92024 (b) The claimant bears none of the costs of administering the prelitigation panel except
92025 under Section 78-14-16.
92026 Section 2231. Section **78-17-3** is amended to read:
92027 **78-17-3. Liability imposed and limitations -- Defenses -- Limitations on damages.**
92028 (1) Except as provided in this section, any person who owns, holds under license,
92029 transports, ships, stores, or disposes of nuclear material is liable, without regard to the conduct
92030 of any other person, for harm from nuclear incidents arising in connection with or resulting
92031 from such ownership, transportation, shipping, storage, or disposal.
92032 (2) Except as provided in this section, any person who owns, designs, constructs,
92033 operates, or maintains facilities, structures, vehicles, or equipment used for handling,
92034 transportation, shipment, storage, or disposal of nuclear material is liable, without regard to the
92035 conduct of any other person, for harm from nuclear incidents arising in connection with or

92036 resulting from such ownership, design, construction, operation, and maintenance.
92037 (3) Liability established by this chapter shall only be imposed if a court of competent
92038 jurisdiction finds that:
92039 (a) the nuclear incident which is the basis for the suit is covered by existing financial
92040 protection undertaken pursuant to 42 U.S.C. Sec. 2210; and
92041 (b) a person who is liable under this chapter is a person indemnified as defined in 42
92042 U.S.C. Sec. 2014.
92043 (4) Immunity of the state, its political subdivisions, or the agencies of either from suit
92044 are only waived with respect to a suit arising from a nuclear incident:
92045 (a) in accordance with [~~Title 63, Chapter 30d~~] Title 63G, Chapter 7, Governmental
92046 Immunity Act of Utah; or
92047 (b) when brought by a person suffering harm.
92048 (5) The conduct of the person suffering harm is not a defense to liability, except that
92049 this section does not preclude any defense based on:
92050 (a) the claimant's knowing failure to mitigate damages related to any injury or damage
92051 to the claimant or the claimant's property; or
92052 (b) an incident involving nuclear material that is knowingly and wrongfully caused by
92053 the claimant.
92054 (6) No person may collect punitive or exemplary damages under this chapter.
92055 Section 2232. Section **78-19-1** is amended to read:
92056 **78-19-1. Definitions.**
92057 As used in this chapter:
92058 (1) "Damage or injury" includes physical, nonphysical, economic, and noneconomic
92059 damage.
92060 (2) "Financially secure source of recovery" means that, at the time of the incident, a
92061 nonprofit organization:
92062 (a) has an insurance policy in effect that covers the activities of the volunteer and has
92063 an insurance limit of not less than the limits established under the Governmental Immunity Act
92064 of Utah in Section [~~63-30d-604~~] 63G-7-604; or
92065 (b) has established a qualified trust with a value not less than the combined limits for
92066 property damage and single occurrence liability established under the Governmental Immunity

92067 Act of Utah in Section [~~63-30d-604~~] 63G-7-604.
92068 (3) "Nonprofit organization" means any organization, other than a public entity,
92069 described in Section 501 (c) of the Internal Revenue Code of 1986 and exempt from tax under
92070 Section 501 (a) of that code.
92071 (4) "Public entity" has the same meaning as defined in Section [~~63-30b-1~~] 63G-8-102.
92072 (5) "Qualified trust" means a trust held for the purpose of compensating claims for
92073 damages or injury in a trust company licensed to do business in this state under the provisions
92074 of Title 7, Chapter 5, Trust Business.
92075 (6) "Reimbursements" means, with respect to each nonprofit organization:
92076 (a) compensation or honoraria totaling less than $300 per calendar year; and
92077 (b) payment of expenses actually incurred.
92078 (7) (a) "Volunteer" means an individual performing services for a nonprofit
92079 organization who does not receive anything of value from that nonprofit organization for those
92080 services except reimbursements.
92081 (b) "Volunteer" includes a volunteer serving as a director, officer, trustee, or direct
92082 service volunteer.
92083 (c) "Volunteer" does not include an individual performing services for a public entity
92084 to the extent the services are within the scope of [~~Title 63, Chapter 30b~~] Title 63G, Chapter 8,
92085 Immunity for Persons Performing Voluntary Services or Title 67, Chapter 20, Volunteer
92086 Government Workers Act.
92087 Section 2233. Section **78-27-37** is amended to read:
92088 **78-27-37. Definitions.**
92089 As used in Section 78-27-37 through Section 78-27-43:
92090 (1) "Defendant" means a person, other than a person immune from suit as defined in
92091 Subsection (3), who is claimed to be liable because of fault to any person seeking recovery.
92092 (2) "Fault" means any actionable breach of legal duty, act, or omission proximately
92093 causing or contributing to injury or damages sustained by a person seeking recovery, including
92094 negligence in all its degrees, comparative negligence, assumption of risk, strict liability, breach
92095 of express or implied warranty of a product, products liability, and misuse, modification, or
92096 abuse of a product.
92097 (3) "Person immune from suit" means:

92098 (a) an employer immune from suit under Title 34A, Chapter 2, Workers' Compensation
92099 Act, or Chapter 3, Utah Occupational Disease Act; and
92100 (b) a governmental entity or governmental employee immune from suit pursuant to
92101 [~~Title 63, Chapter 30d~~] Title 63G, Chapter 7, Governmental Immunity Act of Utah.
92102 (4) "Person seeking recovery" means any person seeking damages or reimbursement on
92103 its own behalf, or on behalf of another for whom it is authorized to act as legal representative.
92104 Section 2234. Section **78-27-43** is amended to read:
92105 **78-27-43. Effect on immunity, exclusive remedy, indemnity, contribution.**
92106 Nothing in Sections 78-27-37 through 78-27-42 affects or impairs any common law or
92107 statutory immunity from liability, including, but not limited to, governmental immunity as
92108 provided in [~~Title 63, Chapter 30d~~] Title 63G, Chapter 7, Governmental Immunity Act of Utah,
92109 and the exclusive remedy provisions of Title 34A, Chapter 2, Workers' Compensation Act.
92110 Nothing in Sections 78-27-37 through 78-27-42 affects or impairs any right to indemnity or
92111 contribution arising from statute, contract, or agreement.
92112 Section 2235. Section **78-27a-6** is amended to read:
92113 **78-27a-6. Payment of expenses awarded -- Statement required in agency's**
92114 **budget.**
92115 Expenses awarded under this act shall be paid from funds in the regular operating
92116 budget of the state entity. If sufficient funds are not available in the budget of the entity, the
92117 expenses shall be considered a claim governed by the provisions of [~~Title 63, Chapter 6~~] Title
92118 63G, Chapter 9, Board of Examiners Act. Every state entity against which litigation expenses
92119 have been awarded under this act shall, at the time of submission of its proposed budget,
92120 submit a report to the governmental body which appropriates its funds in which the amount of
92121 expenses awarded and paid under this act during the fiscal year is stated.
92122 Section 2236. Section **78-31b-8** is amended to read:
92123 **78-31b-8. Confidentiality.**
92124 (1) ADR proceedings shall be conducted in a manner that encourages informal and
92125 confidential exchange among the persons present to facilitate resolution of the dispute or a part
92126 of the dispute. ADR proceedings shall be closed unless the parties agree that the proceedings
92127 be open. ADR proceedings shall not be recorded.
92128 (2) No evidence concerning the fact, conduct, or result of an ADR proceeding may be

92129 subject to discovery or admissible at any subsequent trial of the same case or same issues
92130 between the same parties.
92131 (3) No party to the case may introduce as evidence information obtained during an
92132 ADR proceeding unless the information was discovered from a source independent of the ADR
92133 proceeding.
92134 (4) Unless all parties and the neutral agree, no person attending an ADR proceeding,
92135 including the ADR provider or ADR organization, may disclose or be required to disclose any
92136 information obtained in the course of an ADR proceeding, including any memoranda, notes,
92137 records, or work product.
92138 (5) Except as provided, an ADR provider or ADR organization may not disclose or
92139 discuss any information about any ADR proceeding to anyone outside the proceeding,
92140 including the judge or judges to whom the case may be assigned. An ADR provider or an
92141 ADR organization may communicate information about an ADR proceeding with the director
92142 for the purposes of training, program management, or program evaluation and when consulting
92143 with a peer. In making those communications, the ADR provider or ADR organization shall
92144 render anonymous all identifying information.
92145 (6) Nothing in this section limits or affects the responsibility to report child abuse or
92146 neglect in accordance with Section 62A-4a-403.
92147 (7) No records of ADR proceedings under this act or under Title 78, Chapter 31a, Utah
92148 Uniform Arbitration Act, shall be subject to [~~Title 63, Chapter 2~~] Title 63G, Chapter 2,
92149 Government Records Access and Management Act, except settlement agreements filed with
92150 the court after conclusion of an ADR proceeding or awards filed with the court after the period
92151 for filing a demand for trial de novo has expired.
92152 Section 2237. Section **78-31c-106** is amended to read:
92153 **78-31c-106. Exceptions to privilege.**
92154 (1) There is no privilege under Section 78-31c-104 for a mediation communication that
92155 is:
92156 (a) in an agreement evidenced by a record signed by all parties to the agreement;
92157 (b) available to the public under [~~Title 63, Chapter 2~~] Title 63G, Chapter 2,
92158 Government Records Access and Management Act, or made during a mediation session which
92159 is open, or is required by law to be open, to the public;

92160 (c) a threat or statement of a plan to inflict bodily injury or commit a crime of violence;
92161 (d) intentionally used to plan a crime, attempt to commit or commit a crime, or to
92162 conceal an ongoing crime or ongoing criminal activity;
92163 (e) sought or offered to prove or disprove a claim or complaint of professional
92164 misconduct or malpractice filed against a mediator;
92165 (f) except as otherwise provided in Subsection (3), sought or offered to prove or
92166 disprove a claim or complaint of professional misconduct or malpractice filed against a
92167 mediation party, nonparty participant, or representative of a party based on conduct occurring
92168 during a mediation; or
92169 (g) subject to the reporting requirements in Section 62A-3-305 or 62A-4a-403.
92170 (2) There is no privilege under Section 78-31c-104 if a court, administrative agency, or
92171 arbitrator finds, after a hearing in camera, that the party seeking discovery or the proponent of
92172 the evidence has shown that:
92173 (a) the evidence is not otherwise available;
92174 (b) there is a need for the evidence that substantially outweighs the interest in
92175 protecting confidentiality; and
92176 (c) the mediation communication is sought or offered in:
92177 (i) a court proceeding involving a felony or misdemeanor; or
92178 (ii) except as otherwise provided in Subsection (3), a proceeding to prove a claim to
92179 rescind or reform or a defense to avoid liability on a contract arising out of the mediation.
92180 (3) A mediator may not be compelled to provide evidence of a mediation
92181 communication referred to in Subsection (1)(f) or (2)(c)(ii).
92182 (4) If a mediation communication is not privileged under Subsection (1) or (2), only
92183 the portion of the communication necessary for the application of the exception from
92184 nondisclosure may be admitted. Admission of evidence under Subsection (1) or (2) does not
92185 render the evidence, or any other mediation communication, discoverable or admissible for any
92186 other purpose.
92187 Section 2238. Section **78-31c-108** is amended to read:
92188 **78-31c-108. Confidentiality.**
92189 Unless subject to Title 52, Chapter 4, Open and Public Meetings Act, and [~~Title 63,~~
92190 ~~Chapter 2~~] Title 63G, Chapter 2, Government Records Access and Management Act, mediation

92191 communications are confidential to the extent agreed by the parties or provided by other law or
92192 rule of this state.
92193 Section 2239. Section **78-32-17** is amended to read:
92194 **78-32-17. Noncompliance with child support order.**
92195 (1) When a court of competent jurisdiction, or the Office of Recovery Services
92196 pursuant to an action under [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
92197 Procedures Act, makes an order requiring a parent to furnish support or necessary food,
92198 clothing, shelter, medical care, or other remedial care for his child, and the parent fails to do so,
92199 proof of noncompliance shall be prima facie evidence of contempt of court.
92200 (2) Proof of noncompliance may be demonstrated by showing that:
92201 (a) the order was made, and filed with the district court; and
92202 (b) the parent knew of the order because:
92203 (i) the order was mailed to the parent at his last-known address as shown on the court
92204 records;
92205 (ii) the parent was present in court at the time the order was pronounced;
92206 (iii) the parent entered into a written stipulation and the parent or counsel for the parent
92207 was sent a copy of the order;
92208 (iv) counsel was present in court and entered into a stipulation which was accepted and
92209 the order based upon the stipulation was then sent to counsel for the parent; or
92210 (v) the parent was properly served and failed to answer.
92211 (3) Upon establishment of a prima facie case of contempt under Subsection (2), the
92212 obligor under the child support order has the burden of proving inability to comply with the
92213 child support order.
92214 (4) A court may, in addition to other available sanctions, withhold, suspend, or restrict
92215 the use of driver's licenses, professional and occupational licenses, and recreational licenses
92216 and impose conditions for reinstatement upon a finding that:
92217 (a) an obligor has:
92218 (i) made no payment for 60 days on a current obligation of support as set forth in an
92219 administrative or court order and, thereafter, has failed to make a good faith effort under the
92220 circumstances to make payment on the support obligation in accordance with the order; or
92221 (ii) made no payment for 60 days on an arrearage obligation of support as set forth in a

92222 payment schedule, written agreement with the Office of Recovery Services, or an
92223 administrative or judicial order and, thereafter, has failed to make a good faith effort under the
92224 circumstances to make payment on the arrearage obligation in accordance with the payment
92225 schedule, agreement, or order; and
92226 (iii) not obtained a judicial order staying enforcement of the support or arrearage
92227 obligation for which the obligor would be otherwise delinquent;
92228 (b) a custodial parent has:
92229 (i) violated a parent-time order by denying contact for 60 days between a noncustodial
92230 parent and a child and, thereafter, has failed to make a good faith effort under the
92231 circumstances to comply with a parent-time order; and
92232 (ii) not obtained a judicial order staying enforcement of the parent-time order; or
92233 (c) an obligor or obligee, after receiving appropriate notice, has failed to comply with a
92234 subpoena or order relating to a paternity or child support proceeding.
92235 Section 2240. Section **78-35a-202** is amended to read:
92236 **78-35a-202. Appointment and payment of counsel in death penalty cases.**
92237 (1) A person who has been sentenced to death and whose conviction and sentence has
92238 been affirmed on appeal shall be advised in open court, on the record, in a hearing scheduled
92239 no less than 30 days prior to the signing of the death warrant, of the provisions of this chapter
92240 allowing challenges to the conviction and death sentence and the appointment of counsel for
92241 indigent defendants.
92242 (2) (a) If a defendant requests the court to appoint counsel, the court shall determine
92243 whether the defendant is indigent and make findings on the record regarding the defendant's
92244 indigency. If the court finds that the defendant is indigent, it shall promptly appoint counsel
92245 who is qualified to represent defendants in death penalty cases as required by Rule 8 of the
92246 Utah Rules of Criminal Procedure.
92247 (b) A defendant who wishes to reject the offer of counsel shall be advised on the record
92248 by the court of the consequences of the rejection before the court may accept the rejection.
92249 (c) Costs of counsel and other reasonable litigation expenses incurred in providing the
92250 representation provided for in this section shall be paid from state funds by the Division of
92251 Finance according to rules established pursuant to [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3,
92252 Utah Administrative Rulemaking Act.

92253 Section 2241. Section **78-45-7.3** is amended to read:
92254 **78-45-7.3. Procedure -- Documentation -- Stipulation.**
92255 (1) In any matter in which child support is ordered, the moving party shall submit:
92256 (a) a completed child support worksheet;
92257 (b) the financial verification required by Subsection 78-45-7.5(5);
92258 (c) a written statement indicating whether or not the amount of child support requested
92259 is consistent with the guidelines; and
92260 (d) the information required under Subsection (3).
92261 (2) (a) If the documentation of income required under Subsection (1) is not available, a
92262 verified representation of the other party's income by the moving party, based on the best
92263 evidence available, may be submitted.
92264 (b) The evidence shall be in affidavit form and may only be offered after a copy has
92265 been provided to the other party in accordance with Utah Rules of Civil Procedure or [~~Title 63,~~
92266 ~~Chapter 46b~~] Title 63G, Chapter 4, Administrative Procedures Act, in an administrative
92267 proceeding.
92268 (3) Upon the entry of an order in a proceeding to establish paternity or to establish,
92269 modify, or enforce a support order, each party shall file identifying information and shall
92270 update that information as changes occur with the court that conducted the proceeding.
92271 (a) The required identifying information shall include the person's social security
92272 number, driver's license number, residential and mailing addresses, telephone numbers, the
92273 name, address and telephone number of employers, and any other data required by the United
92274 States Secretary of Health and Human Services.
92275 (b) Attorneys representing the office in child support services cases are not required to
92276 file the identifying information required by Subsection (3)(a).
92277 (4) A stipulated amount for child support or combined child support and alimony is
92278 adequate under the guidelines if the stipulated child support amount or combined amount
92279 equals or exceeds the base child support award required by the guidelines.
92280 Section 2242. Section **78-45g-104** is amended to read:
92281 **78-45g-104. Adjudication -- Jurisdiction.**
92282 (1) The district court, the juvenile court, and the Office of Recovery Services in
92283 accordance with Section 62A-11-304.2 and [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4,

92284 Administrative Procedures Act, are authorized to adjudicate parentage under Parts 1 through 6,
92285 and Part 9 of this chapter.
92286 (2) The district court and the juvenile court have jurisdiction over proceedings under
92287 Parts 7 and 8.
92288 Section 2243. Section **78-45g-313** is amended to read:
92289 **78-45g-313. Adoption of rules.**
92290 The Office of Vital Records may adopt rules in accordance with [~~Title 63, Chapter 46a~~]
92291 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this part.
92292 Section 2244. Section **78-45g-407** is amended to read:
92293 **78-45g-407. Removal of registration.**
92294 The Office of Vital Records may remove a registration in accordance with rules
92295 adopted by the office in accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
92296 Administrative Rulemaking Act.
92297 Section 2245. Section **78-45g-511** is amended to read:
92298 **78-45g-511. Confidentiality of genetic testing.**
92299 Release of the report of genetic testing for parentage is controlled by [~~Title 63, Chapter~~
92300 ~~2~~] Title 63G, Chapter 2, Government Records Access and Management Act.
92301 Section 2246. Section **78-45g-601** is amended to read:
92302 **78-45g-601. Proceeding authorized -- Definition.**
92303 (1) An adjudicative proceeding may be maintained to determine the parentage of a
92304 child. A judicial proceeding is governed by the rules of civil procedure. An administrative
92305 proceeding is governed by [~~Title 63, Chapter 46b~~] Title 63G, Chapter 4, Administrative
92306 Procedures Act.
92307 (2) For the purposes of this part, "divorce" also includes an annulment.
92308 Section 2247. Section **78-57-108** is amended to read:
92309 **78-57-108. Youth Court Board -- Membership -- Responsibilities.**
92310 (1) The Utah attorney general's office shall provide staff support and assistance to a
92311 Youth Court Board comprised of the following:
92312 (a) the Utah attorney general or his designee;
92313 (b) one member of the Utah Prosecution Council;
92314 (c) one member from the Board of Juvenile Court Judges;

92315 (d) the juvenile court administrator or his designee;
92316 (e) one person from the Office of Juvenile Justice and Delinquency Prevention;
92317 (f) the state superintendent of education or his designee;
92318 (g) two representatives from Youth Courts based primarily in schools;
92319 (h) two representatives from Youth Courts based primarily in communities;
92320 (i) one member from the law enforcement community; and
92321 (j) one member from the community at large.
92322 (2) The members selected to fill the positions in Subsections (1)(a) through (f) shall
92323 jointly select the members to fill the positions in Subsections (1)(g) through (j).
92324 (3) Members shall serve two-year staggered terms beginning July 1, 1999, except the
92325 initial terms of the members designated by Subsections (1)(a), (c), (e), and (i), and one of the
92326 members from Subsections (1)(g) and (h) shall serve one-year terms, but may be reappointed
92327 for a full two-year term upon the expiration of their initial term.
92328 (4) The Youth Court Board shall meet at least quarterly to:
92329 (a) set minimum standards for the establishment of Youth Courts, including an
92330 application process, membership and training requirements, and the qualifications for the adult
92331 coordinator;
92332 (b) review certification applications; and
92333 (c) provide for a process to recertify each Youth Court every three years.
92334 (5) In accordance with [~~Title 63, Chapter 46a~~] Title 63G, Chapter 3, Utah
92335 Administrative Rulemaking Act, the Youth Court Board shall make rules to accomplish the
92336 requirements of Subsection (3).
92337 (6) The Youth Court Board may deny certification or recertification, or withdraw the
92338 certification of any Youth Court for failure to comply with program requirements.
92339 (7) (a) Members shall receive no compensation or benefits for their services, but may
92340 receive per diem and expenses incurred in the performance of the member's official duties at
92341 the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
92342 (b) Members may decline to receive per diem and expenses for their service.
92343 (8) The Youth Court Board shall provide a list of certified Youth Courts to the Board
92344 of Juvenile Court Judges, all law enforcement agencies in the state, all school districts, and the
92345 Utah Prosecution Council by December 31 of each year.

92346 Section 2248. Section **78-61-101** is amended to read:
92347 **78-61-101. Definitions.**
92348 As used in this chapter:
92349 (1) "Conviction" means an adjudication by a federal or state court resulting from a trial
92350 or plea, including a plea of no contest, nolo contendere, a finding of not guilty due to insanity,
92351 or not guilty but mentally ill regardless of whether the sentence was imposed or suspended.
92352 (2) "Fund" means the Crime Victim Reparation Fund created in Section [~~63-63a-4~~]
92353 51-9-404.
92354 (3) "Memorabilia" means any tangible property of a person convicted of a first degree
92355 or capital felony, the value of which is enhanced by the notoriety gained from the conviction.
92356 (4) "Profit" means any income or benefit over and above the fair market value of the
92357 property that is received upon the sale or transfer of memorabilia.
92358 Section 2249. **Repealer.**
92359 This bill repeals:
92360 Section **63-46a-17, Electronic records and conversion of written records by**
92361 **governmental agencies.**
92362 Section **63-97-101, Title.**

Legislative Review Note
as of 11-27-07 2:36 PM

Office of Legislative Research and General Counsel

H.B. 63 - Recodification of Title 63 State Affairs in General

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

1/7/2008, 4:07:06 PM, Lead Analyst: Amon, R.

Office of the Legislative Fiscal Analyst